American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_1 State the amount of termination fees, and / or any and all other fees and expenses the respective parties would have to pay if the proposed transaction is not consummated.

a. Of those fees, state the amount for which KPCo ratepayers would be responsible.

b. Identify the documents in which this information is provided to both federal and state regulatory officials.

c. If KPCo ratepayers would be responsible for any portion of such fees / expenses, state whether the company would have to file a rate case to recover such sums.

RESPONSE

If the Stock Purchase Agreement is terminated under certain circumstances, namely failure to receive required regulatory approvals (other than the approval of the Public Service Commission of Kentucky, FERC or the Public Service Commission of West Virginia for the termination and replacement of the existing operating agreement for the Mitchell Plant or where a non-Liberty party may have breached its obligations under the agreement and caused such failure) or where all conditions are met and Liberty does not close, Liberty may be required to pay a termination fee of $65 million. If the agreement is terminated for willful breach or fraud of a party, the other party may have available to it remedies at common law or equity.

a. None.

b. This information has been provided as set forth in Section 8.3 of the Stock Purchase Agreement, which agreement was provided with the applications filed with Public Service Commission of Kentucky and the Federal Energy Regulatory Commission.

c. Not applicable.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
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DATA REQUEST

AG 1_2 State whether Liberty, its corporate parent entities, or its affiliates has or have reserved the right to adjust the regular dividend of the corporate entity holding Liberty's stock pending completion of the transaction. If so:

a. For how long will any modification to the dividend remain in effect?

b. Provide, in complete detail, the rationale for any such adjustment.

c. State whether Liberty intends on seeking PSC approval of same, and if not, why not.

d. As a result of any potential increase in dividend, state:

(1) how much additional funding for corporate expenses of any type or sort Liberty will seek from its ratepayers; and

(2) whether any such adjustment will cause Liberty to file a rate case, and
if so, when.

RESPONSE

Neither Liberty nor APUC have adjusted their regular dividends in the context of this transaction. Changes in the level of dividends paid by APUC are at the discretion of its Board of Directors, with dividend levels being reviewed periodically by the Board in the context of APUC's financial performance and growth prospects.

Witness: Michael Mosindy

American Electric Power Company, Inc.
Kentucky Power Company
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KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_3 State whether as a result of the transaction, Liberty, its corporate parent entities, or its affiliates plan(s) on paying any special dividends on any class of stock. If so, identify the class of stock, and state whether the officers, directors or majority holders of common stock are among the class of potential recipients of any such special dividend.

RESPONSE

As a result of the transaction, neither Liberty, its corporate parent entities, nor its affiliates plan on paying any special dividends on any class of stock.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_4 State how much additional common stock Liberty, its corporate parent entities, or its affiliates will issue as a condition of the transaction's consummation. If any, state the effect on ratepayers.

RESPONSE

Liberty, and its parent entities and affiliates will not issue additional common stock as a condition of the transaction's consummation irrespective of the transaction. APUC has issued sufficient common stock to fund the transaction, none of which is conditional on the proposed transaction. This will not have an impact on customers.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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Dated January 13, 2022

DATA REQUEST

AG 1_5 State when the Joint Applicants and any relevant affiliates expect to receive full approval of the proposed transaction from FERC, NERC, SEC, FCC, the U.S. Justice Dept., the Committee on Foreign Investment in the United States ("CIFIUS"), and all relevant state public utility regulatory authorities.

RESPONSE

Clearance from The Committee on Foreign Investment in the United States was received on January 5, 2022. There is no approval of the transaction necessary by the SEC or NERC. Approval from the U.S. Justice Department is expected in February 2022. Approval by the Kentucky Public Service Commission is expected prior to May 4, 2022. Approval by the Federal Energy Regulatory Commission under Section 203 of the Federal Power Act is expected by April 25, 2022. The FCC consented to the assignment of certain Kentucky Power licenses to Wheeling Power Company on January 13, 2022. Joint Applicants expect to file an application to the FCC to transfer control of the Kentucky Power licenses prior to closing. The FCC typically approves such applications within 30 days.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
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DATA REQUEST

AG 1_6 Is KPCo's current generation fleet sufficient to meet both its base and peak loads? Does KPCo anticipate any need to enter into purchased power agreements to meet these loads?

RESPONSE

Joint Applicants object to this request on the basis that it is vague and ambiguous as to the terms "base and peak loads." Subject to and without waiving the foregoing objection, Joint Applicants state that Kentucky Power's current generation fleet is sufficient to satisfy its PJM FRR capacity obligation until December 8, 2022. The Company plans to and meets its peak load obligations as required in PJM and will use additional purchases or take other appropriate measures.

Witness: Brian K. West

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_7 Do the Joint Applicants believe the proposed transaction will enhance and improve KPCo's abilities to obtain capital in support of its business? If so, explain how.

a. Do the Joint Applicants also acknowledge that if Liberty, its parent and affiliated entities incur significant amounts of debt, this will likely have a negative impact on KPCo's ability to borrow capital at competitive rates?

RESPONSE

Please see response to Staff 1-57.

a. The ability of Kentucky Power Company to borrow at competitive rates has many different facets. Simply incurring debt will not have a negative impact unless other key operating measures such as funds from operations to debt, debt to total capital, and other metrics also significantly deteriorate. These outcomes are not expected as a result of the transaction.

Witness: Michael Mosindy

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_8 Do the Joint Applicants believe that KPCo's post-transaction financial and credit profile will ensure that the company and its customers will benefit from, and not be disadvantaged, by the transaction? If so:

a. Provide copies of any all current bond ratings, credit profiles and / or any and all other credit analyses for KPCo and Liberty, together with any projected bond ratings, credit profiles and / or any and all other credit analyses regarding the status of KPCo and Liberty following the closing of the proposed transaction.

b. Explain whether any synergies are expected to result from the proposed transaction. If so: (i) state, in complete detail, how KPCo's ratepayers will share in such synergy savings and otherwise benefit under the transaction; (ii) identify each specific synergy, and provide any and all analyses and studies indicating any and all such synergies and benefits.

c. Explain whether Liberty and / or its parent entities assumed the existence of any synergies when they made the economic decision to purchase KPCo. If so, identify and fully explain.

d. Aside from the determination of the purchase price, did Liberty (by itself or acting through an agent or third-party) research, analyze, or otherwise investigate possible synergies associated with a purchase of KPCo? If not, explain why not. If yes, then please explain in detail the results of the research, analysis, or investigation.

RESPONSE

a. Please see attached rating reports provided by all of Algonquin's and Liberty's rating agencies after the announcement of the proposed transaction: JA_R_AG_1_08_Attachment_DBRS PR-KPCO Acquisition-FINAL-2021-10-28.pdf; JA_R_AG_1_08_Attachment_Fitch-APUC-LUCo_RAC_KPCo Acquisition_2021-10-28.pdf; and JA_R_AG_1_08_Attachment_S&P-KPCo Acquistion-Oct-28-2021.pdf. Please see JA_R_AG_1_8 ConfidentialAttachments 1-4 for AEP and Kentucky Power's rating reports.

b. The transaction was not premised on the ability to derive synergies, and therefore, synergies are not expected.

c. See part b.

d. As indicated in (b) above, Liberty did not approach the transaction from the perspective of identifying synergies such as combining job functions and the further centralization of services and thus did not conduct the research described in the question. Rather, Liberty sees Kentucky Power as a utility at the early stages of energy transition across each of the generation, transmission, and distribution parts of the energy value chain. On the generation front, the impending completion of the Rockport UPA, the approaching end of lifecycle at the Big Sandy and the retirement (for ratemaking purposes) of the Mitchell plant create opportunities to right-size the capacity requirements, reduce cost of fuel expenditures and explore the downstream local economic impact of repurposing brownfield coal sites for solar developments. Exploring the merits of continual PJM participation as Liberty is committing to do is an opportunity to rethink whether the long-standing arrangement still offers the best value for Kentucky Power and its transforming industrial landscape. Finally, Liberty's understanding of the age, condition and performance of the distribution grid are suggestive of a need of not only extensive renewal, but also a more evidence-based approach to pacing and prioritization of both core asset investments and foundational smart grid tools - where they make sense.

Witness: Stephan T. Haynes

Witness: Michael Mosindy (a-c), Peter Eichler (d)

MORNINGSTAR | DBRS

PRESS RELEASE OCTOBER 28, 2021

DBRS Morningstar Places Algonquin Power & Utilities Corp. Under Review with Developing Implications on the Announcement of the Agreement to Acquire Kentucky Power Company

UTILITIES & INDEPENDENT POWER

DBRS Limited (DBRS Morningstar) placed all the ratings of Algonquin Power & Utilities Corp. (APUC or the Company) Under Review with Developing Implications. On October 26, 2021, APUC announced an agreement with American Electric Power (AEP) to acquire Kentucky Power Company (Kentucky Power) and AEP Kentucky Transmission Company, Inc. (Kentucky TransCo) for a total purchase price of USD 2.846 billion, including the assumption of approximately USD 1.221 billion in debt (the Acquisition). Kentucky Power is a state rate-regulated electricity generation, distribution, and transmission utility operating within the Commonwealth of Kentucky, serving approximately 228,000 active customer connections and operating under a cost-of-service framework. Kentucky TransCo is an electricity transmission business operating in the Kentucky portion of the transmission infrastructure that is part of the Pennsylvania–New Jersey–Maryland regional transmission organization. The Acquisition is expected to close mid-2022, subject to regulatory approvals.

DBRS Morningstar views this acquisition as a positive development from a business risk perspective because of the following factors: (1) a significant increase in APUC's low-risk regulated assets with a total consolidated rate base expected to increase to approximately USD 9 billion from USD 6.8 billion, which would reflect a 32% increase upon closing. After the completion of the Acquisition, DBRS Morningstar expects APUC to generate over 75% (currently 66%) of its consolidated cash flow from stable regulated operations and the remainder from long-term contracted nonregulated generation; (2) an expected improvement in jurisdictional diversification with the addition of Kentucky and the U.S. Federal Energy Regulatory Commission. Kentucky has a reasonable cost-of-service regulatory framework with acceleration of capital recovery and a reasonably regulated return on equity; (3) an expected improvement of capital expenditure planning, which should add more flexibility with the Acquisition.

Notwithstanding these potentially positive impacts, the Under Review with Developing Implications rating action reflects some uncertainties associated with APUC's financing plan. To finance the Acquisition, APUC intends to issue up to USD 750 million common equity through a bought deal with the banks. APUC expects to finance the remainder in the amount of approximately USD 875 million with a combination of hybrid debt financing, equity units, and proceeds from the sale of the non-regulated assets/investments. DBRS Morningstar has reviewed APUC's financing plan and is of the view that its current plan (if the hybrid debt is issued out of APUC) could increase APUC's nonconsolidated leverage. The magnitude of the increase will depend on the amount of the hybrid debt to be issued. DBRS Morningstar notes that if APUC's nonconsolidated debt-to-capital (as calculated by DBRS Morningstar) rises significantly above 20% following the issuance of the hybrid debt, then a negative rating action could be taken.

ESG CONSIDERATIONS

A description of how DBRS Morningstar considers ESG factors within the DBRS Morningstar analytical framework can be found in the DBRS Morningstar Criteria: Approach to Environmental, Social, and Governance Risk Factors in Credit Ratings at https://www.dbrsmorningstar.com/research/373262.

The principal methodologies are Rating Companies in the Regulated Electric, Natural Gas, and Water Utilities Industry (September

24, 2021; https://www.dbrsmorningstar.com/research/384922); Rating Companies in the Independent Power Producer Industry (May 10, 2021; https://www.dbrsmorningstar.com/research/378166); DBRS Morningstar Criteria: Preferred Share and Hybrid Security Criteria for Corporate Issuers (October 21, 2021; https://www.dbrsmorningstar.com/research/386355); and DBRS Morningstar Criteria: Rating Corporate Holding Companies and Parent/Subsidiary Rating Relationships (November 2, 2020; https://www.dbrsmorningstar.com/research/369167); Other applicable methodologies include the DBRS Morningstar Criteria: Approach to Environmental, Social, and Governance Risk Factors in Credit Ratings (February 3, 2021; https://www.dbrsmorningstar.com/research/373262); which can be found on dbrsmorningstar.com under Methodologies & Criteria.

The related regulatory disclosures pursuant to the National Instrument 25-101 Designated Rating Organizations are hereby incorporated by reference and can be found by clicking on the link under Related Documents or by contacting us at info@dbrsmorningstar.com.

The rated entity or its related entities did participate in the rating process for this rating action. DBRS Morningstar had access to the accounts and other relevant internal documents of the rated entity or its related entities in connection with this rating action.

Generally, the conditions that lead to the assignment of a Negative or Positive trend are resolved within a 12-month period. DBRS Morningstar trends and ratings are under regular surveillance.

For more information on this credit or on this industry, visit www.dbrsmorningstar.com or contact us at info@dbrsmorningstar.com.

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Ratings

Algonquin Power & Utilities Corp.

Date Issued	Debt Rated	Action	Rating	Trend	Attributes
28-Oct-21	Issuer Rating	UR-Dev.	BBB	--	CA
28-Oct-21	Preferred Shares	UR-Dev.	Pfd-3	--	CA

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FitchRatings

RATING ACTION COMMENTARY

Fitch Affirms Algonquin Power & Utilities and Liberty Utilities at 'BBB'; Outlook Stable

Thu 28 Oct, 2021 - 5:13 PM ET

Fitch Ratings - New York - 28 Oct 2021: Fitch Ratings has affirmed Algonquin Power & Utilities Corp.'s (APUC) 'BBB' Long-Term Issuer Default Rating (IDR) and 'F2' Short-Term IDR and Liberty Utilities Co.'s (LUCo) 'BBB' Long-Term IDR and 'F2' Short-Term IDR.

These ratings affirmations follow APUC's Oct. 26, 2021 announcement that LUCo reached an agreement to acquire Kentucky Power Company (BBB/Stable) and AEP Kentucky Transmission Company, Inc. from American Electric Power Company, Inc. (AEP; BBB/Stable). Fitch also affirmed all the security ratings at APUC, LUCo and Liberty Utilities Finance GP1. The Rating Outlook for APUC and LUCo is Stable.

The transaction is expected to close in mid-2022 and will require the approval of the Kentucky Public Service Commission (KPSC) and FERC, as well as federal clearance under the Hart-Scott-Rodino Act and the Committee on Foreign Investment in the U.S.

The parties are negotiating a new operating agreement for the coal-fired Mitchell plant, which is currently operated by Kentucky Power but jointly-owned by Kentucky Power and AEP subsidiary Wheeling Power Co. (WPCo, NR). Under the new agreement, WPCo will assume operational responsibility. The new agreement will require approval by the KPSC, the Public Service Commission of West Virginia and FERC. Approval of the new Mitchell operating agreement is required for the transaction to close.

The ratings on APUC's unregulated power generation subsidiary, Algonquin Power Co. (APCo; BBB/Stable), are unaffected by this transaction.

KEY RATING DRIVERS

APUC

Acquisition of Kentucky Power: Fitch views the transaction to be neutral to the credit quality of APUC and LUCo, given the underlying credit quality of Kentucky Power, its regulated integrated electric utility operations that have approximately 228,000 customer connections, and what Fitch expects to be a relatively credit-supportive financing plan for the acquisition.

The total purchase price is approximately $2.85 billion and includes the assumption of approximately $1.22 billion in debt. Concurrent with the announcement of the acquisition, APUC announced the bought deal offering of at least $646 million of common equity and up to $743 million if the banks fully exercise their overallotment. The remainder of the cash purchase price is expected to be financed through a variety of funding sources, which may include hybrid debt, equity units and the monetization of nonregulated assets or investments.

The Kentucky Power acquisition would improve APUC's business profile by slightly increasing APUC's regulated utility business mix to nearly 80% of consolidated EBITDA. The acquisition also provides APUC and LUCo with organic growth opportunities in the form of replacing coal-fired generation with renewable energy. LUCo has a strong track record of having implemented similar transitions to clean power generation at its utility subsidiaries, most notably at Empire District Electric in Missouri. Fitch expects any conditions imposed by the Kentucky Public Service Commission will not be a deterrent to improved credit metrics at Kentucky Power.

Somewhat Weak Consolidated Financial Metrics: APUC's financial profile is supported by stable and predictable earnings from LUCo's regulated utility operations and strong cash flows from APCo's power generation business. However, Fitch forecasts APUC's FFO leverage to be relatively high at around 5.6x in 2021 and then increase to slightly above 6.0x in 2022 due to the acquisition of Kentucky Power. Fitch's negative sensitivity for FFO leverage is greater than 5.7x on a sustained basis. Fitch expects APUC's FFO leverage to improve in 2023 and 2024 to around 5.7x and 5.5x, respectively, returning to levels supportive of APUC's ratings, but remaining somewhat weak.

Ownership of LUCo and APCo: APUC's ratings primarily reflect the company's ownership of LUCo, which owns regulated utility businesses that account for a majority of APUC's consolidated EBITDA. LUCo's diversified, low-risk electric, natural gas, water and wastewater utility operations support a strong business risk profile. APUC's ratings also reflect the company's ownership of APCo, an unregulated power generation company with a relatively good business risk profile and robust cash flows.

Ownership Interest in Atlantica Sustainable Infrastructure: APUC's ratings also consider the company's ownership interest in renewable energy yield company Atlantica Sustainable Infrastructure plc (Atlantica; BB+/Stable). Abengoa-Algonquin Global Energy Solutions (AAGES) owns 44.2% of Atlantica's common shares. APUC owns 100% of AAGES' economic interest and voting rights in Atlantica through its ownership of AAGES' preferred shares. AAGES represents a relatively small amount of APUC's consolidated EBITDA, limiting the impact that any negative event at Atlantica could have on APUC's credit quality.

Short-Term IDR: APUC's Short-Term IDR is 'F2'. Based on Fitch's assessment of the company's financial flexibility, it has assigned the higher (F2) of the two Short-Term IDR options for APUC's rating profile. Fitch believes the company's liquidity is adequate enough to cover near-term cash outflows. APUC has its own revolving credit facility (RCF) and manageable near-term debt maturities. Any material weakening in financial flexibility, financial structure or operating environment conditions could lead to the assignment of the lower (F3) of the two Short-Term IDR options.

Parent/Subsidiary Linkage: Fitch uses a consolidated approach to determine APUC's ratings and a bottom-up approach to determine the ratings of LUCo and APCo. The linkage follows a weak parent/strong subsidiary approach for LUCo and a strong parent/weak subsidiary approach for APCo. Fitch considers LUCo stronger than APUC due to the utilities' low-risk regulated operations and APUC's exposure to the unregulated power generation operations of APCo.

There is moderate linkage between APUC's and LUCo's Long-Term IDRs. The moderate linkage is supported by separate financing through LUCo's financing affiliate company, Liberty Utilities Finance GP1 (Liberty Finance), along with LUCo's strategic importance to APUC, accounting for a majority of APUC's consolidated EBITDA. Fitch would not rate APUC's Long-Term IDR higher than LUCo's; however, LUCo's Long-Term IDR could be up to one notch higher than APUC's Long-Term IDR.

There is weak linkage between APUC's and APCo's Long-Term IDRs. The weak linkage is supported by weaker strategic ties between APUC and APCo than between APUC and

LUCo. Fitch would not rate APCo's Long-Term IDR higher than APUC's, although APUC's Long-Term IDR could be up to two notches higher than APCo's.

LUCo

LUCo's 'BBB' Long-Term IDR primarily reflects the company's low-risk regulated electric, natural gas, water and wastewater utility operations and adequate financial profile. Liberty Utilities Finance GP1 (Liberty Finance) is a financing vehicle for LUCo. Liberty Finance's senior unsecured notes are fully and unconditionally guaranteed by LUCo and rank pari passu with LUCo's senior unsecured debt.

Acquisition of Kentucky Power: LUCo's acquisition of Kentucky Power would improve the company's business risk profile by increasing LUCo's geographic and regulatory diversification and reducing its exposure to Missouri. Fitch considers the regulatory compact in Kentucky to be relatively constructive, aided by a variety of cost recovery mechanisms. The acquisition would also provide LUCo with organic growth opportunities in the form of replacing Kentucky Power's coal-fired generation facilities with renewable energy. LUCo has a strong track record of having implemented such clean power generation transitions, including with its Empire District utility operations in Missouri.

Despite these opportunities, LUCo would face some potential challenges in improving Kentucky Power's operations. Fitch considers Kentucky Power's service territory to be economically depressed due to a historical reliance on coal mining. Kentucky Power's credit metrics have weakened significantly over the past couple years due to a large capex plan, a rate freeze through January 2022 and effects of the coronavirus, all of which contributed to a low earned ROE. Fitch expects Kentucky Power's financial metrics to improve in 2023 following the expiration in 2022 of the Rockport power purchase agreement and other financial and operational changes LUCo may implement.

Diversified Portfolio of Utilities: LUCo benefits from its diversified portfolio of regulated utility operations across 13 states. The company's integrated electric operations account for 60% of net utility sales, natural gas distribution operations account for 26% of net utility sales, and water and wastewater operations account for 14% of net utility sales. This asset diversification mitigates the company's exposure to any regional or state-specific shocks that could affect cash flows.

LUCo was built from several acquisitions, most significantly of The Empire District Electric Company on Jan. 1, 2017. Empire District accounts for roughly half of LUCo's EBITDA. Fitch expects LUCo to remain acquisitive, primarily looking for smaller utility systems that

could benefit from operational efficiencies. LUCo has a strong record of improving performance at utilities it acquires.

Balanced Regulatory Environment: LUCo's overall regulatory environment is considered balanced. In Missouri, LUCo's largest state of operations, legislation was signed on June 1, 2018 that allowed for revenue decoupling at all electric utilities effective Jan. 1, 2019. The Missouri law allows electric utilities to opt out of revenue decoupling if they prefer to defer for future recovery 85% of all new depreciation expense, with the resulting regulatory asset balances subject to carrying charges at the utility's weighted average cost of capital and amortized over 20 years once included in rates.

LUCo has effectively managed its operations to fully realize its average aggregate authorized ROE. The company has maximized its returns by keeping O&M expenses low, optimizing capital deployment and using cost-recovery riders to help limit its average regulatory lag to six months. LUCo's efficient utility operations also enable it to have lower customer rates than many peers. Fitch believes LUCo's balanced and improving regulatory environment supports its solid business risk profile.

Adequate Financial Metrics: LUCo's financial profile is supported by stable and predictable earnings from regulated utility operations. Fitch forecasts LUCo's FFO leverage to average 5.0x-5.3x, and total debt with equity credit/operating EBITDA to average 5.0x-5.4x, through 2024. These metrics are adequate for LUCo's 'BBB' Long-Term IDR.

Short-Term IDR: LUCo's Short-Term IDR is 'F2'. Based on Fitch's assessment of the company's financial flexibility, it has assigned the higher (F2) of the two Short-Term IDR options for LUCo's rating profile. Fitch views the company's liquidity to be adequate to cover near-term cash outflows. LUCo has its own revolving credit facility (RCF) and manageable near-term debt maturities. Any material weakening in financial flexibility, financial structure or operating environment conditions could lead to the assignment of the lower (F3) of the two Short-Term IDR options.

DERIVATION SUMMARY

APUC's 'BBB' Long-Term IDR is appropriately positioned relative to peer parent holding companies NextEra Energy, Inc. (A-/Stable) and AVANGRID, Inc. (BBB+/Negative). APUC's proportion of consolidated EBITDA from regulated utility operations is 75%-80%, more than NextEra (70%-75%) and AVANGRID (75%). Fitch forecasts APUC's consolidated FFO leverage to approximate 5.5x-5.7x in 2021, increase to slightly more than 6.0x in 2022 due to the acquisition of Kentucky Power, and then return to around 5.5x-5.7x in 2023 and 2024.

Fitch expects NextEra's FFO leverage to be elevated in the near term before improving to around 4.5x by 2023. Fitch expects AVANGRID's large capex plan and spending on renewable projects to weaken leverage in the near term, with FFO leverage expected to average over 6.5x through 2022 before improving to around 5.0x in 2023. APUC's weaker sustainable leverage metrics and much smaller scale of operations support APUC's lower relative rating compared with those of NextEra and AVANGRID.

LUCo benefits from significant geographic and regulatory diversification. LUCo consists of electric, natural gas, and water and wastewater utility systems in 13 states. This portfolio compares favorably with some larger single-state utilities from a diversification perspective, although its larger peers may benefit more from efficiencies of scale. More than half of LUCo's EBITDA is exposed to Missouri, which historically has had a somewhat challenging regulatory environment, although it has become more balanced in recent years.

Southwestern Public Service Company (SPS; BBB/Stable) is an integrated electric utility that operates in two states, Texas and New Mexico, with challenging regulatory environments. SPS lacks the diversification of LUCo, but is a larger utility that also benefits from being a subsidiary of Xcel Energy, Inc. (BBB+/Stable), a much larger and fully regulated utility family. LUCo's financial metrics are slightly weaker than those of SPS. Fitch forecasts LUCo's FFO leverage to average 5.0x-5.3x through 2024, compared with approximately 4.5x-4.6x for SPS.

KEY ASSUMPTIONS

Fitch's Key Assumptions Within Its Rating Case for the Issuer Include:

--Kentucky Power acquisition to close mid-2022 and be funded in a credit-supportive manner that won't meaningfully increase leverage at APUC or LUCo;

--New York American Water acquisition to close in Q4 2021;

--Timely recovery of costs associated with LUCo's 600MW wind power investment in Missouri and Kansas;

--Normal weather and renewable energy production.

RATING SENSITIVITIES

APUC

Factors that could, individually or collectively, lead to a positive rating action/upgrade:

--APUC's ratings are capped by the ratings on LUCo; LUCo's Long-Term IDR would need to be upgraded in order for APUC's Long-Term IDR to be upgraded;

--Consolidated FFO leverage expected to remain at less than 4.5x on a sustained basis.

Factors that could, individually or collectively, lead to a negative rating action/downgrade:

--Consolidated FFO leverage expected to exceed 5.7x on a sustained basis;

--An additional material increase to the ratio of parent-level debt to consolidated debt;

--A downgrade of LUCo's Long-Term IDR would result in a commensurate downgrade of APUC's Long-Term IDR.

LUCo

Factors that could, individually or collectively, lead to a positive rating action/upgrade:

--FFO leverage expected to remain less than 4.5x on a sustained basis.

Factors that could, individually or collectively, lead to a negative rating action/downgrade:

--FFO leverage expected to exceed 5.7x on a sustained basis;

--Adverse regulatory decisions that result in less timely cost recovery or significantly weaker financial metrics;

--A two-notch downgrade of APUC's Long-Term IDR would result in a downgrade of LUCo's Long-Term IDR.

BEST/WORST CASE RATING SCENARIO

International scale credit ratings of Non-Financial Corporate issuers have a best-case rating upgrade scenario (defined as the 99th percentile of rating transitions, measured in a positive direction) of three notches over a three-year rating horizon; and a worst-case rating downgrade scenario (defined as the 99th percentile of rating transitions, measured in a negative direction) of four notches over three years. The complete span of best- and worst-case scenario credit ratings for all rating categories ranges from 'AAA' to 'D'. Best-

and worst-case scenario credit ratings are based on historical performance. For more information about the methodology used to determine sector-specific best- and worst-case scenario credit ratings, visit https://www.fitchratings.com/site/re/10111579.

LIQUIDITY AND DEBT STRUCTURE

Adequate Liquidity: Fitch considers the liquidity for APUC, LUCo and APCo to be adequate.

APUC has a $500 million senior unsecured RCF that matures July 12, 2024. APUC had no borrowings and $3.8 million of LCs issued as of June 30, 2021, leaving $496.2 million of unused availability under its RCF. APUC has a separate $50 million uncommitted bilateral LC facility that had $15.3 million of LCs issued as of June 30, 2021.

APUC also has a $1 billion senior unsecured RCF that matures Dec. 31, 2021. This facility provides additional liquidity for the company's 2021 capex program given the uncertainty caused by the coronavirus pandemic. There were $3.0 million of borrowings outstanding as of June 30, 2021.

LUCo primarily meets its short-term liquidity needs through the issuance of CP under its $500 million CP program, which is backed by an equal-sized senior unsecured RCF. CP borrowings would reduce availability under the RCF, which matures Feb. 23, 2023. LUCo had $499.0 million of CP borrowings as of June 30, 2021.

LUCo also has a $600 million senior unsecured RCF that matures Dec. 31, 2021. This facility provides additional liquidity for the company's 2021 capex program given the uncertainty caused by the coronavirus pandemic. There were no amounts drawn on this facility as of June 30, 2021.

Through the acquisition of Ascendant in the fourth quarter of 2020, APUC acquired a $75 million senior unsecured RCF (the BELCO RCF). As of June 30, 2021, the BELCO RCF had $74.8 million drawn. The BELCO RCF was amended to extend the maturity to Dec. 31, 2021, and APUC expects to refinance the credit facility before maturity.

APCo's liquidity is primarily supported by a $500 million senior unsecured RCF that matures Oct. 6, 2023. APCo had $247 million of borrowings and $52.1 million of LCs issued as of June 30, 2021, leaving $200.9 million of availability under its RCF. APCo has a separate $350 million LC facility that matures June 30, 2023. APCo had $204.8 million of LCs issued under its LC facility as of June 30, 2021, leaving $145.2 million of availability.

APUC's subsidiaries require modest cash on hand to fund their operations. APUC had $203.5 million of unrestricted cash and cash equivalents as of June 30, 2021, of which $67.3 million was at LUCo and $73.6 million was at APCo.

Long-term debt maturities over the next five years are manageable.

--APUC does not have any long-term parent-level debt maturing within the next five years.

--LUCo has $195 million of long-term debt maturing in 2022, $95 million in 2023, $70 million in 2024 and $30 million in 2025; these maturities include debt at Liberty Finance and Liberty Utilities (America) Co. that are guaranteed by LUCo.

--APCo has $156.2 million of long-term debt maturing in 2022, $2.5 million in 2023, $2.7 million in 2024 and $2.9 million in 2025.

ISSUER PROFILE

APUC is a holding company that owns diversified international utility and power generation operations through LUCo, APCo and its other subsidiaries and investments.

LUCo owns regulated natural gas, electric, water and wastewater utility systems that serve more than 800,000 customer connections in 13 states in the U.S.

Liberty Utilities Finance GP1 is the financing entity for LUCo. All Liberty Finance debt is guaranteed by LUCo.

SUMMARY OF FINANCIAL ADJUSTMENTS

Financial statement adjustments that depart materially from those contained in the published financial statements of the relevant rated entity are disclosed below:

--APUC's junior subordinated notes are given 50% equity credit;

--APUC's preferred stock series A and D are given 50% equity credit.

REFERENCES FOR SUBSTANTIALLY MATERIAL SOURCE CITED AS KEY DRIVER OF RATING

The principal sources of information used in the analysis are described in the Applicable Criteria.

ESG CONSIDERATIONS

Unless otherwise disclosed in this section, the highest level of ESG credit relevance is a score of '3'. This means ESG issues are credit-neutral or have only a minimal credit impact on the entity, either due to their nature or the way in which they are being managed by the entity. For more information on Fitch's ESG Relevance Scores, visit www.fitchratings.com/esg.

RATING ACTIONS

ENTITY/DEBT	RATING			PRIOR
Liberty Utilities Finance GP1				
• senior unsecured	LT	BBB+	Affirmed	BBB+
Liberty Utilities Co.	LT IDR	BBB Rating Outlook Stable	Affirmed	BBB Rating Outlook Stable
	ST IDR	F2	Affirmed	F2
• senior unsecured	ST	F2	Affirmed	F2
Alaskan Pipeline	LT	BBB Rating Outlook Stable	Affirmed	BBB Rating

VIEW ADDITIONAL RATING DETAILS

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PARTICIPATION STATUS

The rated entity (and/or its agents) or, in the case of structured finance, one or more of the transaction parties participated in the rating process except that the following issuer(s), if any, did not participate in the rating process, or provide additional information, beyond the issuer's available public disclosure.

APPLICABLE CRITERIA

Parent and Subsidiary Linkage Rating Criteria (pub. 26 Aug 2020)

Corporate Hybrids Treatment and Notching Criteria (pub. 12 Nov 2020)

Corporates Recovery Ratings and Instrument Ratings Criteria (pub. 09 Apr 2021) (including rating assumption sensitivity)

Corporate Rating Criteria (pub. 15 Oct 2021) (including rating assumption sensitivity)

APPLICABLE MODELS

Numbers in parentheses accompanying applicable model(s) contain hyperlinks to criteria providing description of model(s).

Corporate Monitoring & Forecasting Model (COMFORT Model), v7.9.0 (1)

ADDITIONAL DISCLOSURES

Dodd-Frank Rating Information Disclosure Form

Solicitation Status

Endorsement Policy

ENDORSEMENT STATUS

Algonquin Power & Utilities Corp.	EU Endorsed, UK Endorsed
Liberty Utilities Co.	EU Endorsed, UK Endorsed
Liberty Utilities Finance GP1	EU Endorsed, UK Endorsed

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Corporate Finance Utilities and Power North America Canada United States

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Research Update:

Algonquin Power & Utilities Corp. And Subsidairies Outlooks Revised To Negative From Stable

October 28, 2021

Rating Action Overview

- Algonquin Power & Utilities (APUC) has announced that it has reached an agreement to buy Kentucky Power Co. (KPCo) and a Kentucky transmission entity from American Electric Power Co. Inc. (AEP) for about $2.85 billion, including assumed debt of about $1.2 billion.
- The company intends to fund the approximate $1.65 billion acquisition price with proceeds from a common equity issuance, which we expect to be C$800 million–C$920 million; however, the remaining funding mix remains uncertain and is expected to be sourced through a combination of hybrid debt, equity units, and sale of non-regulated assets or investments.
- We revised our outlook on APUC and its subsidiaries--Liberty Utilities Co. (LuCo), Liberty Power (LPCo), Liberty Utilities GP 1 (LU GP), and The Empire District Electric Company (EDE)--to negative from stable to reflects the lack of certainty regarding the acquisition's funding plan beyond the announced common equity issuance in 2021, which could expose the company to execution risks related to the procurement of credit supportive funding. (The negative outlook also incorporates the possibility of any material adverse regulatory requirements necessary to close the acquisition of KPCo.).
- At the same time, we affirmed our 'BBB' issuer credit ratings on these companies.
- We also placed our rating on LU GP's senior unsecured debt, which is guaranteed by LUCo, on CreditWatch with negative implications.

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Rating Action Rationale

The negative outlook reflects the uncertainty and execution risk regarding APUC's acquisition funding plan and the potential for material adverse regulatory outcomes related to the close of the KPCo acquisition. APUC intends to finance the $1.65 billion acquisition, excluding the assumption of about $1.2 billion of debt, with a common equity offering of C$800 million (with an over-allotment option that could bring total issuance proceeds to C$920 million). The remaining funding is expected to be sourced through a combination of hybrid debt, equity units, or the sale of non-regulated assets or investments, subject to the regulatory approval process and prevailing

market conditions. We believe that financial measures could weaken if APUC faces challenges regarding the execution of the remaining funding or if material adverse regulatory requirements are necessary to close the acquisition. If the company fails to procure credit-supportive funding or faces material adverse regulatory requirements, APUC's financial risk profile could deteriorate beyond what is expected at the current rating. We will continue to monitor any developments related to this transaction.

We placed our rating on LU GP's senior unsecured debt on CreditWatch negative to reflect the potential for the debt to be structurally subordinated following the acquisition closing. After assuming the KPCo debt, we expect the priority debt--including existing debt at the operating utilities--could make up more than 50% of debt at the consolidated Liberty Utilities level. As a result, the senior unsecured debt at LU GP would be lowered to one notch lower than the ICR.

Outlook

The negative outlook on APUC reflects the remaining uncertainty regarding the company's funding for its KPCo acquisition following the announced common equity issuance. Our current base-case scenario includes adjusted funds from operations (FFO) to debt in the 13%-14% range through 2022 after completing the KPCo acquisition.

Downside scenario

We could lower our ratings on APUC and its subsidiaries over the next 12 months if remaining funding is not executed in a credit-supportive manner or if the company experiences material adverse regulatory requirements, both of which could weaken financial measures including adjusted FFO to debt that would be consistently at or below 14%. We could also lower ratings if business risk weakens.

Upside scenario

We could revise our outlook on APUC and its subsidiaries back to stable over the next 12 months if APUC completes the acquisition funding in a credit-supportive manner without any material adverse regulatory requirements to close the acquisition and adjusted FFO to debt is expected to remain consistently above 14% without any weakening of the business risk.

Company Description

APUC is a diversified mostly energy company with operations across the U.S., Canada, Chile, and Bermuda. Through Liberty Utilities, APUC owns and operates a portfolio of regulated electric, natural gas, water distribution, and wastewater collection utility systems. APUC also generates and sells electricity through a portfolio of nonregulated renewable and clean-energy power generation facilities at Liberty Power. In addition, APUC owns a 44.2% equity investment in Atlantica Sustainable Infrastructure PLC.

Our Base-Case Scenario

- U.S. GDP expands by 6.5% in 2021 and 3.5% in 2022;
- The acquisition of KPCo closes by the end of the second quarter of 2022;
- Continued cost recovery through approved rate cases and rate riders;
- Capital spending averaging about $1.7 billion per year through 2023;
- Annual dividends averaging about $400 million-$500 million;
- Discretionary cash flow to remain negative, indicating external funding needs; and
- All debt maturities to be refinanced.

Issue Ratings - Subordination Risk Analysis

- We rate APUC's preferred stock two notches below the issuer credit rating. This notching reflects a greater credit risk that includes the securities' permanence, subordination in liquidation to all senior debt obligations, and deferability features.
- We rate APUC's equity units two notches below our 'BBB' issuer credit rating on the company to reflect the subordination and deferability on the instruments.
- We rate APUC's junior subordinated notes as hybrid securities two notches below our 'BBB' long-term issuer credit rating on APUC to reflect their subordination to senior debt obligations and the company's ability to defer interest payments on the notes.

Capital structure

The capital structure of LUCo, including its finance entity LU GP existing debt, consists of about $2.4 billion of long-term debt, of which about $700 million is priority debt. After completing the acquisition of KPCo that would include $1.2 billion of debt assumption, we believe priority debt would exceed 50%.

Analytical conclusions

After completing the KPCo acquisition, priority debt would exceed 50% of consolidated debt at LU GP, and therefore the senior unsecured debt at LU GP would be considered structurally subordinated and rated one notch below the ICR.

Ratings Score Snapshot

Issuer credit rating: BBB/Negative/--

Business risk: Strong

- Country risk: Very low
- Industry risk: Low
- Competitive position: Strong

Financial risk: Significant

- Cash flow/leverage: Significant

Anchor: bbb

Modifiers

- Diversification/portfolio effect: Neutral (no impact)
- Capital structure: Neutral (no impact)
- Financial policy: Neutral (no impact)
- Liquidity: Adequate (no impact)
- Management and governance: Satisfactory (no impact)
- Comparable rating analysis: Neutral (no impact)

Stand-alone credit profile: bbb

Group credit profile: bbb

Related Criteria

- General Criteria: Environmental, Social, And Governance Principles In Credit Ratings, Oct. 10, 2021
- General Criteria: Hybrid Capital: Methodology And Assumptions, July 1, 2019
- General Criteria: Group Rating Methodology, July 1, 2019
- Criteria | Corporates | General: Corporate Methodology: Ratios And Adjustments, April 1, 2019
- Criteria | Corporates | General: Reflecting Subordination Risk In Corporate Issue Ratings, March 28, 2018
- General Criteria: Methodology For Linking Long-Term And Short-Term Ratings, April 7, 2017
- Criteria | Corporates | General: Methodology And Assumptions: Liquidity Descriptors For Global Corporate Issuers, Dec. 16, 2014
- Criteria | Corporates | Industrials: Key Credit Factors For The Unregulated Power And Gas Industry, March 28, 2014
- General Criteria: Country Risk Assessment Methodology And Assumptions, Nov. 19, 2013
- Criteria | Corporates | General: Corporate Methodology, Nov. 19, 2013
- General Criteria: Methodology: Industry Risk, Nov. 19, 2013
- Criteria | Corporates | Utilities: Collateral Coverage And Issue Notching Rules For '1+' And '1' Recovery Ratings On Senior Bonds Secured By Utility Real Property, Feb. 14, 2013
- General Criteria: Methodology: Management And Governance Credit Factors For Corporate Entities, Nov. 13, 2012
- General Criteria: Principles Of Credit Ratings, Feb. 16, 2011

Ratings List

Ratings Affirmed; Outlook Action

	To	From
Algonquin Power & Utilities Corp.		
Liberty Utilities Finance GP1		
Algonquin Power Co. dba Liberty Power		
Issuer Credit Rating	BBB/Negative/--	BBB/Stable/--
Empire District Electric Co.		
Liberty Utilities Co.		
Issuer Credit Rating	BBB/Negative/A-2	BBB/Stable/A-2
Issue-Level Ratings Unchanged; Placed on CreditWatch		
Liberty Utilities Finance GP1		
Senior Unsecured	BBB/Watch Neg	BBB
Issue-Level Ratings Affirmed; Recovery Ratings Unchanged		
Empire District Electric Co.		
Senior Secured	A-	
Recovery Rating	1+	
Issue-Level Ratings Affirmed		
Algonquin Power & Utilities Corp.		
Senior Unsecured	BB+	
Subordinated	BB+	
Preferred Stock	BB+	
Preferred Stock	P-3(High)	
Algonquin Power Co. dba Liberty Power		
Senior Unsecured	BBB	
Empire District Electric Co.		
Senior Secured	A-	
Senior Unsecured	BBB	
Commercial Paper	A-2	
Liberty Utilities Co.		
Commercial Paper	A-2	

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_9 Provide copies of any and all reports and other documents identifying economies of scale or scope, with costs detailed, expected to result from the proposed transaction.

RESPONSE

Economies of scope or scale are not expected to occur from this transaction.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_10 Identify any economies of scope or scale – regardless of physical location -- affecting the Joint Applicants' Kentucky-based operations, with costs detailed.

a. State whether any savings related to economies of scale or scope, with costs detailed, will be shared with the Joint Applicants' customers, and if so, provide a quantification.

RESPONSE

Please see the response to AG 1-09.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_11 Will Liberty, KPCo and / or their parent entities or affiliates receive any tax advantage(s) or benefit(s) from the proposed transaction? If so, please provide a quantification, including how much of the tax advantages / benefits will inure to ratepayers' benefit.

RESPONSE

The Joint Applicants object to this request on the basis that it seeks information that is outside the scope of this proceeding and that is neither relevant to this proceeding or calculated to lead to the discovery of admissible evidence. In support of this objection the Joint Applicants state that information concerning the tax advantages or benefits of Liberty or AEP as the parent companies have nothing to do with the Commission's inquiry into this matter, which, pursuant to KRS 278.020(6) and (7), is whether Liberty has the financial, technical, and managerial abilities to provide reasonable service and that the proposed acquisition is in accordance with law, for a proper purpose, and consistent with the public interest.

Subject to and without waiving this objection, the Joint Applicants state: The Joint Applicants will not receive tax advantages or benefits due to the proposed transaction.

Witness: Allyson L. Keaton

Witness: Michael McCuen

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_12 Do the Joint Applicants anticipate that KPCo will be a participant in a consolidated tax return or will it file separate tax returns? Please explain in detail.

RESPONSE

Kentucky Power will file as part of the AEP Consolidated Group federal income tax return from January 1, 2022 through the day of Close. After the day of Close, Kentucky Power is expected to join the Liberty Consolidated Group's federal income tax filing.

Witness: Allyson L. Keaton

Witness: Michael McCuen

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_13 Explain whether as a result of the proposed transaction, KPCo would be required to: (i) guarantee the credit of any affiliates of Liberty and/or Liberty's parent entities; and/or (ii) issue any security, incur any debt, or pledge any assets to finance any part of the purchase price paid under the proposed transaction.

a. Are the Joint Applicants prepared to make a pledge to that effect? If not, why not?

RESPONSE

Kentucky Power would not be required to (i) guarantee the credit of any affiliates of Liberty Utilities Co. and/or Liberty's parent entities; and/or (ii) issue any security, incur any debt, or pledge any assets to finance any part of the purchase price paid under the proposed transaction.

a. Liberty is prepared to make a pledge to that effect. See response to Staff 1-03(k).

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_14 Do the joint applicants anticipate that as a result of the proposed transaction, additional cost saving opportunities will be created? If so:

a. Explain whether such savings will inure to the benefit of KPCo and its customers, and include an explanation of how and why the Joint Applicants believe this to be the case.

b. Explain whether any savings will occur outside of KPCo's service territory, and if so, provide a complete estimate and explanation.

c. Provide copies of any and all analyses Joint Applicants have conducted depicting any and all such cost savings opportunities.

RESPONSE

One of the benefits of new ownership of Kentucky Power is the opportunity to take a fresh look at how the business is operated to determine whether there are different approaches that can bring cost savings to customers over time. Liberty is looking forward to the opportunity to thoroughly review potential opportunities to deliver cost savings to customers with the benefit of a different perspective as a new owner. Liberty has approached other acquisitions with this perspective. For context, in the case of Liberty's acquisition of The Empire District Electric Company, Liberty was able to approach integrated resource planning from a different perspective and conduct additional modeling that considered the use of tax equity partnerships in conjunction with the development of future generation resources. This modeling, which was rigorous and considered over 50 different resource scenarios, identified an opportunity to save customers $169 million over 20 years by moving to lower cost sources of energy in conjunction with a tax equity partnership. This type of analysis was never contemplated prior to Liberty's ownership and would not have come to light under prior ownership.

Similarly, in Liberty's recent acquisition of New York American Water, Liberty has worked diligently on efforts to reduce a major property tax burden to its customers, which accounts for a major portion of monthly utility bills. While this burden has not yet been lifted, Liberty has already engaged with various stakeholders in order to achieve an outcome resulting in cost savings for its customers.

In the instant case in Kentucky, while Liberty has not yet specifically identified cost savings, it continues to investigate the potential for cost reductions such as reducing corporate costs as discussed and identified in its response to Staff 1-17. Further, its willingness to study a potential departure from PJM or other options (see response to Staff 1-38) is just one example of efforts that it will undertake to ensure that customer savings are maximized. Further actions such as undertaking lead/lag studies and other studies which could reduce customer rates will be undertaken, as well as being open to various types of resource in generation and demand side modeling as part of integrated resource planning. Similarly, all operations will be evaluated to ensure that customers are being served with an eye to affordability. In short, a new lens focused on customer affordability, reliability, and service will help ensure that savings are brought forth to the benefit of Kentucky customers.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_15 Assuming the proposed transaction is fully approved in every jurisdiction by every regulatory authority, state whether KPCo would be required to give any type or sort of preference to purchased power from any source whatsoever, and if so, identify that generation source.

a. State whether any such preference would take priority over KPCo's ability to purchase power from any other source, including the PJM regional transmission organization ("RTO") market, at lower prices.

b. If the answer to any portion of this question is in the affirmative, state whether the Joint Applicants will file or have filed any petition(s) with FERC seeking approval of any such preferential purchased power arrangement.

RESPONSE

a.-b. Post-closing, any new agreement entered into would not require Kentucky Power to give any type of preference for purchased power.

As part of the proposed Transaction the parties contemplated a Bridge Power Coordination Agreement which is required to bridge existing commitments of AEP and Kentucky Power as outlined in section 4.8(b) of the Seller's Disclosure Letter.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_16 State whether KPCo, as a result of the proposed transaction, will enter into any type or sort of pooling arrangement with any other current or future affiliate. If so, provide complete details, including copies of any such arrangements, even if only in draft form.

RESPONSE

As discussed in Witness Eichler's testimony at pages 26-27, Kentucky Power would enter into a joinder agreement and participate in Liberty's money pool. The Money Pool agreement is attached to Witness Eichler's testimony as Exhibit PE-1. Liberty does not anticipate any other pooling arrangements involving Kentucky Power and its affiliates at this time.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_17 Assuming the proposed transaction is fully approved in every jurisdiction by every regulatory authority, state whether KPCo/Liberty intend to remain full PJM members. Include in your response:

a. whether the Joint Applicants are contemplating changing their PJM status from FFR to RPM; and

b. any studies / analyses regarding potential exit fees KPCo would or could face if it decides to exit PJM.

c. all studies / analyses pertaining to any increased transmission costs KPCo would incur in the event of a PJM exit.

RESPONSE

a.-c. See response to KPSC 1-38. Liberty has agreed to undertake a study to determine if there are customer benefits to be gained from leaving PJM or other options. The intent is for this analysis to occur after the close of the Transaction, and therefore, no studies have yet occurred on changing the status from FFR to RPM, exit fees, or increased costs. Liberty looks forward to working collaboratively with key stakeholders to study any and all impacts of a potential exit from PJM or other options.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_18 Will KPCo's generating units be jointly dispatched together with any other units the Joint Applicants own and / or operate? If so, state whether economic dispatch principles will apply.

RESPONSE

Liberty anticipates Mitchell will be jointly dispatched as described in PJM Manual 14D Appendix L. The units will be economically dispatched by PJM and each owner will have control over the commitment of its share of the unit.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_19 Provide a list describing KPCo's planned transmission projects for the next 10 years. Discuss also whether the proposed transaction will in any manner change or affect the projects identified therein, and if so, how. Include in your discussion whether Joint Applicants:

a. are considering any additional interconnections with surrounding territories; and

b. believe any additional synergies could be achieved through modifying these plans in any manner.

RESPONSE

a.-b. Please see Kentucky Power's annual filing in Case No. 2000-00387. It is unknown at this time how this list of projects may change relative to the proposed transaction. Further, it is unknown at this time regarding any additional interconnections with surrounding territories or any synergies that could be achieved through modifying these plans.

Witness: Brian K. West

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
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DATA REQUEST

AG 1_20 Explain how much experience Liberty has in working with, and maintaining electric transmission facilities.

RESPONSE

Please refer to Witness Landoll's testimony, pp. 12-13, and Witness Eichler's testimony, pp 15-17.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_21 Explain how much experience Liberty has with working with RTOs. If any, how much experience does Liberty have working with the PJM?

RESPONSE

Liberty has extensive experience working with the Southwest Power Pool (SPP) by way of its subsidiary, The Empire District Electric Company (Empire), which was among the RTO's founding members. Empire is a load serving entity within the SPP with an approximate peak load of 1,200 MW. It is also a transmission owner, a Network Integration Transmission Service (NITS) customer, a market participant, and a network operator within the SPP. Empire is also an active participant in a variety of SPP working groups. Aside from several unregulated projects owned and operated through its Liberty Power affiliate, Liberty's experience working with PJM amounts to introductory discussions to outline the Company's planned path forward with the PJM membership application and matters related to Kentucky Power's and Kentucky Transco's governing documents that would require updating as well as certain filings required under Section 205 of the Federal Power Act.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
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DATA REQUEST

AG 1_22 Provide a discussion on how much experience Liberty has in working with and maintaining 500 kV and higher transmission facilities.

RESPONSE

While Liberty owns and operates transmission facilities, they are not rated 500 kV or above. That said, Liberty intends to retain the field service employees of Kentucky Transco that are experienced with this class of assets and many of Liberty's employees that are expected to be involved in the planning and operation of the Kentucky system have experience working with transmission facilities. To the extent necessary, the company will supplement its local Kentucky staffing complement with transmission employees with appropriate experience.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_23 Explain whether Joint Applicants contemplate any additional environmental compliance / remediation projects in the event the proposed transaction is approved at all regulatory levels.

RESPONSE

Joint Applicants do not currently contemplate any environmental compliance or remediation projects related to the proposed transfer of Kentucky Power to Liberty.

Witness: Stephan T. Haynes

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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Dated January 13, 2022

DATA REQUEST

AG 1_24 Explain whether KPCo will or could incur any increased PJM or other system operator charges (including MISO) resulting from the proposed transaction that it would not have incurred but for the proposed transaction. If any: (i) state whether KPCo's ratepayers will or could be required to pay for all or any portion of those increased costs; and (ii) provide as many details as possible.

RESPONSE

Kentucky Power will be treated as an LSE and a Transmission Owner under the PJM tariff as it is today, and thus will continue to assess formula rates for transmission services and will continue to procure resources to serve load. Therefore, no changes are expected to the cost levels.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_25 Provide a complete explanation of any and all plans the Joint Applicants may have to expand use of renewable fuels in KPCo's generation portfolio. Please provide any and all documents, studies and analyses necessary to support your explanation.

RESPONSE

The attached file, JA_R_AG_1_25_ConfidentialAttachment1.xlsx, provides a preliminary scenario of what Liberty believes should be explored for Kentucky Power's service territory from the perspective of augmenting and/or replacing the winding down fossil generation with renewable sources. Should the transaction be approved, Liberty will ensure that any such scenario of future integration of renewables or any other form of generation is studied in the Integrated Resource Planning process and will follow the requisite approvals processes. Overall, Liberty will look to bring benefits to Kentucky Power customers by utilizing similar experiences, such as replacing fossil generation with renewable generation following our successful Customer Savings Plan project within our Empire Electric utility where the company replaced 200 MW of uneconomic fossil generation with 600 MW of wind, while generating a long-term cost savings for Empire's customers.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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Dated January 13, 2022

DATA REQUEST

AG 1_26 Provide a detailed explanation of whether and to what extent, if applicable, the Joint Applicants intend to enhance and / or expand their procurement of gas as an electric generation fuel. If not, explain why not.

RESPONSE

Until such time as Liberty completes an IRP update using all available information and of the appropriate vintage, it would be too early to speculate on which enhancements or expansions of fuel-sourced generation assets are in the best interests of Kentucky's customers.

Witness: Drew Landoll

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_27 Identify any shareholder lawsuits which may have been brought against any or all of the Joint Applicants which appear to contest the proposed transfer of control. Provide:

a. a narrative discussion regarding the effect these lawsuits will or may have on the deadlines the Joint Applicants have established regarding the consummation of the transaction;

b. copies of all such complaints; and

c. a discussion of any potential for increased costs the Joint Applicants may have, and any and all ramifications there may be for KPCo ratepayers.

RESPONSE

There are no shareholder lawsuits regarding the proposed transfer of control of Kentucky Power or AEP Kentucky Transmission Company, Inc.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_28 With regard to any pending or threatened litigation (including any pending or threatened regulatory review or supervision enforcement actions) involving KPCo, its parent entities and its affiliates, are the Joint Applicants making any provisions through which they will agree to fund the defense of such pending or threatened litigation? If so, please explain in detail. If not, please explain why not.

RESPONSE

With respect to insured litigation, pending or threatened litigation will be subject to the applicable insurance policies that may respond to claims. With respect to uninsured litigation costs, Kentucky Power will fund the defense of litigation against it post-closing.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
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DATA REQUEST

AG 1_29 Provide KPCo's most recent load forecast.

RESPONSE

Please see JA_R_AG_1_29_Attachment1 for the requested information.

Witness: Brian K. West

Kentucky Power Company
Annual Internal Load
2022-2033

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Internal Energy (GWH)												
Residential	1,919	1,897	1,869	1,844	1,826	1,807	1,790	1,773	1,755	1,739	1,724	1,711
Commercial	1,146	1,147	1,142	1,139	1,136	1,132	1,129	1,126	1,122	1,119	1,116	1,113
Total Industrial	1,944	1,948	1,942	1,940	1,943	1,945	1,947	1,949	1,951	1,951	1,952	1,952
Total Other Ultimate	9	9	9	9	9	9	9	9	9	9	9	9
Total Ultimate Sales	5,019	5,001	4,963	4,932	4,915	4,894	4,876	4,858	4,837	4,818	4,802	4,786
Other Sales-for-Resale	78	77	77	76	76	75	75	74	74	73	73	72
Total Sales-for-Resale	78	77	77	76	76	75	75	74	74	73	73	72
Total Internal Sales	5,096	5,078	5,040	5,008	4,991	4,970	4,951	4,932	4,911	4,892	4,875	4,858
Total Losses	402	378	379	379	373	372	371	369	366	364	364	361
Total Internal Energy	5,498	5,456	5,419	5,387	5,363	5,342	5,321	5,301	5,277	5,256	5,238	5,219
Internal Peak Demand (MW)												
Summer	924	916	907	904	900	896	890	888	884	881	876	875
Preceding Winter	1,199	1,182	1,166	1,160	1,152	1,144	1,132	1,127	1,119	1,111	1,101	1,098

Corporate Planning and Budgeting
2021 Load Forecast (2021LT-V2 June 2021 Control Budget)

Kentucky Power Company
Monthly Internal Load
2022

Internal Energy (GWH)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Residential	248.2	195.9	169.8	120.6	108.7	132.7	168.3	159.8	123.0	109.3	147.5	235.1	1,919
Commercial	106.4	95.7	92.3	79.4	89.9	97.3	105.5	101.9	93.0	91.4	92.3	101.1	1,146
Total Industrial	160.3	152.2	163.9	159.7	167.4	160.3	161.6	162.5	152.3	164.2	172.4	167.4	1,944
Total Other Ultimate	1.0	0.8	0.8	0.7	0.6	0.5	0.6	0.7	0.7	0.9	1.0	1.0	9
Total Ultimate Sales	516.0	444.6	426.9	360.3	366.6	390.9	435.9	424.8	369.0	365.8	413.2	504.6	5,019
Other Sales-for-Resale	8.5	7.3	6.7	5.2	5.3	6.0	6.9	7.0	5.5	5.3	6.2	7.8	78
Total Sales-for-Resale	8.5	7.3	6.7	5.2	5.3	6.0	6.9	7.0	5.5	5.3	6.2	7.8	78
Total Internal Sales	524.5	451.9	433.5	365.6	372.0	396.9	442.8	431.8	374.5	371.1	419.4	512.4	5,096
Total Losses	64.4	42.2	34.1	33.6	29.4	31.5	35.2	34.3	29.8	29.5	24.4	13.4	402
Total Internal Energy	588.9	494.2	467.7	399.2	401.4	428.4	477.9	466.1	404.3	400.6	443.8	525.8	5,498
Internal Peak Demand (MW)	1,199	1,172	876	761	735	836	924	911	837	720	874	952	1,199

Corporate Planning and Budgeting
2021 Load Forecast (2021LT-V2 June 2021 Control Budget)

Kentucky Power Company
Monthly Internal Load
2023

Internal Energy (GWH)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Residential	248.2	195.2	166.0	118.9	107.3	130.7	165.8	157.4	120.5	108.0	144.0	234.7	1,897
Commercial	108.7	97.1	91.7	79.4	89.7	96.9	105.0	101.5	92.5	91.2	90.8	102.4	1,147
Total Industrial	161.8	153.0	163.6	159.9	167.5	160.3	161.7	162.7	152.3	164.4	171.7	168.7	1,948
Total Other Ultimate	1.0	0.8	0.8	0.7	0.6	0.5	0.6	0.7	0.7	0.9	1.0	1.0	9
Total Ultimate Sales	519.6	446.2	422.2	358.9	365.2	388.4	433.1	422.2	366.0	364.5	407.4	506.9	5,001
Other Sales-for-Resale	8.5	7.3	6.6	5.2	5.3	6.0	6.8	6.9	5.5	5.3	6.2	7.7	77
Total Sales-for-Resale	8.5	7.3	6.6	5.2	5.3	6.0	6.8	6.9	5.5	5.3	6.2	7.7	77
Total Internal Sales	528.1	453.5	428.9	364.1	370.5	394.4	439.9	429.1	371.5	369.7	413.6	514.6	5,078
Total Losses	55.6	35.9	34.3	31.7	29.4	31.3	34.9	34.1	29.5	29.4	26.7	5.6	378
Total Internal Energy	583.7	489.5	463.2	395.8	399.9	425.7	474.8	463.2	401.0	399.1	440.3	520.2	5,456
Internal Peak Demand (MW)	1,182	1,153	868	749	739	829	916	903	804	716	874	942	1,182

Corporate Planning and Budgeting
2021 Load Forecast (2021LT-V2 June 2021 Control Budget)

Kentucky Power Company
Monthly Internal Load
2024

Internal Energy (GWH)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Residential	242.4	196.2	161.1	113.8	105.6	127.9	163.5	154.3	118.6	106.9	147.0	231.9	1,869
Commercial	107.0	98.7	90.3	77.3	89.0	95.7	104.8	100.7	91.9	90.8	94.0	102.1	1,142
Total Industrial	160.7	153.9	162.7	158.3	166.8	159.4	161.4	162.0	151.7	163.5	173.3	168.1	1,942
Total Other Ultimate	1.0	0.8	0.8	0.7	0.6	0.5	0.6	0.7	0.7	0.9	1.0	1.0	9
Total Ultimate Sales	511.2	449.7	414.9	350.1	362.1	383.6	430.2	417.7	362.9	362.1	415.3	503.1	4,963
Other Sales-for-Resale	8.4	7.3	6.6	5.2	5.3	6.0	6.8	6.9	5.4	5.2	6.1	7.7	77
Total Sales-for-Resale	8.4	7.3	6.6	5.2	5.3	6.0	6.8	6.9	5.4	5.2	6.1	7.7	77
Total Internal Sales	519.6	456.9	421.5	355.3	367.3	389.6	437.0	424.6	368.3	367.4	421.4	510.8	5,040
Total Losses	57.7	43.6	33.4	38.6	29.2	30.9	34.7	33.7	29.2	29.2	14.4	4.0	379
Total Internal Energy	577.3	500.5	454.9	393.9	396.5	420.5	471.7	458.2	397.6	396.5	435.8	514.9	5,419
Internal Peak Demand (MW)	1,166	1,137	851	744	728	821	907	894	796	708	860	929	1,166

Corporate Planning and Budgeting
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Kentucky Power Company
Monthly Internal Load
2025

Internal Energy (GWH)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Residential	238.5	189.3	159.6	115.1	104.6	127.3	162.3	152.7	117.8	106.0	143.2	227.9	1,844
Commercial	106.5	96.6	90.3	78.7	88.9	96.0	104.9	100.6	92.4	90.9	92.0	101.0	1,139
Total Industrial	160.2	152.5	162.5	159.1	166.6	159.6	161.5	162.0	152.0	163.8	172.2	167.6	1,940
Total Other Ultimate	1.0	0.8	0.8	0.7	0.6	0.5	0.6	0.7	0.7	0.9	1.0	1.0	9
Total Ultimate Sales	506.2	439.3	413.3	353.6	360.7	383.4	429.2	415.9	363.0	361.5	408.3	497.5	4,932
Other Sales-for-Resale	8.4	7.2	6.6	5.1	5.2	5.9	6.8	6.8	5.4	5.2	6.1	7.7	76
Total Sales-for-Resale	8.4	7.2	6.6	5.1	5.2	5.9	6.8	6.8	5.4	5.2	6.1	7.7	76
Total Internal Sales	514.6	446.5	419.8	358.7	366.0	389.3	436.0	422.8	368.4	366.7	414.4	505.2	5,008
Total Losses	60.6	35.4	33.3	34.5	29.1	30.9	34.6	33.5	29.2	29.1	20.0	8.3	379
Total Internal Energy	575.1	481.9	453.2	393.3	395.0	420.3	470.6	456.3	397.6	395.8	434.4	513.5	5,387
Internal Peak Demand (MW)	1,160	1,131	847	743	724	819	904	891	795	705	854	924	1,160

Corporate Planning and Budgeting
2021 Load Forecast (2021LT-V2 June 2021 Control Budget)

Kentucky Power Company
Monthly Internal Load
2026

Internal Energy (GWH)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Residential	236.2	186.8	157.9	113.8	103.3	126.4	160.6	151.1	116.6	104.6	142.5	226.3	1,826
Commercial	106.5	96.3	90.3	78.5	88.4	95.9	104.6	100.4	92.2	90.3	92.1	100.9	1,136
Total Industrial	160.8	152.8	162.9	159.3	166.6	159.9	161.6	162.2	152.3	163.7	172.6	168.1	1,943
Total Other Ultimate	1.0	0.8	0.8	0.7	0.6	0.5	0.6	0.7	0.7	0.9	1.0	1.0	9
Total Ultimate Sales	504.4	436.8	411.9	352.4	358.9	382.7	427.4	414.4	361.9	359.5	408.1	496.3	4,915
Other Sales-for-Resale	8.4	7.2	6.5	5.1	5.2	5.9	6.7	6.8	5.3	5.1	6.0	7.6	76
Total Sales-for-Resale	8.4	7.2	6.5	5.1	5.2	5.9	6.7	6.8	5.3	5.1	6.0	7.6	76
Total Internal Sales	512.8	444.0	418.4	357.5	364.1	388.6	434.1	421.2	367.2	364.7	414.2	504.0	4,991
Total Losses	58.3	35.2	33.2	34.4	28.9	30.8	34.5	33.4	29.2	29.0	19.2	6.6	373
Total Internal Energy	571.1	479.2	451.6	391.9	393.0	419.5	468.6	454.6	396.4	393.6	433.4	510.6	5,363
Internal Peak Demand (MW)	1,152	1,123	841	736	720	815	900	887	815	701	846	917	1,152

Corporate Planning and Budgeting
2021 Load Forecast (2021LT-V2 June 2021 Control Budget)

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
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DATA REQUEST

AG 1_30 Explain how KPCo's rate base will or may be affected by the proposed transaction.

RESPONSE

The Joint Applicants are not aware of any scenarios whereby Kentucky Power's rate base approved in the most recent base rates case No. 2020-00174 would be affected by the proposed transaction.

Witness: Brian K. West

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
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DATA REQUEST

AG 1_31 Indicate whether the proposed transaction may lead to fuel savings for KPCo customers, and provide quantification, broken down by type of fuel.

RESPONSE

As described in Witness Eichler's testimony, at this time, Liberty is contemplating potential fuel savings stemming from changing Kentucky Power's supply mix by integrating zero fuel cost renewables. These savings would be identified as part of integrated resource planning under Liberty's ownership of Kentucky Power.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
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Dated January 13, 2022

DATA REQUEST

AG 1_32 Assuming the proposed transaction is fully approved in every jurisdiction by every regulatory authority, will KPCo and Liberty combine into a single operating company? If not, explain the nature of the structure, and provide a chart depicting that structure.

RESPONSE

No. Kentucky Power will be a separate legal entity and a direct subsidiary of Liberty Utilities Co. Page 3 of Exhibit 6 to the Joint Application shows the post-closing organizational structure. Please refer to response to AG 1-72 for a corrected organizational chart.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_33 Explain whether any of the executive management of KPCo, Liberty, or of their corporate parent entities or affiliates, and existing and proposed members of their respective boards of directors are members, officers, partners, directors of, or have a controlling interest in, any business entity engaged in the electric generation, transmission or distribution industry or gas industry other than the Joint Applicants, and if so, identify them by name and by type of interest.

RESPONSE

One of AEP's directors, Oliver G. Richard, III, serves on the board of directors of Cheniere Energy Partners, LP. Cheniere is a Houston, Texas, based producer and exporter of liquefied natural gas.
The executive management of Liberty and its affiliates do not hold any positions in any business entity engaged in the electric generation, transmission or distribution industry or gas industry other than the business entities under Liberty's corporate parent Algonquin Power & Utilities Corp.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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DATA REQUEST

AG 1_34 Assuming the proposed transaction is fully approved in every jurisdiction by every regulatory authority, explain whether any officers or directors of Joint Applicants will receive any bonus, compensation, stock shares and/or options, retirement matches, incentives, insurance, use of corporate-owned property or any other remuneration of any type or sort. Please identify the applicable individuals, the method of remuneration, and the cash value thereof.

a. Reference "Confidential Excerpt from Exhibit 5," p. 8 of 17.
    1. Provide the file named "[redacted]" identified in footnote 1 on page 8 of 17.
    2. Identify the "[redacted]" of [redacted].
    3. Provide all such actual [redacted].
    4. Identify fully the source for payments under all such [redacted].
    5. Explain whether Joint Applicants will agree to a commitment not to seek recovery of sums paid to the recipients of all such [redacted] from KPCo ratepayers. If Joint Applicants are not willing to make that commitment, explain fully why not.
b. Explain whether any additional Supplemental Executive Retirement Pay ("SERP") will be paid in the event the proposed transaction is approved. If so, explain whether Joint Applicants will agree to comply with Commission precedents precluding recovery of SERP expense from ratepayers. If not, why not?

RESPONSE

Once the proposed transaction receives full approval from all relevant regulatory authorities, upon closing, there will not be any remuneration or payments made to Liberty employees.

No officers or directors of AEP, or any of its affiliates, including Kentucky Power, will receive any additional compensation or other remuneration of any sort due to the approval of the proposed transaction. Nevertheless, compensation for directors and officers of AEP and its affiliates will continue to be determined discretionarily based on a variety of factors, which may or may not include consideration of any and all aspects of the proposed transaction, irrespective of whether it is completed or otherwise.

The retention agreements referenced in this discovery request will be paid irrespective of whether the proposed transaction is approved or closes.

Closing of the proposed transaction will result in the following treatment of unvested and unpaid compensation and benefits for officers and all other employees of Kentucky Power transferring to Liberty Utilities. Note that no directors of AEP or its affiliates or any officers of AEP or its affiliates, other than Kentucky Power officers, will be transferring to Liberty Utilities.

- The YTD value of short-term incentive compensation upon closing (i.e. the value prorated to reflect the partially completed year) for officers and all other employees transferring to Liberty will remain a contingent liability of Kentucky Power/Liberty Utilities post-closing. A file of these values by employee will be provided to Liberty Utilities.
- The prorated value of granted but unvested long-term incentive awards upon closing (i.e. the value prorated to reflect the partially completed vesting period for each award) will be vested upon closing and paid to participants at a target (1.0) score. The proration factor will be the number of whole months from the effective grant date that participants have worked upon closing divided by the number of whole months in each awards longest vesting period (generally 36 months for performance shares and 2022 RSUs and 40 months for pre-2022 RSUs). To the extent that any 2022-24 performance shares are granted to Kentucky Power officers and other employees who would transfer to Liberty utilities and the transaction closes before June 30, 2022, the prorated vesting of these performance units would be subject to the further approval of Liberty Utilities.
- Non-qualified deferred compensation plans will be terminated with respect to employees transferring to Liberty Utilities as of the closing date, which will result in the payment of accrued benefits as soon as practical thereafter.

a. 1. See JA_R_AG_1_34_ConfidentialAttachment2 for the requested information.

a. 2. Please see JA_R_AG_1_34_ConfidentialAttachment1 for the names of retention agreement participants.

a. 3. Please see JA_R_AG_1_34_ConfidentialAttachment1 for these retention agreements or JA_R_AG_1_34_Attachment1 for a partially redacted version of them.

a. 4. The retention payments will be made from Kentucky Power general assets.

a. 5. AEP and its affiliates, exclusive of Kentucky Power after the close, are not seeking and do not intend to seek recovery for these retention costs.

b. No additional Supplemental Executive Retirement Pay ("SERP") will be paid in the event the proposed transaction is approved.

Witness: Stephan T. Haynes

Witness: David Swain

Date: January 28, 2021

Subject: Retention Agreement

From: Lisa Barton, EVP & Chief Operating Officer

To: [redacted]

AEP is preparing to market Kentucky Power Company ("KPCo"), including KPCo's 50% ownership of the Mitchell Plant and the Big Sandy Plant. Management believes that you are a key employee with respect to maintaining operations while AEP prepares for the marketing and sale process. Therefore, AEP is offering a retention incentive to you pursuant to the following retention agreement.

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If you have any questions or concerns, please call Andy Carlin at 614-716-3417 or me at 614-716-1200.

Date: January 29, 2021

Subject: Retention Agreement

From: Lisa Barton, EVP & Chief Operating Officer

To: [redacted]

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Date: January 29, 2021

Subject: Retention Agreement

From: Lisa Barton, EVP & Chief Operating Officer

To: [redacted]

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[redacted]

[redacted]

AMERICAN ELECTRIC POWER

BOUNDLESS ENERGY™

Date: January 28, 2021

Subject: Retention Agreement

From: Lisa Barton, EVP & Chief Operating Officer

To: [redacted]

AEP is preparing to market Kentucky Power Company ("KPCo"), including KPCo's 50% ownership of the Mitchell Plant and the Big Sandy Plant. Management believes that you are a key employee with respect to maintaining operations while AEP prepares for the marketing and sale process. Therefore, AEP is offering a retention incentive to you pursuant to the following retention agreement.

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Signed:

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[redacted]

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To: [redacted]

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Signed:

[redacted]

[redacted]

JA_R_AG_1_34_PublicAttachment2 has been redacted in its entirety.

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_35 Provide the name of the members of the new board of directors together with a brief biographical sketch outlining their experience, for both KPCo and Liberty.

a. State whether each board member currently serves as a director of the board of one of the Joint Applicants, and if so, which one.
b. Include in the biographical sketch for each board member whether they serve on any other boards.

RESPONSE

Liberty plans to appoint Paula Baker, Alan Marble, and John Thompson, as the three independent directors to the Kentucky Power board of directors. Each currently serves on the boards of Liberty's Central Region utilities, which include The Empire District Electric Company, The Empire District Gas Company, Empire District Industries, Inc., Liberty Utilities (Midstates Natural Gas) Corp., Liberty Utilities (Missouri Water) LLC, Liberty Utilities (Pine Bluff Water) Inc., and Liberty Utilities (Arkansas Water) Corp. Additionally, a business or community leader from Kentucky Power's service territory will serve on the board along with Arun Banskota and Johnny Johnston, the two management directors.

a. None of the board members intended to serve on the board of Kentucky Power serve on the board of any of the Joint Applicants.

b. Please see the attached biographies of the three independent directors (JA_R_AG_1_35_Attachment_Director Bios.pdf).

Witness: Peter Eichler

Independent Directors of the U.S. Operating Subsidiaries of Liberty Utilities Co.
Central Region

Ms. Paula Baker
Joplin, Missouri

Paula Baker is President and Chief Executive Officer of Freeman Health System, providing vision and direction for the three-hospital, 460-bed health system headquartered in Joplin, Missouri, as well as the Ozark Center Behavioral Health System.

Paula holds a bachelor's degree in secondary education and a master's in clinical psychology from Pittsburg State University. She and her husband, Gene, have a 13-year old son, Austin.

Paula serves on the boards of the Missouri Hospital Association, Healthcare Services Group, Vizient Mid-America, Mid-America Service Solutions LLC, Pittsburg State University Foundation Board of Trustees, Ronald McDonald House Charities of the Four States, Arvest Bank, Connect-2-Culture, Joplin Regional Prosperity Initiative Advisory Council, Landmark Hospital – Joplin, the Centene National Hospital Advisory Committee, and the Missouri Southern State University Healthcare Administration Advisory Board. Paula was appointed to serve on the American Hospital Association Regional Policy Board, Missouri Women's Health Council and the Women's Health Advocacy Committee, the Missouri Task Force for Missouri Medicaid Delivery Models, and the Missouri Commission on Autism Spectrum Disorders. She also serves on the City of Joplin Disaster Resiliency (Smart Cities) Steering Committee, and the Joplin Celebrations Commission.

Mr. Alan Marble
Joplin, Missouri

Prior to being named President at Missouri Southern State University in 2013, Dr. Marble enjoyed a 27 year career at Crowder College, where he served in various capacities including: Continuing Education Director, Dean of Development, and Chief Financial Officer prior to being named the 6th President of the institution in 2006.

He is a lifelong resident of southwest Missouri and a graduate of Neosho High School. After high school graduation he received an AA degree from Crowder College, BA from Missouri Southern State University, MS from Pittsburg State University, and Ph.D. from the University of Nebraska.

Dr. Marble is a longtime Rotarian, serves on the board of Community Bank & Trust (CBT), and is a Trustee for the Neosho First Christian Church (Disciples of Christ).

Mr. John N. Thompson

Jackson, Missouri

Mr. Thompson currently serves as Senior Vice President and Director of First Midwest Bank of Dexter, MO. His responsibilities include oversight of all lending and deposit operations, commercial loan origination, business development, and local bank branch management. He graduated from Southeast Missouri State University, Cape Girardeau, MO, with a Bachelors of Science in Industrial and Technical Education, and from the Louisiana State University Graduate School of Banking of the South. Mr. Thompson is highly involved in numerous local and regional business development and charitable organizations.

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_36 Assuming the proposed transaction receives full approval from all relevant regulatory authorities, will KPCo be operating on a stand-alone basis following the transaction's closing?

a. Will KPCo be filing separate tax returns following the transaction's closing? Please provide documentation demonstrating the anticipated or planned tax return status.

RESPONSE

Kentucky Power will become the first Liberty company within Kentucky if the proposed transaction receives full approval from all relevant regulatory authorities. For income tax purposes, Kentucky Power will be a member in Liberty Utilities (America) Co. & Subs consolidated group for U.S. Federal income tax purposes. For taxable years beginning on or after January 1, 2019, Kentucky requires every corporation to file a combined return (Form 720U), as such Liberty anticipates filing a combined return for Kentucky.

Witness: Michael McCuen

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_37 Assuming the proposed transaction receives full approval from all relevant regulatory authorities, will any officer or board member of KPCo have a seat on the board of directors of any parent entities or affiliates following the transaction's consummation? If yes, please explain in detail by way of officer or board member and company.

RESPONSE

Liberty plans to appoint three independent directors to the Kentucky Power board of directors who currently serve on the boards of Liberty's Central Region utilities, which include The Empire District Electric Company, The Empire District Gas Company, Empire District Industries, Inc., Liberty Utilities (Midstates Natural Gas) Corp., Liberty Utilities (Missouri Water) LLC, Liberty Utilities (Pine Bluff Water) Inc., and Liberty Utilities (Arkansas Water) Corp. Additionally, an independent business or community leader from Kentucky Power's service territory will serve on the board along with Arun Banskota and Johnny Johnston, the two management directors.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_38 Assuming the proposed transaction receives full approval from all relevant regulatory authorities, explain whether KPCo offer any type or sort of retention and / or incentive program for its managers.

a. If so, which of the Joint Applicants will bear any associated costs?
b. Will KPCo's ratepayers bear any such costs, directly or indirectly? Explain in detail along with program and costs.

RESPONSE

a.-b. Once the proposed transaction receives full approval from all relevant regulatory authorities, upon closing, there will not be any retention payments made.

Post-closing, Liberty will offer a Short-Term Incentive program that is available to all levels of non-union employees. The payment of these incentives is related to achievement of objectives outlined on the business scorecards, which are heavily weighted towards outcomes that benefit customers and to the extent such payments are made, those will be sought for recovery in future rate case as an operational expense of the company.

Witness: David Swain

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_39 Identify how much debt the Joint Applicants plan to incur in order to consummate the proposed transaction, stated independently for each of the Joint Applicants.

a. Explain whether KPCo ratepayers will be required to reimburse one or both Joint Applicants for debt incurred for this purpose, and if so: (i) how much, and (ii) why.

RESPONSE

Please see response to Staff 1-23.

Given that Kentucky Power's existing debt will either be retained or refinanced at similar rates and that no acquisition premium will be passed on to customers, there will be no incremental cost to customers on account of the financing.

Witness: Michael Mosindy

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_40 Please describe, in complete detail, the relationship that Liberty has with its Servco, including the nature and extent of services provided, cost sharing requirements, and provide a break-out of the sums Liberty paid to the Servco for each of the last ten (10) years. Include in your response:

a. A copy of Liberty's cost allocation manual ("CAM") as well as any cost sharing agreements between Liberty's operating companies, including a complete explanation of any instances in which Liberty's CAM deviates in any manner from cost sharing guidelines promulgated by the National Association of Regulatory Utility Commissioners (NARUC);
b. A summary description of the changes KPCo will experience in the transition from AEP SERVCo to Liberty's Servco;
c. A projection of any and all costs KPCo will experience for shared corporate services from Liberty's Servco and other affiliates, including all electric, natural gas, water and wastewater utility affiliates regardless of where domiciled;
d. A discussion of whether Algonquin Power and Utilities Corporation or any other Canadian affiliate will provide any services to KPCo, and if so: (i) identify the services in full together with any cost projections for which KPCo will be responsible for paying; and (ii) state whether any duplication of services will or could occur;
e. A discussion of any Canadian tax charges paid in addition to U.S. state, federal and local state charges. Explain whether KPCo would be responsible for paying any Canadian tax charges, and if so, provide an estimate of the annual costs for complying with Canadian tax law;
f. A description of the process by which KPCo would be able to challenge the allocation of a cost from a parent entity or affiliate. If no such ability to challenge the allocation of a cost would exist, then affirmatively state that fact.
g. An explanation of how Liberty and The Empire District Electric Co. (and/or The Empire District Electric and Water Utility) and their other affiliates intend to allocate losses arising from Winter Storm Uri in 2021, including whether KPCo and its ratepayers would be allocated any such losses.

h. All cost sharing agreements between KPCo and Kentucky Transmission Co.
i. A discussion of the decision-making processes KPCo and Liberty will follow regarding which entity, going forward, will own and operate new transmission projects.
j. A discussion of whether and under what circumstances ownership and/or operation of existing transmission facilities will or could be transferred from KPCo to Kentucky Transmission Co., and/or from Kentucky Transmission Co. to KPCo.
k. An explanation of all measures KPCo and Liberty would put in place to ensure that KPCo ratepayers would not be subsidizing the costs of "Kentucky Transmission Company, Inc." as it is identified and depicted in the organizational chart set forth in Application Exhibit 6.
l. A complete explanation and identification of the third corporate entity depicted on Application Exhibit 6, designated as "Kentucky Power Company."

RESPONSE

a. Please see JA_R_AG_1_40_Attachment_Cost Allocation Manual - V2017.pdf for a copy of the current CAM.

b. Through Liberty's shared services and corporate cost allocation model, Algonquin Power & Utilities Corp. ("APUC"), Liberty Utilities (Canada) Corp. ("LUCC"), and Liberty Utilities Service Corp. ("LUSC") provide a range of services across the organization. The centralized provision of services promotes consistency, maximizes economies of scale and minimizes redundancy across all affiliates. Furthermore, through this model, the 28 regulated utilities owned and operated by Liberty Utilities are able to access maximum expertise at lower costs. Put simply, Liberty's shared services business model allows its regulated utilities, which will include Kentucky Power Company ("Kentucky Power"), to leverage economies of scale and other efficiencies through shared corporate support services. Shared corporate services will be provided to Kentucky Power, by three affiliates, APUC, LUCC and LUSC, in three buckets of affiliate services: (1) APUC, (2) Liberty Utilities corporate services, and (3) Liberty Algonquin Business Services ("LABS"). Pursuant to this shared services model, certain services will be provided to Kentucky Power from affiliates and charged based on a direct charge or a defined cost allocation methodology set forth in APUC's CAM, depending on whether a single, or multiple affiliates benefit from the service provided.

c. Please see JA_R_STAFF_1_17_Attachment_Project Nickel Allocations.xlsx provided in Liberty's response to Staff 1-17. Please refer to Excel row 29, in columns H through N, on tab "Allocation Summary" for Liberty's initial estimate of costs that will be allocated to Kentucky Power in accordance with its CAM during the first full year of operations after acquisition (i.e., 2023).

d. As stated in response to part (b) above, under Liberty's shared services model, Kentucky Power will receive allocations from APUC and LUCC which are both Canadian affiliate companies.

As the ultimate corporate parent, APUC provides financial management, strategic management, corporate governance, and administrative and support services to all of its subsidiaries. As a publicly traded holding company, APUC has access to the capital markets through the issuance of long-term debt and equity, as well as access to short-term credit facilities, which provides substantial benefits to its regulated utilities and generation facilities for capital projects and operations. APUC incurs and allocates the following types of costs: (i) strategic management costs associated with the board of directors, outside legal services, accounting services, tax planning and filings, insurance, and required auditing; (ii) capital access costs including communications, investor relations, trustee fees, escrow and transfer agent fees; (iii) financial control costs for audit and tax expenses; and (iv) administrative costs related to rent, depreciation, general office expenses. As reflected in the attachment provided in response to part (b), Liberty's preliminary analysis estimates that Kentucky Power will receive approximately $3.2 million of costs from APUC.

In general, LUCC is the legal employer of employees based in Canada who provide various corporate services that can be divided into three categories – (1) specific services to Liberty Utilities, (2) specific services to Liberty Power or (3) shared services to the entire organization. Services found within the following departments are charged to the regulated utilities: executive, regulatory strategy, energy procurement, operations, utility planning, administration, and customer experience. LUCC employees also provide other administrative and support services shared by both the regulated and unregulated parts of the organization through the LABS business unit. These include the following departments: information technology, human resources, training, environment, health, safety and security, procurement, executive and strategic management, technical services, risk management, financial reporting, planning and administration, treasury, internal audit, external communications, legal, and compliance. As reflected in the attachment provided in response to part (b), Liberty's preliminary analysis estimates that Kentucky Power will incur approximately $3.3 million of costs for specific services provided by LUCC to Liberty Utilities. In addition, Liberty estimates that Kentucky Power will incur approximately $19.7 million of costs for services provided through its LABS business unit, of which a portion will be provided by LUCC and the other portion from LUSC which is a U.S. affiliate company.

e. Canadian taxes will not be allocated to any Kentucky entity.

f. As stated in Liberty's response to Staff 1-18, Liberty's subsidiaries receive a detailed description of all allocations and are able to challenge costs for accuracy

and appropriateness. To the degree that costs are ultimately determined to have been charged erroneously or inappropriately, local finance teams work collaboratively with their corporate counterparts to determine an appropriate resolution.

g. Storm Uri costs will not be allocated to any Kentucky entity.

h. There is no current cost sharing agreements between Kentucky Power and Kentucky Transmission Co.

i. Liberty intends to review each project based on the specifics of the project, giving deference to factors such as regulation, prudency, customer need, operational capability and efficiency, among other factors. A formal decision making process of which entity a project should be undertaken in has not been contemplated; rather, a business case approach contemplating the factors mentioned herein and any other pertinent factors, including key stakeholder input and feedback, that may exist for a project will ultimately determine which entity is best situated to undertake a project.

j. Liberty has not evaluated whether and under what scenarios it would transfer any assets between the entities. For clarity, Liberty has not considered transferring any assets.

k. The CAM has been developed in accordance and conformance with the NARUC Guidelines for Cost Allocations and Affiliate Transactions, and as such the defined allocation methods are designed to prevent subsidization from and ensure equitable cost sharing among regulated entities and affiliates. As reflected on tab "LUC CAM%-Nickel" of JA_R_STAFF_1_17_Attachment_Project Nickel Allocations.xlsx provided in response to Staff 1-17, Kentucky Power and Kentucky Transmission Company, Inc. will receive separate allocations of the affiliate cost pools based on their individual inputs for the Utility Four-Factor methodology, defined in Table 2 of the CAM and used to allocate costs to regulated utilities.

l. The organization chart provided in Application Exhibit 6 depicts the acquisition of two legal entities, Kentucky Transmission Company, Inc. and Kentucky Power Company, as subsidiaries Liberty Utilities Co. The yellow box identified as "Kentucky Power Utility (KY)" is not a legal entity, but rather denotes the facilities/assets that are owned by Kentucky Power Company. Please refer to response to AG 1-72 for a corrected organizational chart.

Witness: Stephan T. Haynes

Witness: Jill Schwartz

ALGONQUIN POWER & UTILITIES CORP.

COST ALLOCATION MANUAL

V2017 Effective: January 1st, 2017

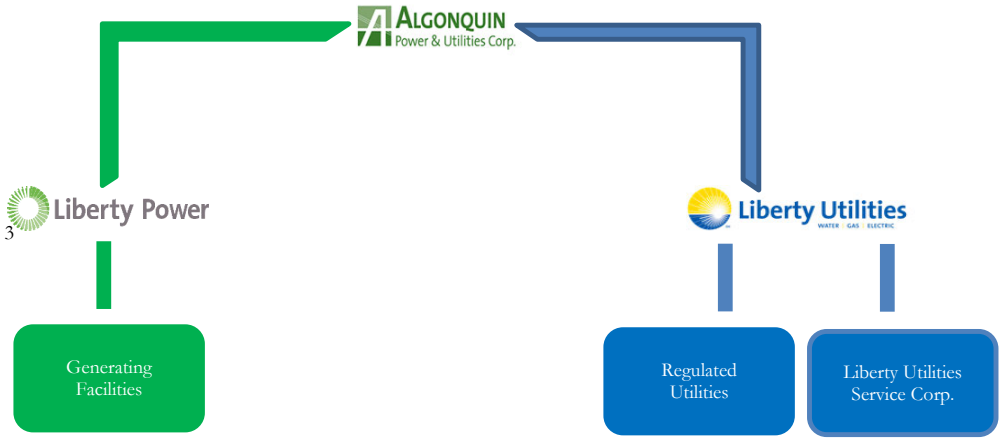
COST ALLOCATION MANUAL

TABLE OF CONTENTS

1. INTRODUCTION

The purpose of this manual is to provide a detailed explanation of services provided by Algonquin Power & Utilities Corp ("APUC") and its affiliates to other entities within the APUC family of businesses and to describe the Direct Charge[1] and Indirect Charge[2] Methodologies used for those services. The following organization chart identifies, at a high level, the corporate structure of APUC.

Figure 1: Simplified APUC Corporate Structure



This Cost Allocation Manual ("CAM") has been completed in accordance and conformance with the *NARUC Guidelines for Cost Allocations and Affiliate Transactions* ("NARUC Guidelines"). More specifically, the founding principles of this Cost Allocation Manual are to a) directly charge as much as possible to the entity that procures any specific service, and b)

[1] Direct charges (sometimes referred to as assigned costs) are costs incurred by one company for the exclusive benefit of, or specifically identified with, one or more other companies, and which are directly charged (or assigned) to the company or companies that specifically benefited. Under the NARUC Guidelines, "Direct Costs" are defined as "costs which can be specifically identified with a specific service or product."

[2] Indirect charges (sometimes referred to as allocated costs) are costs incurred by one company that are for the benefit of either (a) all of the APUC companies or (b) all of the regulated companies, and which are charged to the benefited companies using a methodology and set of logical allocation factors that establish a reasonable link between cost causation and cost recovery. Under the NARUC Guidelines, "Indirect Costs" are defined as "costs that cannot be identified with a particular service or product. This includes but not limited to overhead costs, administrative, general, and taxes."

[3] As of April 2017, Algonquin Power Co. (APCo) is doing business under the name Liberty Power. All Liberty Power employees in Canada will become employed by Liberty Utilities (Canada) Corp. in 2017. Liberty Power employees in the United States will remain employed by Algonquin Power Fund (America) Inc.

to ensure that unauthorized subsidization of unregulated activities by regulated activities, and vice versa, does not occur. For ease of reference, the NARUC Guidelines are attached as Appendix 1.

Costs allocated can take the form of: direct labor, direct material, direct purchased services and indirect charges (as described in Tables 1, 4a and 4b in this CAM). These costs are charged by the providing party to the receiving part at fully distributed costs.

2. THE APUC CORPORATE STRUCTURE

APUC owns a widely diversified portfolio of independent power production facilities and regulated utilities[4] consisting of water distribution, wastewater treatment, electric and gas distribution utilities. While power production facilities are located in both Canada and the United States, regulated distribution utility operations are located in the United States.[5] APUC is publicly traded on the New York Stock Exchange and the Toronto Stock Exchange[6]. APUC's structure as a publicly traded holding company provides substantial benefits to its regulated utilities through access to capital markets.

APUC is the ultimate corporate parent that provides financial and strategic management, corporate governance, and oversight of administrative and support services to Liberty Utilities (Canada) Corp. ("LUC") and its subsidiaries as well as to Algonquin Power Co. ("APCo") d/b/a Liberty Power and its subsidiaries. The services provided by APUC are necessary for all affiliates, including LUC and the regulated utility subsidiaries of Liberty Utilities Co. (referred to as "Liberty Utilities"), to have access to capital markets for capital projects and operations. These services are expensed at APUC and are performed for the benefit of Liberty Power and Liberty Utilities and their respective businesses.

APUC and its affiliates benefit from APUC's expertise and access to the capital markets through the use of certain shared services, which maximizes economies of scale and minimizes redundancy. In short, it provides for maximum expertise at lower costs. Further,

[4] All distribution and transmission utilities are owned, either directly or indirectly, by Liberty Utilities Co., which is itself indirectly owned by Liberty Utilities (Canada) Corp.

[5] Algonquin Tinker Gen Co. owns transmission assets in New Brunswick, Canada, which are subject to regulation by the New Brunswick Energy and Utilities Board.

[6] Common shares, preferred shares, and instalment receipts of APUC are traded on the Toronto Stock Exchange under the symbols AQN, AQN.PR.A, AQN.PR.D, and AQN.IR. APUC's common shares are also listed on the New York Stock Exchange under the symbol AQN. Additional corporate information can be found at the company's website, algonquinpower.com.

the use of shared expertise allows each of the entities to receive a benefit it may not be able to achieve on a stand-alone basis such as strategic management advice and access to capital at more competitive rates.

3. SCOPE OF SERVICES FROM APUC AND HOW THOSE COSTS ARE DISTRIBUTED

This section provides an overview of the services provided from APUC, and method used to distribute the associated costs for these services throughout the organization.

3.1 Services and Cost Allocation from APUC to Liberty Utilities and Liberty Power

3.1.1 Description of APUC Services and Costs

APUC provides benefits to its subsidiaries by providing financing, financial control, legal, executive and strategic management and related services. APUC charges labor rates for these shared services at cost, which is the dollar hourly rate per employee as recorded in APUC's payroll systems, grossed up for burdens such as payroll taxes, health benefits, retirement plans, other insurance provided to employees, and other employee benefits. These labor costs are charged directly to the entity incurring these costs based on timesheets to the extent possible. If labor is for the benefit of all subsidiaries then the allocation methodologies used for indirect costs are applied. See Appendix 2 for a more detailed discussion of the costs incurred by APUC.

APUC also charges non-labor services which includes Financing Services. Financing Services means the selling of units to public investors in order to generate the funding and capital necessary (be it short term or long term funding, including equity and debt) for the entire organization, including subsidiaries of Liberty Utilities and Liberty Power, as well as providing legal services and other associated costs in connection with the issuance of debt and equity.

In connection with the provision of Financing Services, APUC incurs the following types of costs: (i) strategic management costs (board of director, third-party legal services, accounting services, tax planning and filings, insurance, and required auditing); (ii) capital access costs (communications, investor relations, trustee fees, escrow and transfer agent fees); (iii) financial control costs (audit and tax expenses); and (iv) other administrative costs (examples: rent, depreciation, general office costs).

The capital raised by APUC is used by Liberty Utilities (and its regulated subsidiaries) and Liberty Power for current and future capital investments. The services provided by APUC are critical and necessary to Liberty Utilities and its regulated subsidiaries and Liberty Power because without those services they would not have a readily available source of capital funding. Further, relatively small utilities may have difficulty attracting capital on a stand-alone basis.

Indirect costs from APUC, excluding corporate capital, are pooled and allocated to LUC (and subsequently, to LUC's subsidiaries) and Liberty Power using the method summarized in Table 1. Each corporate cost type, or function, has been reviewed to properly identify the factors driving those costs. Each function or cost type is typically driven by more than one factor and each has been assigned an appropriate weighting. Table 1 includes a brief commentary on the rationale for each cost driver and weighting, along with examples for each cost type.

The services provided by APUC optimize the performance of the utilities, keeping rates low for customers while ensuring access to capital is available. If the utilities did not have access to the services provided by APUC, they would be forced to incur associated costs for financing, capital investment, audits, taxes and other similar services on a stand-alone basis, which would substantially increase such costs. Simply put, without incurring these costs, APUC would not be able to invest capital in its subsidiaries, including the regulated utilities.

Table 1: Summary of Corporate Allocation Method of APUC Indirect Costs

Type of Cost	Allocation Methodology	Rationale	Examples
Legal Costs	Net Plant 33.3% Number of Employees 33.3% O&M 33.3%	This function is driven by factors which include Net Plant, as typically the higher the value of plant, the more legal work it attracts; similarly, a greater number of	Employee labor and related administration and programs; Third party legal services

		employees are typically more indicative of larger facilities that require greater levels of attention; and O&M costs tend to be a third factor indicative of size and legal complexity.	
Tax Services	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by a variety of factors that influence the size and relative tax complexity, including Revenues, O&M and Net Plant. Tax activity can be driven by each of these factors.	Employee labor and related administration and programs, including Third party tax advice and services
Audit	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by a variety of factors that influence the size and complexity of Audit, including Revenues, O&M and Net Plant. Audit activity can be driven by each of these factors.	Employee labor and related administration and programs, including third party accounting and audit services
Investor Relations	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by factors which reflect the relative size and	Employee labor and related administration and programs,

			scope of each affiliate - Revenues, Net Plant and O&M costs.	including third party Investor day communications and materials
Director Fees and Insurance	Revenue O&M Net Plant	33.3% 33.3% 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Board of Director fees, insurance and administration
Licenses, Fees and Permits	Revenue O&M Net Plant	33.3% 33.3% 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Third party costs
Escrow and Transfer Agent Fees	Revenue O&M Net Plant	33.3% 33.3% 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Third party costs
Other Professional Services	Revenue O&M Net Plant	33.3% 33.3% 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Third party costs

Other Administration Costs	Oakville Employees 50% Total Employees 50%	This function is driven by factors which are indicative of number of employees.	Office administration costs. Employee labor and related administration
Executive and Strategic Management	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Employee labor and related administration that is not directly attributable to any entity

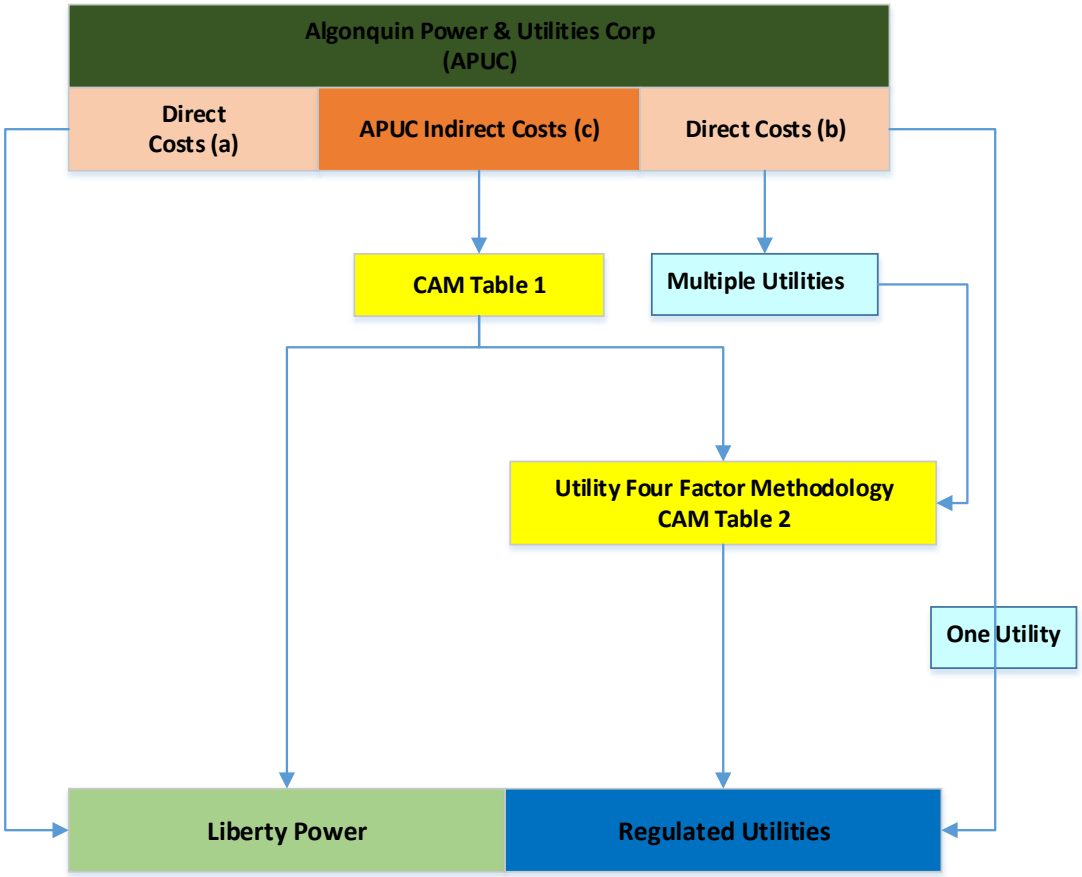
Notwithstanding the above, if a charge is related either solely to the regulated utility business or to the power generation business Liberty Power, then all of those costs will be direct charged, or assigned, to the business segment for which they are incurred. If a cost can be directly attributable to a specific entity, it will be directly charged to that entity.

In the event that organizational realignments occur, resulting in certain other services or costs to come from APUC, any allocations (if any) will be done as per the "Executive and Strategic Management" line in Table 1 above until the CAM is updated.

3.1.2 Description of the APUC Cost Flows

Please refer to Figure 2 for a diagram of the various flows of costs from APUC.

Figure 2: Illustration of APUC Corporate Cost Distributions



(a) Costs that are directly assignable to unregulated companies.
(b) Costs that are directly assignable to one regulated company, or that benefit all regulated operations.
(c) Costs that benefit both unregulated and regulated operations.

As illustrated in Figure 2 and as described above, APUC incurs three types of costs that are passed on to its direct and indirect subsidiaries. The first type is APUC's costs that directly benefit a particular specific unregulated company, which are directly assigned to that unregulated company (i.e., Liberty Power or one of its subsidiaries). The second type is APUC's costs that directly benefit a particular regulated company, which are directly assigned to that regulated company[7]. The third type are APUC's remaining costs that benefit the entire

[7] This could be directly to LUC (which would subsequently be allocated over utility subsidiaries of LUC) or to a specific utility for which the service was necessary.

enterprise (both regulated and unregulated), which are allocated between regulated and unregulated company groups pursuant to CAM Table 1. Information within Table 1 includes: (a) each type of cost incurred by APUC that is to be allocated between regulated and unregulated parts of the business; (b) the factors used to allocate each type of cost between regulated and unregulated activity; (c) the rationale for selecting the factors that are used for allocation; and (d) examples of the specific allocated costs. The costs allocated to the regulated companies as a group are then reallocated to individual utility companies using the Utility Four-Factor allocation methodology set forth in CAM Table 2 (described below), resulting in utility-specific allocated charges from APUC.

For an example of how an APUC invoice would be assigned or allocated, please see Appendix 3.

Certain costs, which are incurred for the benefit of APUC's businesses, are not allocated to any utility subsidiary. These costs include certain corporate travel and certain overheads.

4. SCOPE OF SERVICES PROVIDED BY LUC AND HOW COSTS ARE DISTRIBUTED

This section provides an overview of the services and the cost methodology for LUC.

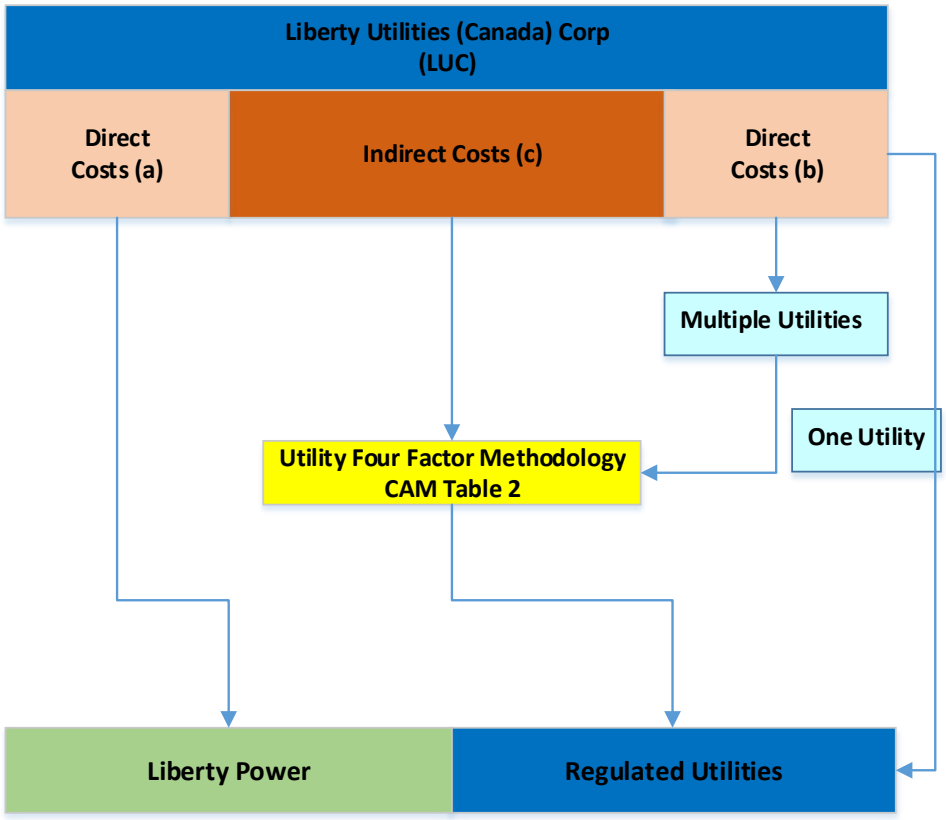
4.1 Overview of LUC Services and Costs

Various services and methods of cost distribution arise from LUC and can be categorized as those provided: (a) specifically to regulated utilities, (b) specifically to Liberty Power, or (c) to the entire organization (under the business unit of Liberty Algonquin Business Services ("LABS")). Figure 3 identifies the flow of costs from dedicated utility support and dedicated Liberty Power staff within LUC. Figure 4 identifies the flow of costs from the shared business and corporate services staff and functions ("LABS") within LUC. Both Figures 3 and 4 are depicted below in this section.

As illustrated in Figure 3, LUC incurs three types of costs. The first type is an LUC cost that directly benefits a particular Liberty Utilities affiliate (i.e., regulated company), which is directly assigned to that regulated company. The second type is an LUC cost that benefits all of the Liberty Utilities regulated companies, and which is allocated using the Utility Four-Factor Methodology described in CAM Table 2. The third type is a cost that only benefits and is directly charged to Liberty Power. All three of these cost types are described in section 4.2 below.

As illustrated in Figure 4, shared services costs arising from LUC are those from shared services[8] that benefit both the regulated group of companies and the unregulated group of companies within the APUC family; which are allocated between the two groups pursuant to the methodology described in section 4.3 and as set forth in CAM Table 4.

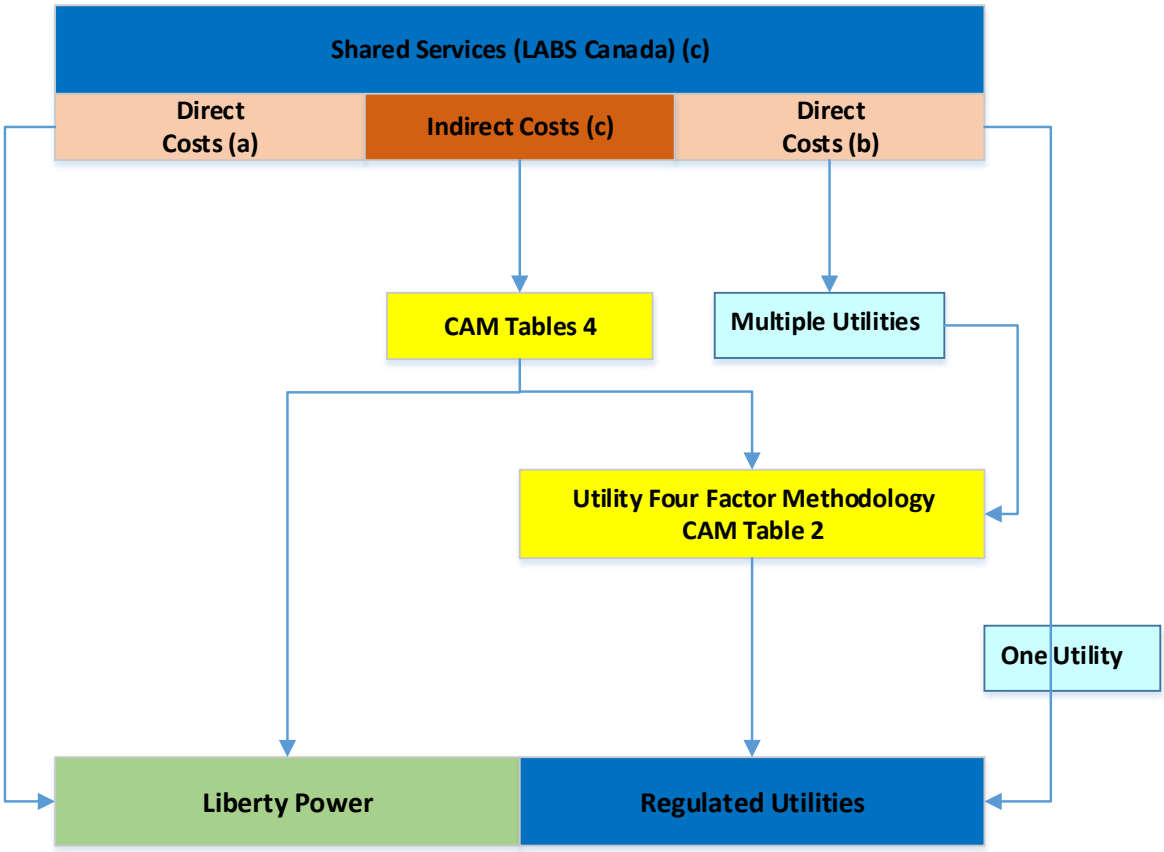
Figure 3: Illustration of LUC Corporate Cost Distributions



Notes:
(a) Costs that are directly assignable to unregulated companies
(b) Costs that are directly assignable to one or more specific regulated companies.
(c) Costs that benefit all regulated operations.

[8] As discussed later, shared support services that benefit both regulated and unregulated businesses within APUC are provided within Liberty Algonquin Business Services ("LABS"), which is a business unit with staff employed within LUC and LUSC. Shared services staff serve both regulated and unregulated entities. LABS staff within the corporate office in Canada are employed within LUC; LABS staff in the US are employed within LUSC. As new U.S.-based utilities are added to the Liberty-Algonquin organization, there could be a transitionary period in which some of these shared services staff and functions may also remain employed within the new utility until such time that they may be transitioned to become an employee of Liberty Utilities Service Corp. ("LUSC").

Figure 4: Illustration of LUC Shared Services Cost Distributions



Notes:
(a) Costs that are directly assignable to unregulated companies.
(b) Costs that are directly assignable to one or more regulated companies.
(c) Costs that benefit both unregulated and regulated operations.

4.2 LUC Services and Costs Provided to Liberty Utilities and Liberty Power

4.2.1 Services to Liberty Utilities

LUC provides services to Liberty Utilities such as: executive, regulatory strategy, energy procurement, operations, utility planning, administration, and customer experience.

LUC will assign costs that can be directly attributable to a specific utility. These include direct labor and direct non-labor costs. However, because the indirect LUC costs cannot be directly attributed to an individual utility, LUC allocates its indirect labor and indirect non-labor costs, including capital costs, to its regulated utilities using a Utility Four-Factor Methodology[9]. LUC uses the Utility Four-Factor Methodology to allocate costs incurred for the benefit of all of its regulated assets ("System-Wide Costs") to all of its utilities.

The Utility Four-Factor Methodology allocates costs by relative size and scope of the utilities. The methodology used by LUC involves four allocating factors, or drivers: (1) Utility Net Plant; (2) Total Customers; (3) Non-Labor Expenses; and (4) Labor Expenses, with each factor assigned an equal weight, as shown in Table 2 below.

Table 2: Utility Four-Factor Methodology Factors and Weightings

Factor	Weight
Customer Count	40%
Utility Net Plant	20%
Non-Labor Expenses	20%
Labor Expenses	20%
Total	**100%**

LUC uses the Utility Four-Factor Methodology to allocate to its regulated utilities the system-wide indirect labor and indirect non-labor costs within LUC (from its utility-dedicated staff, and from the shared services functions within LUC).

Table 3 provides a simplified hypothetical example to demonstrate how the Utility Four-Factor Methodology would be calculated based on ownership of only two hypothetical utilities.

[9] Please note, indirect costs sent to utilities via the 4-factor will consist of 1) indirect costs from LUC's utility-dedicated staff and services, plus 2) the indirect costs from APUC, 3) the indirect costs retained within LUC from LABS (the shared services staff and services within LUC), and 4) the indirect costs allocated from LUSC.

Table 3: Utility Four-Factor Methodology Example

Factor	Utility 1	Utility 2	Total All Utilities	Utility 1 % of Total	Factor Weight	Utility 1 Allocation
Utility Net Plant ($)	727	371	1098	66%	20%	13%
Customer Count (#)	6000	2000	8000	75%	40%	30%
Labor Expenses ($)	57	32	89	64%	20%	13%
Non-Labor Expenses ($)	108	41	149	72%	20%	14%
Total Allocation						71%

As can be seen from these hypothetical numbers in Table 3, Utility 1 would be allocated 71% of the total indirect costs incurred by LUC, based on its relative size and application of the Utility Four-Factor Methodology. Utility 2 would be allocated the remaining 29%. LUC has developed and utilized this methodology to better allocate costs, recognizing that larger utilities require more time and management attention and incur greater costs than smaller ones.

On occasion there may be costs which are incurred for the benefit of two or more utilities, but not all of the utilities. These costs are directly assigned to utilities as per the vendor invoice, or, if the invoice doesn't specify a share for each utility, the Utility Four-Factor Methodology is used. In this situation, the weighting is determined by only including the utilities that benefited from the service and excluding the utilities that did not receive the service. For an example of how an LUC invoice would be assigned or allocated, please see Appendix 4.

4.2.2 LUC Services to Liberty Power.

A sub-set of LUC employees provide dedicated services to Liberty Power such as: executive, energy services, asset management, business development, and operations. All costs (labor and non-labor) incurred for these services will be directly charged to Liberty Power (no

indirect costs are allocated from this group). Labor costs are tracked through timesheets and directly charged to Liberty Power.

4.3 Shared Services from LUC

The last type of costs arising from LUC are those from shared services[10] that benefit both the regulated group of subsidiary companies owned by Liberty Utilities and Liberty Power.

Consistent with the organization practices described earlier, shared services and costs (within LUC[11]) are assigned when they are directly attributable to a specific affiliate company (such as a specific distribution utility) or business unit[12] (such as Liberty Utilities or Liberty Power). Labor charges for LUC shared services staff are assigned using timesheets that depict the amount of time that is to be direct charged to either Liberty Utilities or Liberty Power (or a specific subsidiary within Liberty Utilities. or Liberty Power).

Please refer to Figure 4 above for a diagram of the various flows of costs that may arise from the shared services staff and functions within LUC[13].

Indirect costs for services from the shared services functions that cannot be directly assigned are allocated between the regulated and unregulated business units, Liberty Utilities and Liberty Power, pursuant to the methodology set forth in CAM Tables 4a and 4b. Similar to Table 1, Tables 4a and 4b include: (a) each type of cost incurred by shared services functions within LUC that is to be allocated between regulated and unregulated parts of the business; (b) the factors used to allocate each type of cost between regulated and unregulated activity; (c) the rationale for selecting the factors that are used for allocation; and (d) examples of the specific allocated costs. The costs allocated to the regulated companies as a group are then reallocated to individual companies using the Utility Four-Factor Methodology set forth in CAM Table 2, resulting in utility-specific allocated charges from LUC.

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[10] Liberty Algonquin Business Services ("LABS") is a business unit found organizationally within LUC and LUSC that serves both regulated and unregulated entities. The LABS business unit provides shared services throughout the organization. LABS employees and functions provided from Canada are employed within LUC; LABS employees and functions located in the U.S. are typically employed within LUSC.

[11] As will be discussed further in section 5, shared services to the entire APUC organization are also provided from staff within LUSC.

[12] To clarify, if a LABS service is for only one specific organization, such as the unregulated generation business, Liberty Power, the cost will be directly charged to that business unit.

[13] Sometimes referred to as "LABS Canada."

For an example of how an invoice or cost within LUC's shared services (LABS) would be assigned or allocated, please see Appendix 5.

4.3.1 Business Services and Corporate Services

LUC shared services that would be provided to the entire company, i.e., Liberty Power and Liberty Utilities, are internally referenced under two names - Business Services and Corporate Services. The services and functions within each category are shown in the tables below[14]. Indirect costs from Business Services and Corporate Services are allocated using the following methodology shown in Tables 4a and 4b, respectively, which are designed to closely align the costs with the driver of the activity.

Table 4a: Summary of Corporate Allocation Method of LUC[15] Business Services Indirect Costs

Type of Cost	Allocation Methodology	Rationale	Examples
Information Technology	Number of Employees 90% O&M 10%	IT function is driven by factors which include number of employees and O&M. The larger the number of employees, the more support, software and IT infrastructure is required.	Enterprise wide support, architecture, etc. Third party fees
Human Resources	Number of Employees 100%	HR function is driven by number of employees. A greater number of employees requires	HR policies, payroll processing, benefits,

[15] And LUSC shared services functions.

		additional HR support	employee surveys
Training	Number of Employees 100%	Training is directly proportional to the number of employees per function	Courses, lectures, in house training sessions by third party providers
Facilities and Building Rent	Oakville Employees 100%	Office space occupied by employees accurately reflects space requirements of each subsidiary	Corporate office building
Environment, Health, Safety and Security	Number of Employees 100%	EHSS training, etc. is directly proportional to the number of employees per function	Enterprise wide programs, employee labor and related administration
Procurement	O&M 50% Capital Expenditures 50%	Procurement function is based on typical proportion of expenditures	Enterprise wide support and related administration
Executive and Strategic Management	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Employee labor and related administration that is not directly attributable to any entity

Technical Services	Net Plant 33.3% Revenue 33.3% O&M 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate-Revenues, Net Plant and O&M costs.	Employee labor and related administration that is not directly attributable to any entity
Utility Planning	Net Plant 33.3% Revenue 33.3% O&M 33.3%	This function is driven by factors which reflect the scope of each affiliate Management - Revenues, Net Plant and O&M costs.	Employee labor and related administration that is not directly attributable to any entity

Table 4b: Summary of Corporate Allocation Method of LUC[16] Corporate Services Indirect Costs

Risk Management	Net Plant 33.3% Revenue 33.3% O&M 33.3%	This function is driven by factors which reflect the relative size and complexity of Risk Management - Revenues, Net Plant and O&M costs.	Employee labor and related administration, Software platform, fees and administration

[16] And LUSC shared services functions.

Financial Reporting, Planning and Administration	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by factors which reflect the relative size and complexity of Financial Reporting and Admin. - Revenues, Net Plant and O&M costs.	Employee labor and related administration and third party fees
Treasury	Capital Expenditures 25% O&M 50% Net Plant 25%	Treasury activity is typically guided by the amount of necessary capex/plant for each utility, and operating costs/cash flow	Third party financing, employee labor and related administration and programs
Internal Audit	Net Plant 25% O&M 75%	This function is driven by factors which reflect the relative size and complexity of Internal audit activity. Larger Plant and operating costs of a given facility drive more activity from IA.	Third party fees, employee labor and related administration and programs
External Communications	Total Employees 100%	Communications cost is directly proportional to the number of employees	Enterprise wide support and related administration
Legal Costs	Net Plant 33.3%	This function is driven by factors	Employee labor and related

	Number of Employees 33.3% O&M 33.3%	which include Net Plant, as typically the higher the value of plant, the more legal work it attracts; similarly, a greater number of employees are typically more indicative of larger facilities that require greater levels of attention; and O&M costs tend to be a third factor indicative of size and legal complexity.	administration and programs, including third party legal
Compliance	Revenue 33.3% O&M 33.3% Net Plant 33.3%	This function is driven by factors which reflect the relative size and scope of each affiliate - Revenues, Net Plant and O&M costs.	Employee labor and related administration that is not directly attributable to any entity

5. LIBERTY UTILITIES SERVICE CORP.

This section provides an overview of some of the services (as outlined in Table 5) and the cost methodology for Liberty Utilities Service Corp. ("LUSC").

Most U.S.-based utility employees are employed by LUSC and are dedicated to serve particular utilities. All employees' labor costs, such as salaries, and associated labor costs, such as benefits, insurance etc. are to be paid by LUSC and direct charged to the company to which the employee is dedicated and performs work. Services provided by employees within LUSC

to each regulated utility shall be distributed on a time sheet basis to the extent possible. In infrequent instances where time sheeting may not be possible, the allocation factors shown in Tables 4a and 4b are to be used, as will be explained below.

5.1 Shared Services from LUSC

LUSC employs some individuals who provide shared services (listed in Table 5 below). Costs distributed by LUSC will include those from shared services employees: (a) where the function benefits both Liberty Utilities and Liberty Power businesses and (b) where the function benefits some or all of the regulated utilities within Liberty Utilities (e.g., energy procurement services).

Consistent with the organizational shared services practices described earlier, shared services and costs (within LUSC) are assigned when they are directly attributable to a specific affiliate company (such as a specific distribution utility, for example) or business unit (such as Liberty Utilities or Liberty Power). Labor charges for LUSC shared services staff are assigned using timesheets that depict the amount of time that is to be direct charged to either Liberty Utilities or Liberty Power (or a specific subsidiary within Liberty Utilities or Liberty Power).

The type of U.S. shared services that benefits both Liberty Utilities and Liberty Power businesses is referred to as LABS U.S. The LABS U.S. indirect costs for services from the shared services staff and functions within LUSC that cannot be directly assigned are allocated between the regulated and unregulated business units, Liberty Utilities and Liberty Power, and are distributed in the same manner per CAM Tables 4a and 4b described for shared services staff and functions within LUC. Consistent with the practices within LUC, the costs allocated from LUSC to the regulated companies as a group (i.e. to Liberty Utilities) are then reallocated to individual utility companies within the Liberty Utilities structure using the Utility Four-Factor Methodology set forth in CAM Table 2, resulting in utility-specific allocated charges from LUSC.

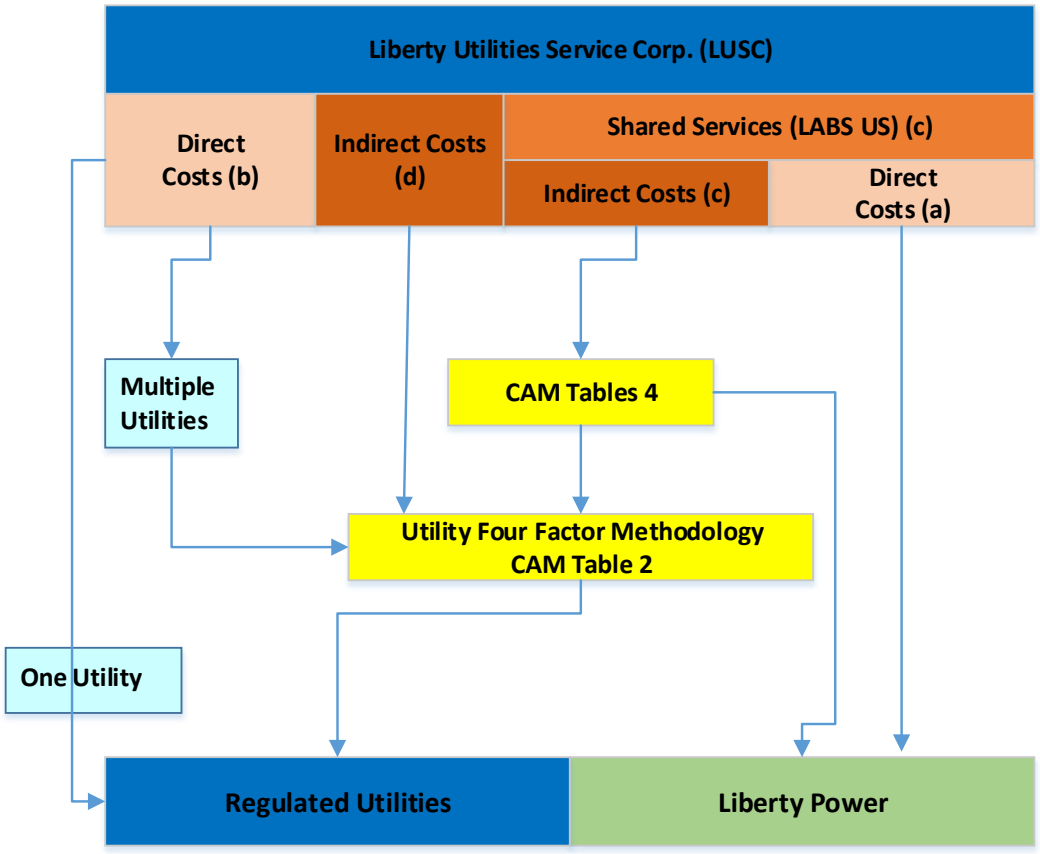
The indirect costs from the U.S. shared services that only benefit the regulated utilities are distributed using the Utility Four-Factor Methodology set forth in CAM Table 2, resulting in utility-specific allocated charges from LUSC.

Figure 5 below depicts the various flows of costs from LUCS.

Table 5 – List of Shared Services provided by Liberty Utilities Service Corp.

Customer Care and Billing
IT/Tech Support
Human Resources
Gas Control
Legal
Compliance
Regulatory & Government Relations
Environmental, Health, Safety and Security
Procurement
Operations
Engineering; Dispatch and Control
Outage Management
GIS/Mapping
Vegetation Management
Energy Procurement
Accounting and Finance
Managerial
Utility Planning
Customer Communication

Figure 5: Illustration of LUSC Cost Distributions



Notes:

(a) Costs that are directly assignable to unregulated companies.
(b) Costs that are directly assignable to regulated companies.
(c) Costs that benefit both unregulated and regulated operations.

The allocation methodology may be adjusted based on the number of participating utilities. For example, Customer Service representatives who serve only the New Hampshire utilities will only have their indirect costs allocated, if any, to the two utilities within New Hampshire. Labor costs associated with energy procurement are directly billed to the utilities requiring energy procurement services using timesheets.

6. COST DISTRIBUTION AT THE REGIONAL OR STATE UTILITY LEVEL

Within the Liberty Utilities organization, the organizational structure and reporting relationships may evolve as the organization grows and develops. Costs and services provided to the regional or state utility level from other corporate entities are directly assigned to the extent possible and distributed over the utilities within the state or region for which they are provided. Any services and costs which cannot be directly assigned will be allocated to the utilities within the region or state using the Regional Four-Factor Methodology (25% weighting for the factors of: customer count, utility net plan, non-labor expenses, and labor expenses), unless another method of allocation is legally required.

In addition, each of the regulated entities will distribute costs amongst their affiliated entities in accordance with applicable laws/rules and affiliated service agreements. These cost allocation methods are consistent with the principles of this CAM.

7. CORPORATE CAPITAL

APUC or LUC will make capital investments such as corporate headquarters, IT systems, etc. that benefit the various operating businesses. The costs of these investments may be distributed monthly in the form of an intercompany operating expense charge, that captures the depreciation expense and cost of capital associated with the particular assets, or an alternate method of capital allocation based on the particular needs of the project. All costs associated to service the investment will be allocated to Liberty Power and Liberty Utilities, if applicable, typically based on the allocation method from which the capital investment is made. For example, if the capital investment is made in Human Resources then the allocation methodology used for Human Resources to allocate non-capital indirect costs as shown in Table 4a will be used to allocate the charge associated with the corporate capital expenditures, including the cost of capital, depreciation, and all other associated costs. From time to time, the distribution of costs associated with a corporate capital investment may use an alternate

method. Any corporate capital charges allocated or assigned to LUC are then reallocated to individual Liberty Utilities distribution utilities, or a sub-set of one or multiple distribution utilities, using the Utility Four-Factor Methodology set forth in CAM Table 2.

8. CAM TEAM AND TRAINING

The oversight of the CAM is the responsibility of the corporate Regulatory Department. Any updates or revisions are coordinated and completed by this Department. A CAM Team will be created consisting of trained employees to oversee the operations and management of the CAM principles throughout the organization.

The CAM, and any support material, is available to all employees via the Company intranet. Employee training on the CAM will be provided via the Company's Learning Management System.

9. AUDIT, RECORD KEEPING & AFFILIATE TRANSACTION RULES

Records of each company will be maintained such that all affiliate transactions are auditable. The records will document the cost of transactions, the methods used to distribute the costs, and descriptions of the services provided. The records will be retained for a minimum of three years or as required by law or regulation. The regulator will have access to records, consistent with applicable laws, regarding transactions between the regulated utility and its affiliates. All companies subject to affiliate transaction rules, whether state or federal, will comply with such requirements.

10. UPDATING ALLOCATIONS

Allocation percentages[17] are updated annually. These annual updates to the allocation percentages are based on the most recent audited financial statements and other actual, year-end information. The updated percentages come into effect each April 1st and are valid through to the following March 31st. The Utility Four-Factor Methodology allocation percentages are also updated as an entity is either acquired or sold.

[17] To clarify, the factors and weightings are expected to remain constant. It is the underlying information used to calculate the allocation percentages that is updated annually, such as the most recent net plant figures, or the most recent numbers of employees, for example.

11. APPENDICES

APPENDIX 1 - NARUC GUIDELINES FOR COST ALLOCATIONS

Guidelines for Cost Allocations and Affiliate Transactions:

The following Guidelines for Cost Allocations and Affiliate Transactions (Guidelines) are intended to provide guidance to jurisdictional regulatory authorities and regulated utilities and their affiliates in the development of procedures and recording of transactions for services and products between a regulated entity and affiliates. The prevailing premise of these Guidelines is that allocation methods should not result in subsidization of non-regulated services or products by regulated entities unless authorized by the jurisdictional regulatory authority. These Guidelines are not intended to be rules or regulations prescribing how cost allocations and affiliate transactions are to be handled. They are intended to provide a framework for regulated entities and regulatory authorities in the development of their own policies and procedures for cost allocations and affiliated transactions. Variation in regulatory environment may justify different cost allocation methods than those embodied in the Guidelines.

The Guidelines acknowledge and reference the use of several different practices and methods. It is intended that there be latitude in the application of these guidelines, subject to regulatory oversight. The implementation and compliance with these cost allocations and affiliate transaction guidelines, by regulated utilities under the authority of jurisdictional regulatory commissions, is subject to Federal and state law. Each state or Federal regulatory commission may have unique situations and circumstances that govern affiliate transactions, cost allocations, and/or service or product pricing standards. For example, The Public Utility Holding Company Act of 1935 requires registered holding company systems to price "at cost" the sale of goods and services and the undertaking of construction contracts between affiliate companies.

The Guidelines were developed by the NARUC Staff Subcommittee on Accounts in compliance with the Resolution passed on March 3, 1998 entitled "Resolution Regarding Cost Allocation for the Energy Industry" which directed the Staff Subcommittee on Accounts together with the Staff Subcommittees on Strategic Issues and Gas to prepare for NARUC's consideration, "Guidelines for Energy Cost Allocations." In addition, input was requested from other industry parties. Various levels of input were obtained in the development of the Guidelines from the Edison Electric Institute, American Gas Association, Securities and Exchange Commission, the Federal Energy Regulatory Commission, Rural Utilities Service

and the National Rural Electric Cooperatives Association as well as staff of various state public utility commissions.

In some instances, non-structural safeguards as contained in these guidelines may not be sufficient to prevent market power problems in strategic markets such as the generation market. Problems arise when a firm has the ability to raise prices above market for a sustained period and/or impede output of a product or service. Such concerns have led some states to develop codes of conduct to govern relationships between the regulated utility and its non-regulated affiliates. Consideration should be given to any "unique" advantages an incumbent utility would have over competitors in an emerging market such as the retail energy market. A code of conduct should be used in conjunction with guidelines on cost allocations and affiliate transactions.

A. DEFINITIONS

1. Affiliates - companies that are related to each other due to common ownership or control.

2. Attestation Engagement - one in which a certified public accountant who is in the practice of public accounting is contracted to issue a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party.

3. Cost Allocation Manual (CAM) - an indexed compilation and documentation of a company's cost allocation policies and related procedures.

4. Cost Allocations - the methods or ratios used to apportion costs. A cost allocator can be based on the origin of costs, as in the case of cost drivers; cost-causative linkage of an indirect nature; or one or more overall factors (also known as general allocators).

5. Common Costs - costs associated with services or products that are of joint benefit between regulated and non-regulated business units.

6. Cost Driver - a measurable event or quantity which influences the level of costs incurred and which can be directly traced to the origin of the costs themselves.

7. Direct Costs - costs which can be specifically identified with a particular service or product.

8. Fully Allocated costs - the sum of the direct costs plus an appropriate share of indirect costs.
9. Incremental pricing - pricing services or products on a basis of only the additional costs added by their operations while one or more pre-existing services or products support the fixed costs.

10. Indirect Costs - costs that cannot be identified with a particular service or product. This includes but not limited to overhead costs, administrative and general, and taxes.

11. Non-regulated - that which is not subject to regulation by regulatory authorities.

12. Prevailing Market Pricing - a generally accepted market value that can be substantiated by clearly comparable transactions, auction or appraisal.

13. Regulated - that which is subject to regulation by regulatory authorities.

14. Subsidization - the recovery of costs from one class of customers or business unit that are attributable to another.

B. COST ALLOCATION PRINCIPLES

The following allocation principles should be used whenever products or services are provided between a regulated utility and its non-regulated affiliate or division.

1. To the maximum extent practicable, in consideration of administrative costs, costs should be collected and classified on a direct basis for each asset, service or product provided.

2. The general method for charging indirect costs should be on a fully allocated cost basis. Under appropriate circumstances, regulatory authorities may consider incremental cost, prevailing market pricing or other methods for allocating costs and pricing transactions among affiliates.

3. To the extent possible, all direct and allocated costs between regulated and non-regulated services and products should be traceable on the books of the applicable regulated utility to the applicable Uniform System of Accounts. Documentation should be made available to the appropriate regulatory authority upon request regarding transactions between the regulated utility and its affiliates.

4. The allocation methods should apply to the regulated entity's affiliates in order to prevent subsidization from, and ensure equitable cost sharing among the regulated entity and its affiliates, and vice versa.

5. All costs should be classified to services or products which, by their very nature, are either regulated, non-regulated, or common to both.

6. The primary cost driver of common costs, or a relevant proxy in the absence of a primary cost driver, should be identified and used to allocate the cost between regulated and non-regulated services or products.

7. The indirect costs of each business unit, including the allocated costs of shared services, should be spread to the services or products to which they relate using relevant cost allocators.

C. COST ALLOCATION MANUAL (NOT TARIFFED)

Each entity that provides both regulated and non-regulated services or products should maintain a cost allocation manual (CAM) or its equivalent and notify the jurisdictional regulatory authorities of the CAM's existence. The determination of what, if any, information should be held confidential should be based on the statutes and rules of the regulatory agency that requires the information. Any entity required to provide notification of a CAM(s) should make arrangements as necessary and appropriate to ensure competitively sensitive information derived therefrom be kept confidential by the regulator. At a minimum, the CAM should contain the following:

1. An organization chart of the holding company, depicting all affiliates, and regulated entities.

2. A description of all assets, services and products provided to and from the regulated entity and each of its affiliates.

3. A description of all assets, services and products provided by the regulated entity to non-affiliates.

4. A description of the cost allocators and methods used by the regulated entity and the cost allocators and methods used by its affiliates related to the regulated services and products provided to the regulated entity.

D. AFFILIATE TRANSACTIONS (NOT TARIFFED)

The affiliate transactions pricing guidelines are based on two assumptions. First, affiliate transactions raise the concern of self-dealing where market forces do not necessarily drive prices. Second, utilities have a natural business incentive to shift costs from non-regulated competitive operations to regulated monopoly operations since recovery is more certain with captive ratepayers. Too much flexibility will lead to subsidization. However, if the affiliate transaction pricing guidelines are too rigid, economic transactions may be discouraged.

The objective of the affiliate transactions' guidelines is to lessen the possibility of subsidization in order to protect monopoly ratepayers and to help establish and preserve competition in the electric generation and the electric and gas supply markets. It provides ample flexibility to accommodate exceptions where the outcome is in the best interest of the utility, its ratepayers and competition. As with any transactions, the burden of proof for any exception from
the general rule rests with the proponent of the exception.

1. Generally, the price for services, products and the use of assets provided by a regulated entity to its non-regulated affiliates should be at the higher of fully allocated costs or prevailing market prices. Under appropriate circumstances, prices could be based on incremental cost, or other pricing mechanisms as determined by the regulator.

2. Generally, the price for services, products and the use of assets provided by a non-regulated affiliate to a regulated affiliate should be at the lower of fully allocated cost or prevailing market prices. Under appropriate circumstances, prices could be based on incremental cost, or other pricing mechanisms as determined by the regulator.

3. Generally, transfer of a capital asset from the utility to its non-regulated affiliate should be at the greater of prevailing market price or net book value, except as otherwise required by law or regulation. Generally, transfer of assets from an affiliate to the utility should be at the lower of prevailing market price or net book value, except as otherwise required by law or regulation. To determine prevailing market value, an appraisal should be required at certain value thresholds as determined by regulators.

4. Entities should maintain all information underlying affiliate transactions with the affiliated utility for a minimum of three years, or as required by law or regulation.

E. AUDIT REQUIREMENTS

1. An audit trail should exist with respect to all transactions between the regulated entity and its affiliates that relate to regulated services and products. The regulator should have complete access to all affiliate records necessary to ensure that cost allocations and affiliate transactions are conducted in accordance with the guidelines. Regulators should have complete access to affiliate records, consistent with state statutes, to ensure that the regulator has access to all relevant information necessary to evaluate whether subsidization exists. The auditors, not the audited utilities, should determine what information is relevant for a particular audit objective. Limitations on access would compromise the audit process and impair audit independence.

2. Each regulated entity's cost allocation documentation should be made available to the company's internal auditors for periodic review of the allocation policy and process and to any jurisdictional regulatory authority when appropriate and upon request.

3. Any jurisdictional regulatory authority may request an independent attestation engagement of the CAM. The cost of any independent attestation engagement associated with the CAM, should be shared between regulated and non-regulated operations consistent with the allocation of similar common costs.

4. Any audit of the CAM should not otherwise limit or restrict the authority of state regulatory authorities to have access to the books and records of and audit the operations of jurisdictional utilities.

5. Any entity required to provide access to its books and records should make arrangements as necessary and appropriate to ensure that competitively sensitive information derived therefrom be kept confidential by the regulator.

F. REPORTING REQUIREMENTS

1. The regulated entity should report annually the dollar amount of non-tariffed transactions associated with the provision of each service or product and the use or sale of each asset for the following:

a. Those provided to each non-regulated affiliate.
b. Those received from each non-regulated affiliate.
c. Those provided to non-affiliated entities.

2. Any additional information needed to assure compliance with these Guidelines, such as cost of service data necessary to evaluate subsidization issues, should be provided.

Source:
http://www.naruc.org/Publications/Guidelines%20for%20Cost%20Allocations%20and%20Affiliate%20Transactions.pdf

APPENDIX 2 – DETAILED EXPLANATION OF APUC COSTS

1. APUC STRATEGIC MANAGEMENT COSTS

Strategic management decisions are critical for any public utility. The need for strategic management is even more pronounced for APUC as a publicly traded company, which depends on access to capital funding through public sales of units. APUC seeks to hire talented strategic managers that aid in running each facility owned by the company as efficiently and effectively as possible. This ensures the long term health of each utility and ensures that rates are kept as low as possible without compromising the level of service. It also facilitates each regulated utility's access to necessary capital funding at reduced costs. The costs included in Strategic Management Costs fall into the following categories.

a. Board of Directors

The Board of Directors provides strategic oversight on all company affairs including high level approvals of strategy, operation and maintenance budgets, capital budgets, etc. In addition, the Board of Directors provides corporate governance and ensures that capital and costs are incurred prudently, which ultimately protects ratepayers.

b. General Legal Services

General legal services involve legal matters not specific to any single facility, including review of audited financial statements, annual information filings, Sedar filings, review of contracts with credit facilities, incorporation, tax issues of a legal nature, market compliance, and other similar legal costs. These legal services are required in order for APUC to provide capital funding to individual utilities, without which the utilities could not provide adequate service. Additionally, the services ensure that APUC's subsidiaries remain compliant in all aspects of operations and prevent those entities from being exposed to unnecessary risks.

c. Professional Services

Professional Services including strategic plan reviews, capital market advisory services, ERP System maintenance, benefits consulting, and other similar professional services. By providing these services at a parent level, the subsidiaries are able to benefit from economies of scale. Additionally, some of these services improve APUC's access to capital which benefits all of its subsidiaries.

2. ACCESS TO CAPITAL MARKETS

One of APUC's primary functions is to ensure its subsidiaries have access to quality capital. APUC is listed on the New York Stock Exchange ("NYSE") and the Toronto Stock Exchange ("TSX"), leading financial markets. In order to allow its subsidiaries to have continued access to those capital markets, APUC incurs the following costs. These services and costs are a prerequisite to the subsidiaries continued access to those capital markets.

a. License and Permit Fees

In connection with APUC's participation in the NYSE and the TSX, APUC incurs certain license and permit fees such as Sedar fees, annual filing fees, licensing fees, etc. These licensing and permit fees are required in order to sell units on the NYSE and the TSX, which in turn provides funding for utility operations.

b. Escrow Fees

In connection with the payment of dividends to unit holders, APUC incurs escrow fees. Escrow fees are incurred to ensure continued access to capital and ensure continuing and ongoing investments by shareholders. Without such escrow fees, APUC's subsidiaries would not have a readily available source of capital funding.

c. Unit Holder Communications

Unit holder communication costs are incurred to comply with filing and regulatory requirements of the NYSE and the TSX and meet the expectations of shareholders. These costs include items such as news releases and unit holder conference calls. In the absence of shareholder communication costs, investors would not invest in the units of APUC, and in turn, APUC would not have capital to invest in its subsidiaries. With such communications services, the subsidiaries would not have a readily available source of capital funding.

3. APUC FINANCIAL CONTROLS

Financial control costs incurred by APUC include costs for audit services and tax services. These costs are necessary to ensure that the subsidiaries are operating in a manner that meets audit standards and regulatory requirements, which have strong financial and operational controls, and financial transactions are recorded accurately and prudently. Without these services, the regulated utilities would not have a readily available source of capital funding.

a. Audit Fees

Audits are done on a yearly basis and reviews are performed quarterly on all facilities owned by APUC on an aggregate level. These corporate parent level audits reduce the cost of the stand-alone audits significantly for utilities which must perform its own separate audits. Where stand-alone audits are not required, ratepayers receive benefits of additional financial rigor, as well as access to capital, and financial soundness checks by third parties. Finally, during rate cases, the existence of audits provides staff and intervenors additional reliance on the company records, thus reducing overall rate case costs. The aggregate audit is necessary for the regulated utilities to have continued access to capital markets and unit holders.

b. Tax Services

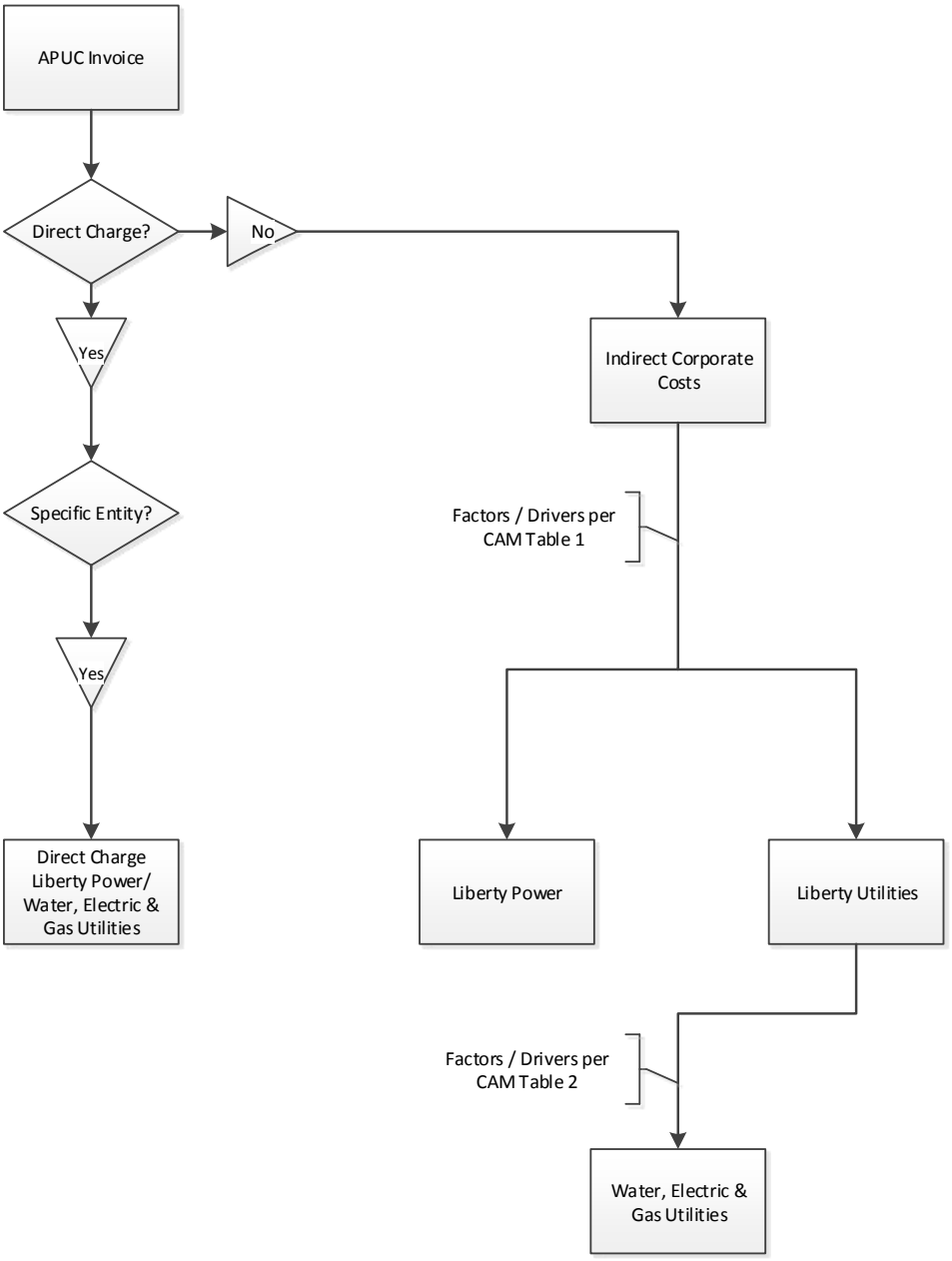
Taxes are paid on behalf of the regulated utilities at the parent level as part of a consolidated United States tax return. Tax services such as planning and filing are provided by third parties. Filing tax returns on a consolidated basis benefits each regulated utility by reducing the costs that otherwise would be incurred by such utility in filing its own separate tax return.

4. APUC ADMINISTRATIVE COSTS

Finally, administrative costs incurred by APUC, in some cases via other corporate entities, such as rent, depreciation of office furniture, depreciation of computers, and general office costs are required to house all the services mentioned above. Without these administrative costs, the employees throughout the APUC organization could not perform their work and provide the necessary services to the regulated utilities. These administrative costs also include training for corporate employees.

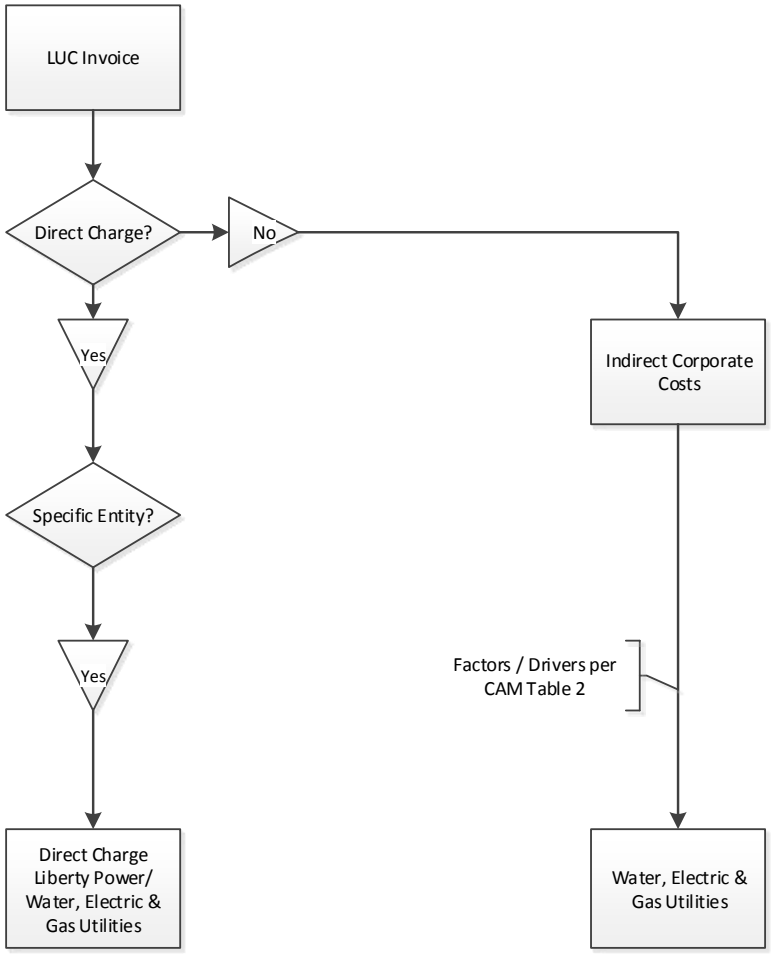
APPENDIX 3 – LIFE OF AN APUC INVOICE

A schematic is provided below showing the trail of an invoice received by APUC for services to be charged to its subsidiaries. The schematic is intended to visually explain the distribution of charges from APUC to Liberty Power and Liberty Utilities companies.



APPENDIX 4 – LIFE OF A LIBERTY UTILITIES INVOICE

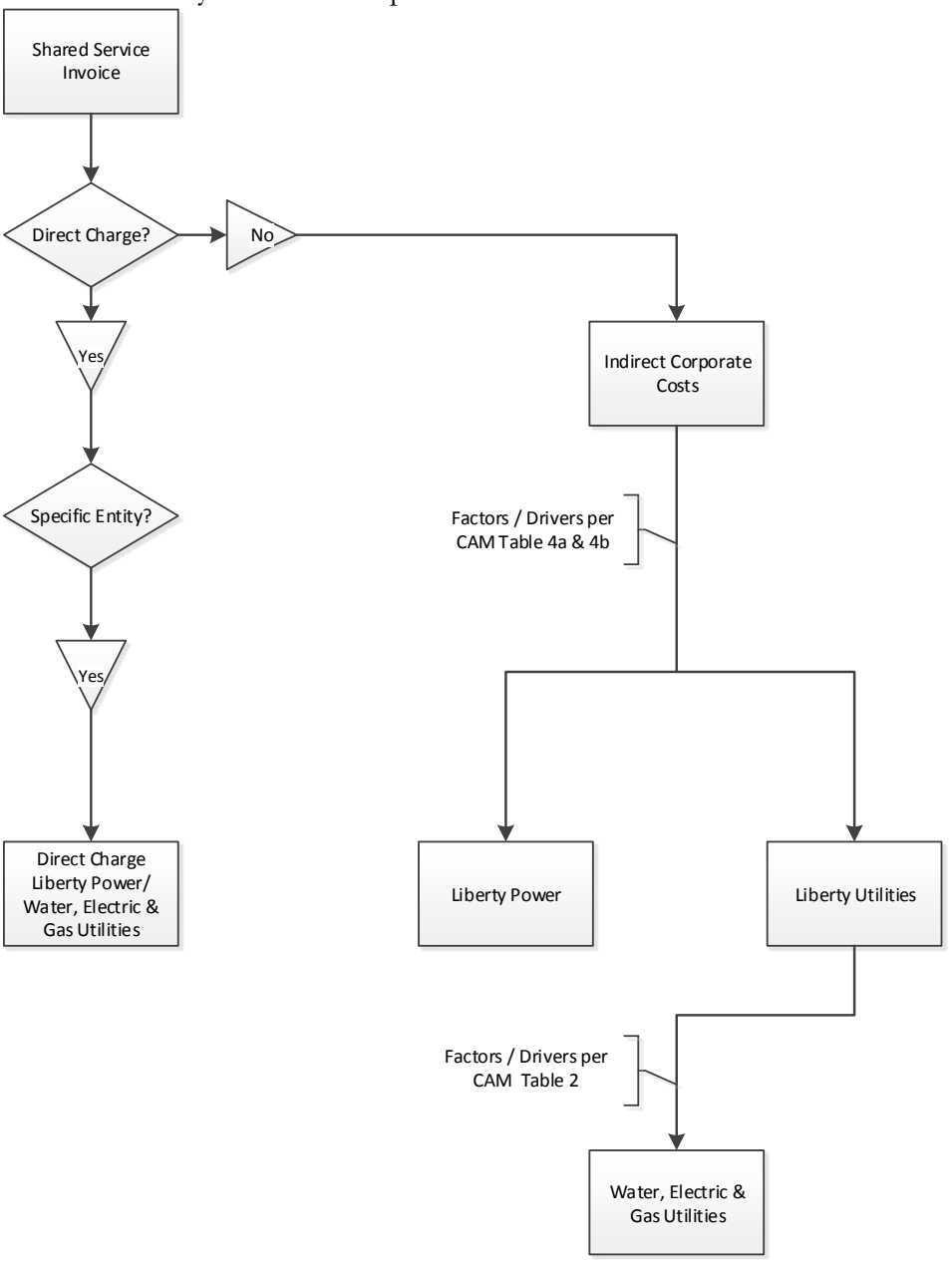
A schematic is provided below showing the trail of an invoice received by Liberty Utilities (LUC) for services to be charged to its utility subsidiaries[18]. The schematic is intended to visually explain the distribution of charges from LUC to Liberty Utilities companies.



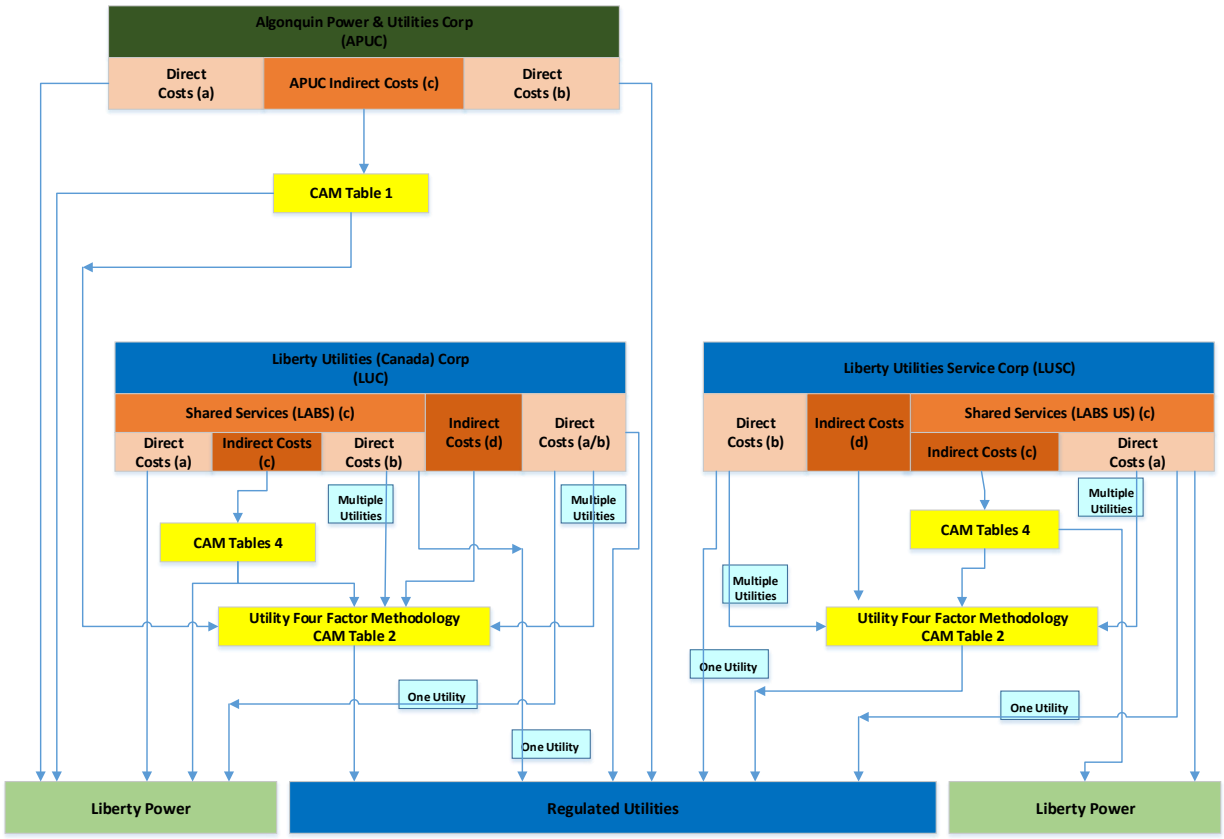
[18] This is for utility-dedicated LUC staff and services (not shared services staff).

APPENDIX 5 – LIFE OF A SHARED SERVICES INVOICE

A schematic is provided below showing the trail of an invoice for shared services provided within Liberty Utilities or LUSC for services to be charged to affiliates and subsidiaries. The schematic is intended to visually explain the distribution of charges from shared services to Liberty Power and Liberty Utilities companies.



APPENDIX 6 – COMPOSITE ILLUSTRATION OF ORGANIZATIONAL COST DISTRIBUTION



Notes:

(a) Costs that are directly assignable to unregulated companies.
(b) Costs that are directly assignable to regulated companies.
(c) Costs that benefit both unregulated and regulated operations
(d) Costs that benefit all regulated operations.

APPENDIX 7 – GLOSSARY OF TERMS

Algonquin Power & Utilities Corp. ("APUC")- is a publicly traded company and the ultimate corporate parent of Liberty Utilities and Liberty Power subsidiaries. It provides financial and strategic management, corporate governance, and oversight of administrative and support services to all its subsidiaries.

Algonquin Power Co. ("Liberty Power")- is a subsidiary of APUC whose primary business is in energy generation through renewal (solar and wind) sources and thermal generating facilities.

Cost Allocation Manual (CAM) – a document that explains how service company costs are assigned to affiliate companies and explains the nature of the services to be provided between affiliates.

Direct Costs- (sometimes referred to as assigned costs)- costs incurred by one company for the exclusive benefit of, or specifically identified with, one or more other companies, and which are directly charged (or assigned) to the company or companies that specifically benefited.

Fully Distributed Cost (FDC)– means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g. general and administrative) must also be included in the FDC calculation through a general allocation.

Indirect Costs- costs that cannot be identified with a particular service or product. This includes but not limited to overhead costs, administrative, general, and taxes.

Liberty Utilities Co.- is a subsidiary of APUC and the direct or indirect owner of regulated utilities.

Liberty Utilities (Canada) Corp. ("LUC") - is a subsidiary of APUC and employs Canadian-based employees.

Liberty Utilities Service Corp. ("LUSC")-is a subsidiary of APUC and employs U.S.-based distribution utility employees and those U.S. based employees providing shared services.

Liberty Algonquin Business Services ("LABS")- is a business unit with staff employed within LUC and LUSC. These employees provide shared services to both the utility and non-utility businesses within APUC.

NARUC – National Association of Regulatory Utility Commissioners.

Service Agreement – a written agreement specifying the terms and conditions upon which services are provided to and from affiliated entities.
Utility Four-Factor – is an allocation methodology used to allocate indirect costs to regulated utilities based on the following factors: Utility Net Plant, Customer Count, Non-Labor expenses, and labor expenses.

APPENDIX 8 - VERSION LOG

1. Base Year- January 1 2014
2. V2014, July 1, 2015
3. V2017, January 1 2017 (Includes April 2017 Updates)

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_41 Reference the Eichler testimony at 34:10-13. Explain whether AEPSC will also monitor, operate, dispatch and otherwise support Kentucky Transmission Company's transmission system, and if so, for how long. Explain how costs for that portion of the transmission system owned by KPCo, and that portion owned by Kentucky Transmission Company will be delineated.

RESPONSE

AEPSC will provide Real Time Monitoring and Control and Real Time Assessment functions assigned to a Transmission Operator (TOP) within the PJM TRO for all Bulk Electric System (BES) and other defined Transmission and Sub-transmission facilities outlined in a Transition Services Agreement between AEPSC and Liberty. The duration of the Transition Services Agreement covering these services is currently two years as stated in the Agreement. The AEPSC billing for these services is based on Real Time Monitoring and Control and Real Time Assessment average cost per facility.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_42 Explain whether Canadian law requires any utility / energy generating subsidiaries, regardless of their locality / nationality, to obtain a certain percentage of their power generation from renewable resources.

RESPONSE

Canadian law does not contain any such requirements.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_43 Explain whether Joint Applicants are willing to agree to a condition that any potential conflicts of laws between any laws of the Commonwealth Kentucky, the United States of America, and any Canadian local, provincial or federal law, will be resolved in favor of U.S. and Kentucky law. If not, why not?

a. Confirm that U.S. and Kentucky choice of law provisions will control all such conflicts.

RESPONSE

Liberty can agree that, if it is within Liberty's control, where a conflict of laws arises in respect of the operations of Kentucky Power Company in Kentucky between any laws of the Commonwealth Kentucky and the United States of America, and any Canadian local, provincial or federal law, Liberty will not dispute such conflict being resolved in favor of U.S. and Kentucky law over such Canadian laws.

a. Liberty cannot confirm that U.S. and Kentucky choice of law provisions will control all such conflicts. As a practical matter, not all conflicts are governed by contract and choice of law provisions are negotiated between two parties. Liberty however typically strives to use U.S. choice of law provisions for its U.S. operations.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_44 With regard to each Joint Applicant, provide all minutes of all meetings held at which the proposed transaction was discussed between: (a) shareholders and company management; and (b) the board of directors and the company management. This request is meant to include, but is not limited to, board meetings of any of the Joint Applicants, meetings between Joint Applicants, meetings of any of the officers of any of the Joint Applicants, etc.

RESPONSE

Please see Exhibits 7 and 8 to the Joint Application and JA_R_AG_1_44_ConfidentialAttachment_APUC - Certificate, date.pdf.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_45 Provide all reports, analyses or reviews of the projected cost of capital for KPCo and Liberty as conducted by any/each of the Joint Applicants, in the event the proposed transaction is approved.

RESPONSE

There are no documents responsive to the request. Notwithstanding, the cost of capital is not expected to change on account of the proposed transaction and therefore no changes are expected to Kentucky Power's cost of capital. See also response to AG 1-46.

Witness: Stephan T. Haynes

Witness: Michael Mosindy

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_46 Provide all reports, analyses or reviews of the credit profile for KPCo and Liberty as conducted by any/each of the Joint Applicants, in the event the proposed transaction is approved.

RESPONSE

Please see response to KPSC 1-57 and JA_R_AG_1_46_Attachment1 for the rating agency report that references the proposed transaction.

Witness: Stephan T. Haynes

Witness: Michael Mosindy

FitchRatings

RATING ACTION COMMENTARY

Fitch Downgrades AEP's L-T IDR to 'BBB' and S-T IDR to 'F3'; Affirms Kentucky Power

Thu 28 Oct, 2021 - 11:24 AM ET

Fitch Ratings - New York - 28 Oct 2021: Fitch Ratings has downgraded American Electric Power Company, Inc.'s (AEP) Long-Term Issuer Default Rating (IDR) and senior unsecured ratings to 'BBB' from 'BBB+'. Fitch has also downgraded AEP's Short-Term IDR and CP to 'F3' from 'F2'. Additionally, Fitch has affirmed Kentucky Power Co.'s (KPCo) Long-Term IDR at 'BBB' and senior unsecured rating at 'BBB+'. The Rating Outlook for AEP has been revised to Stable from Negative. The Rating Outlook for KPCo is Stable.

The downgrade of AEP's Long-Term IDR reflects the company's announcement that the $1.45 billion cash proceeds from the planned sale of KPCo to Algonquin Power & Utilities (APUC, BBB/Stable) will be used to offset forecasted equity needs in 2022. As a result, Fitch expects the company's credit metrics to continue to exceed the stated downgrade threshold for a 'BBB+' rating. The downgrade of AEP's Short-Term IDR reflects Fitch's assessment of AEP's financial structure, flexibility and operating environment, which results in the assignment of the lower of the two short-term options for the current long-term rating.

The affirmation of KPC0's Long-Term IDR reflects the company's weak, but expected to improve credit metrics and the anticipation that new ownership will continue to support KPCo in a manner that will be consistent with its current 'BBB' rating. Additionally, Fitch expects any conditions imposed by the Kentucky Public Service Commission (KPSC) will

not be a deterrent to improved credit metrics at KPCo. The sale also includes KPCo's ownership of AEP Kentucky Transco, which is currently owned by AEP Transmission Company, LLC (AEP Transco, A-/Stable). AEP Transco is not impacted by the transaction, given AEP Kentucky Transco's small size.

KEY RATING DRIVERS

American Electric Power Company, Inc.

KPCo Strategic Review Outcome: AEP announced on Oct. 26, 2021 that it has reached an agreement to sell KPCo to Liberty Utilities (LU, BBB/Stable) the regulated business subsidiary of APUC in a transaction valued at $2.846 billion, including the assumption of $1.3 billion in debt. The sale announcement is the result of a strategic review process announced in April 2021. The sale includes KPCo's Federal Energy Regulatory Commission (FERC) regulated assets, both at KPCo and AEP Transco. The transaction is expected to close 2Q22 and will require the approval of the KPSC and FERC, as well as federal clearance under the Hart-Scott-Rodino Act and the Committee on Foreign Investment in the U.S.

Separately, the parties are negotiating a new operating agreement for the coal-fired Mitchell plant, which is currently operated by KPCo, but jointly-owned by KPCo and AEP subsidiary Wheeling Power Co. (WPCo, NR). Under the new agreement WPCo will assume operational responsibility. Additionally, the agreement is expected to resolve Mitchell's disposition past 2028. The new agreement will require approval by KPSC, Public Service Commission of West Virginia, and FERC. Approval of the new Mitchell operating agreement is required for the transaction to close.

Sale Proceeds to Offset Equity: AEP has announced that the $1.45 billion after tax cash proceeds from the sale of KPCo will be used to offset forecasted equity needs in 2022. As a result, Fitch expects the company's FFO leverage to average 5.4x over the forecast period exceeding the stated downgrade threshold for a 'BBB+' rating of FFO leverage of 5.0x. Fitch's calculations include the effect and assumed favorable regulatory treatment of approximately $1 billion in additional fuel or purchased power costs amassed in February 2021 at PSO and SWEPCO as a result of Winter Storm Uri.

Capex Largely Debt Funded. AEP's 2021-2023 capex plan is 18% larger than the previous three-year plan, and will result in a 7.4% average annual rate base growth from 2019. Over recent years, the company has increasingly debt financed its capex leading to higher leverage. As of TTM June 30, 2021, cash from operations financed only 50% of capex. On a positive note, AEP's capex is almost exclusively geared to expanding the regulated rate

base, with 43% planned for transmission assets, the majority of which are regulated by FERC. Management expects that nearly 70% of the company's capital plan will be recoverable under reduced lag mechanisms. Fitch estimates AEP's parent-level debt will account for approximately 20%-25% of AEP's total debt load over the forecast period, versus 25%-30% at its most of its peers.

Balanced Regulatory Construct: Fitch views the state regulatory constructs within AEP's 11-state (soon to be 10 state) service territory as balanced. Authorized state ROEs are close to the industry average in most jurisdictions and include provisions to mitigate commodity and environmental regulation risks. AEP's transmission entities, most of which are subsidiaries of AEP Transco, operate under a tariff approved by the FERC. The FERC tariff provides timely recovery of capital and operating costs as well as favorable ROEs (10.35% and 10.50%) and robust capital structures. Fitch expects consolidated earned ROE, which was 9.0% for the LTM ended June 30, 2021, to average around 9.0% in 2021-2023.

Improving Asset Base: As a result of the companies' focus on transmission investment, AEP Transco is currently AEP's second largest subsidiary in terms of equity investment, and is expected to be the largest by the end of the forecast period. Fitch expects that the favorably FERC-regulated entity will account for almost 20% of AEP's consolidated EBITDA, resulting in a lower risk profile for the combined company. Additionally, the company plans to continue reducing its reliance on coal-fired generation and increase renewable capacity through construction of rate-based assets and power purchase agreements (PPAs). Hydro, wind, solar and pumped storage generation currently constitutes 19% of the generation capacity, and is expected to increase to almost 52% over the next 10 years.

Parent-Subsidiary Rating Linkage: AEP and its regulated subsidiaries have operational, financial and functional ties, resulting in moderate rating linkage. The treasury function is centrally managed and all regulated subsidiaries depend on AEP for short-term liquidity and participate in AEP's money pool. The money pool allows the utilities to manage working capital needs and provides short-term financing. Legal ties are weak, as the parent does not guarantee the debt obligations of its regulated subsidiaries.

AEP and most of its subsidiaries have limitations on capital structure from covenants in the bank credit agreement (debt/total capitalization that does not exceed 67.5%), and from regulatory requirements to maintain a specific equity ratio. No cross-default provisions exist among AEP and its subsidiaries. Due to these linkages, Fitch typically limits the notching difference between AEP and its subsidiaries to one or two notches.

Fitch applied a bottom-up approach in rating AEP's utility subsidiaries. Regulated subsidiaries are rated lower and/or higher than AEP, reflecting the strength of their balance sheets, quality of their service areas, and the constructiveness of their regulatory environments. Fitch rates AEP on a consolidated basis. Fitch expects AEP will adjust dividends from subsidiaries as needed and/or inject equity into subsidiaries to maintain regulatory capital structures and support credit metrics. Fitch applies a one-notch uplift to Kentucky Power Company's (BBB/Stable) ratings as a reflection of the implied support from the stronger parent company. Fitch expects that APUC will continue to support KPCo in a manner that will be consistent with the subsidiary's current 'BBB'.

Kentucky Power Co.

KPSC Merger Process: The sale of KPCo will require approval by the KPSC, which is expected to take up to 120 days once the case is filed. Fitch does not anticipate that merger conditions will be onerous. The KPSC will evaluate if the acquiror has the financial, technical, and managerial abilities to operate KPCo, and that the merger is consistent with the public interest. The KPSC commenced an investigation of KPCo on Sept. 15, 2021, likely in anticipation of the sale of the entity. Previously, the commission had expressed concern about spending for transmission and Mitchell environmental capex. Lower capex spending would benefit KPCo's credit metrics.

Constructive Regulatory Environment: Absent the KPSC's prior stated concerns about KPCo's capex spending, Fitch views the regulatory compact in Kentucky as generally constructive. A variety of cost recovery mechanisms, including fuel, purchased power, environmental compliance and infrastructure replacement clauses are in place that mitigate the impact of regulatory lag. On Jan. 13, 2021, the KPSC granted KPCo a revenue increase of $52.4 million effective Jan. 14, 2021. The rate increase was based on a 9.30% ROE and 43.25% equity capitalization and a March 31, 2020 test year.

Challenged Service Territory: KPCo's service area is primarily driven by coal mining, which has seen significant contraction in recent years. KPCo's residential customer count has declined about 6% over the last decade, while large commercial and industrial customer numbers have declined almost 20%. Growth in oil and gas extraction mitigates some of the effects of the secular decline in the coal industry. However, Fitch remains concerned that lower sales volumes will continue to pressure metrics and earned returns in the medium term.

Weaker Credit Metrics: KPCo's credit metrics have weakened significantly over the past couple years due to capex, a prior rate freeze, effects of the coronavirus, and continued

service territory weakness. KPCo has been a perennially under earning asset, with 5.9% earned ROE as of TTM June 30, 2021 compared to 9.0% for AEP consolidated. Fitch expects that new ownership will likely trim KPCo's capex budget, which was $579 million in 2021-2023, a 5% increase from the prior three years. Additionally, KPCo's FFO leverage is expected to improve in 2023 with the expiration of Rockport PPA.

DERIVATION SUMMARY

AEP's business mix compares favorably with other large multistate utility holding companies, given the company's improved risk profile after its 2017 merchant fossil generation exit. Over the forecast period, AEP is expected to derive approximately 90% of its EBITDA from regulated assets, compared with 100% at Xcel Energy Inc. (XEL: BBB+/Stable), 86% at Southern Company (SO; BBB+/Stable) and 85%-90% at Dominion Energy, Inc. (DEI: BBB+/Stable). However, AEP's consolidated credit metrics are weaker, owing to significant capex. Fitch expects AEP's FFO leverage to average around 5.4x over the forecast period, which is weaker than Xcel, SO, and DEI.

Fitch expects Xcel's FFO leverage to be 5.0x over the forecast period, SO's consolidated FFO leverage to average 5.0x through the forecast, and DEI's consolidated FFO leverage to be 5.0x. AEP is unique among the large multistate entities for its limited parent-level debt. Fitch currently estimates AEP parent-level debt will account for approximately 20%-25% of AEP's total debt load over the forecast period, this is lower than the 25%-35% at its peers.

KEY ASSUMPTIONS

Fitch's Key Assumptions Within The Rating Case for the Issuer:

--Consolidated capital expenditures of $22.3 billion over 2021-2023;

--Sale of KPCo competed 2Q22, after tax proceeds of $1.45 billion used to offset equity needs;

--Common dividends of $1.4 billion in 2021, $1.5 billion in 2022, $1.5 billion in 2023 as per managements publicly stated forecast;

--Equity Issuances of $100 million in 2023 as per managements publicly stated forecast;

--Conversion of $805 million equity units in 2022 and $850 million equity units in 2023;

--Rate case filings or resolutions there of over the forecast period in Arkansas, Ohio, Oklahoma and Texas.

RATING SENSITIVITIES

American Electric Power

Factors that could, individually or collectively, lead to positive rating action/upgrade:

--Sustained FFO leverage at or below 5.0x;

--Continued balanced jurisdictional rate regulation across AEP's service territory;

--Continued strategic focus on relatively low risk utility and transmission businesses.

Factors that could, individually or collectively, lead to negative rating action/downgrade:

--Sustained FFO leverage exceeding 5.5x on a sustained basis;

--Renewed emphasis on non-regulated or uncontracted investments;

--Significant unexpected regulatory developments at any of the regulated operating companies.

Kentucky Power

Factors that could, individually or collectively, lead to positive rating action/upgrade:

--Sustained FFO leverage at or below 4.5x;

--Continued balanced jurisdictional rate regulation.

Factors that could, individually or collectively, lead to negative rating action/downgrade:

--Sustained FFO leverage exceeding 5.5x on a sustained basis;

--Unexpected regulatory development.

BEST/WORST CASE RATING SCENARIO

International scale credit ratings of Non-Financial Corporate issuers have a best-case rating upgrade scenario (defined as the 99th percentile of rating transitions, measured in a positive direction) of three notches over a three-year rating horizon; and a worst-case rating downgrade scenario (defined as the 99th percentile of rating transitions, measured in a negative direction) of four notches over three years. The complete span of best- and worst-case scenario credit ratings for all rating categories ranges from 'AAA' to 'D'. Best- and worst-case scenario credit ratings are based on historical performance. For more information about the methodology used to determine sector-specific best- and worst-case scenario credit ratings, visit https://www.fitchratings.com/site/re/10111579.

LIQUIDITY AND DEBT STRUCTURE

AEP has a $4.0 billion committed revolving credit facility maturing in March 2026 and a $1 billion committed facility maturing in March 2023, both of which serve as a backstop for AEP's CP program and LOC. AEP must maintain a ratio of debt/total capitalization that does not exceed 67.5%, under the covenants to its credit agreement. This contractually-defined percentage was 59.3% as of Sept. 30, 2021. As of Sept. 30, 2021, AEP had $3.746 billion available on its revolving credit facility (giving effect for CP issuance) and cash of $1.373 billion.

AEP has parent level corporate maturities as follows: $400 million in 2021, $1.605 billion in 2022, and $1.900 billion in 2023, $300 million in 2024. AEP has $805 million of equity units issued in 2019 and $850 million issued in 2020 for which Fitch does not give equity credit. The notes are expected to be remarketed in 2022 and 2023, respectively, at which time the interest rate will reset at the then current market rate and forward equity purchase contract associated with the units will be settled with the issuance of equity. If either remarketing is unsuccessful, investors have the right to put their notes to AEP at a price equal to the principal. Fitch assumes successful remarketings for the equity units.

AEP's regulated subsidiaries use a pool of corporate borrowing to meet short-term funding needs. The money pool operates according to regulators' approved terms and conditions, and includes maximum authorized borrowing limits for individual companies.

ISSUER PROFILE

AEP is a utility holding company of regulated electric utility subsidiaries serving portions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia. Additionally, the company has significant investments in FERC regulated transmission assets.

SUMMARY OF FINANCIAL ADJUSTMENTS

As of Dec. 31, 2020, Fitch has made the following adjustments:

--$716 million of securitized debt has been removed from Fitch's AEP consolidated debt calculation;

REFERENCES FOR SUBSTANTIALLY MATERIAL SOURCE CITED AS KEY DRIVER OF RATING

The principal sources of information used in the analysis are described in the Applicable Criteria.

RATING ACTIONS

ENTITY/DEBT	RATING			PRIOR
American Electric Power Company, Inc.	LT IDR	BBB Rating Outlook Stable	Downgrade	BBB+ Rating Outlook Negative
	ST IDR	F3	Downgrade	F2
• senior unsecured	LT	BBB	Downgrade	BBB+
• senior unsecured	ST	F3	Downgrade	F2
Kentucky Power Company	LT IDR	BBB Rating Outlook Stable	Affirmed	BBB Rating Outlook Stable

VIEW ADDITIONAL RATING DETAILS

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The rated entity (and/or its agents) or, in the case of structured finance, one or more of the transaction parties participated in the rating process except that the following issuer(s), if any, did not participate in the rating process, or provide additional information, beyond the issuer's available public disclosure.

APPLICABLE CRITERIA

Parent and Subsidiary Linkage Rating Criteria (pub. 26 Aug 2020)

Corporate Hybrids Treatment and Notching Criteria (pub. 12 Nov 2020)

Corporates Recovery Ratings and Instrument Ratings Criteria (pub. 09 Apr 2021) (including rating assumption sensitivity)

Corporate Rating Criteria (pub. 15 Oct 2021) (including rating assumption sensitivity)

APPLICABLE MODELS

Numbers in parentheses accompanying applicable model(s) contain hyperlinks to criteria providing description of model(s).

Corporate Monitoring & Forecasting Model (COMFORT Model), v7.9.0 (1)

ADDITIONAL DISCLOSURES

Dodd-Frank Rating Information Disclosure Form

Solicitation Status

Endorsement Policy

ENDORSEMENT STATUS

American Electric Power Company, Inc.	EU Endorsed, UK Endorsed
Kentucky Power Company	EU Endorsed, UK Endorsed

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The ratings above were solicited and assigned or maintained by Fitch at the request of the rated entity/issuer or a related third party. Any exceptions follow below.

ENDORSEMENT POLICY

Fitch's international credit ratings produced outside the EU or the UK, as the case may be, are endorsed for use by regulated entities within the EU or the UK, respectively, for regulatory purposes, pursuant to the terms of the EU CRA Regulation or the UK Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019, as the case may be. Fitch's approach to endorsement in the EU and the UK can be found on Fitch's Regulatory Affairs page on Fitch's website. The endorsement status of international credit ratings is provided within the entity summary page for each rated entity and in the transaction detail pages for structured finance transactions on the Fitch website. These disclosures are updated on a daily basis.

Corporate Finance Utilities and Power North America United States

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_47 Provide the total number of employees working in any and all of the Joint Applicants' customer service centers, regardless of location, dedicated to addressing inquiries and other needs of customers located in Kentucky. Please differentiate between full-time, part-time, and seasonal employees.

a. Provide the total number of such employees as of the date of your response to this request, and an estimate for the number of such employees following the final closing of the proposed transaction.

RESPONSE

American Electric Power determines staffing for its call centers based on call volume, rather than by jurisdiction or state. Based on customer call volume from 2019-2021, current service levels and performance factors, approximately 16-17 full-time employees handle Kentucky Power's call volume.

a. Through a Transition Services Agreement, AEP will continue to offer call center services to Kentucky customers post-close and up to 18 months. The same level and types of services will continue to be provided, until Liberty establishes its call center within the Kentucky service territory. Staffing for Liberty's new call center will include approximately 19-20 full-time employees. An increased headcount will help ensure a good customer experience as employees and customers transition to the Liberty model.

Witness: Brian K. West

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_48 Provide copies of any and all documents the Joint Applicants have filed with the Securities and Exchange Commission regarding the proposed transaction, to the extent not already provided.

RESPONSE

The Stock Purchase Agreement was filed as an exhibit with the 10-Q. AEP's Q3 Earnings Press Release is filed with the SEC as an 8-K, which mentioned the decision to sell the Kentucky Operations. The documents are available at:
https://www.sec.gov/Archives/edgar/data/4904/000000490421000069/0000004904-21-000069-index.htm
https://www.sec.gov/Archives/edgar/data/0000004904/000000490421000066/0000004904-21-000066-index.htm

Filings by Algonquin Power & Utilities Corp. with the SEC are available at the following links:
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001662/0001140361-22-001662-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035652/0001140361-21-035652-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001662/0001140361-22-001662-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035525/0001140361-21-035525-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416921000066/0001174169-21-000066-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416921000061/0001174169-21-000061-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001493/0001140361-22-001493-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416922000006/0001174169-22-000006-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001080/0001140361-22-001080-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121037570/0001140361-21-037570-index.html

https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035654/0001140361-21-035654-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121038594/0001140361-21-038594-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416921000061/0001174169-21-000061-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001083/0001140361-22-001083-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035469/0001140361-21-035469-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035652/0001140361-21-035652-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035652/0001140361-21-035652-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036122001663/0001140361-22-001663-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121036379/0001140361-21-036379-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416921000061/0001174169-21-000061-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000117416921000061/0001174169-21-000061-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035523/0001140361-21-035523-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035654/0001140361-21-035654-index.html
https://www.sec.gov/Archives/edgar/data/0001174169/000114036121035524/0001140361-21-035524-index.html

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_49 Provide a complete copy of any filings associated with the proposed merger made pursuant to the Hart-Scott-Rodino Antitrust Improvements Acts of 1976 (15 U.S.C.A. § 18a; together with regulations promulgated thereunder at 16 CFR §§ 801-803) (hereinafter jointly referred to as "the Act").

RESPONSE

The Joint Applicants object to this request on the basis that it seeks information that is outside the scope of this proceeding and that is neither relevant to this proceeding or calculated to lead to the discovery of admissible evidence. In support of this objection, the Joint Applicants state that the information that the Joint Applicants were required to submit for antitrust purposes is not relevant to the Commission's inquiry into this matter, which, pursuant to KRS 278.020(6) and (7), is whether Liberty has the financial, technical, and managerial abilities to provide reasonable service and that the proposed acquisition is in accordance with law, for a proper purpose, and consistent with the public interest.

Respondent: Counsel

American Electric Power Company, Inc.
Kentucky Power Company
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DATA REQUEST

AG 1_50 In the event the U.S. Department of Justice Antitrust Division determines that further inquiry is necessary and pursuant to the Act issues a second request for documents to the Joint Applicants, will the Joint Applicants agree to supply the Kentucky Public Service Commission and intervenors with copies of all documents produced in response to such a request, regardless of when the Joint Applicants make their (its) response?

RESPONSE

See the response to AG 1-49.

Respondent: Counsel

American Electric Power Company, Inc.
Kentucky Power Company
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DATA REQUEST

AG 1_51 Post-transaction, will KPCo, its parent entities, or affiliates be required to make any filings with the Securities and Exchange Commission? If yes, please identify and explain the filing requirement(s).

RESPONSE

Post transaction, Algonquin Power & Utilities Corp. , which will be the ultimate parent of Kentucky Power Company post-closing, will file a Form 6-K if required.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_52 Is Liberty currently required to comply with The Sarbanes-Oxley Act of 2002?

a. Will Liberty be required to do so following the closure of the proposed transaction? If not, explain what entity will perform Sarbanes-Oxley Act compliance on behalf of KPCo.
b. Identify and explain the post-transaction Sarbanes-Oxley-related requirements for Liberty and KPCo (if any) and their parent entities, and what effect if any these requirements will or may have on KPCo's ratepayers.
c. Explain whether KPCo will be allocated any costs for compliance with Canadian federal or provincial laws pertaining to corporate governance and compliance.

RESPONSE

Yes, Algonquin Power & Utilities Corp. ("AQN"), an SEC registrant and NYSE listed public company, is required to comply with the Sarbanes-Oxley Act of 2002 ("SOX").

a. Liberty, given its relationship with AQN, will continue to comply with SOX following the closure of the proposed transaction.

b. Internal controls over financial reporting will be implemented at Kentucky Power from the date of acquisition. As permitted by the U.S. Securities and Exchange Commission, Kentucky Power will be excluded from management's evaluation of the effectiveness of AQN's internal controls over financial reporting in fiscal year 2022 (Jan. 1, 2022 – Dec. 31, 2022). Starting in 2023, Kentucky Power will be included in our risk assessment and scoping process to determine to what extent Kentucky Power (i.e. what business processes and/or specific risks and controls) will be in scope for management's evaluation.

c. Canadian laws regarding internal controls over financial reporting are essentially aligned with the SOX requirements. There will be no additional costs allocated to Kentucky Power to specifically meet the Canadian requirements.

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_53 Provide copies of any and all documents pertaining to the proposed transaction that the Joint Applicants have filed with any and all other regulatory bodies, whether state or federal, regarding the proposed transaction.

RESPONSE

The Joint Applicants object to this request on the basis that it seeks information that is outside the scope of this proceeding and that is neither relevant to this proceeding or calculated to lead to the discovery of admissible evidence. In support of this objection, the Joint Applicants state that the information that the Joint Applicants were required to submit for antitrust purposes is not relevant to the Commission's inquiry into this matter, which, pursuant to KRS 278.020(6) and (7), is whether Liberty has the financial, technical, and managerial abilities to provide reasonable service and that the proposed acquisition is in accordance with law, for a proper purpose, and consistent with the public interest. Notwithstanding the objection please see the response to AG 1-5 stating that the CFIUS clearance has been granted. Please also reference the Joint Applicants' response to AG 1-49.

Please refer to JA_R_AG_1_53_FERC_203_Application.pdf, which is the attached public version of the application to the Federal Energy Regulatory Committee under Section 203 of the Federal Power Act for transfer of control of Kentucky Power Company and AEP Kentucky Transmission Company, Inc. and the 12 files of the confidential workpapers as follows:

JA_R_AG_1_53_ConfidentialAttachment_PRIV- EQR AS Transactions.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Data and Methodology.pdf
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Detailed Coal Transactions.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-DPT Macro.pdf
JA_R_AG_1_53_ConfidentialAttachment_PRIV-DPT Model - PJM AEP-Liberty.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Gas Prices.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Historical Capacity Factors.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Interface Limits Transmission Rates and Losses.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Loads_Backup.xlsx
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Macros_Instructions.pdf
JA_R_AG_1_53_ConfidentialAttachment_PRIV-Market Prices Derivation and Data.xlsx

JA_R_AG_1_53_ConfidentialAttachment_PRIV-Variable O&Ms.xls

The Federal Communication Commission applications have not yet been submitted.

Witness: Stephan T. Haynes

Witness: Peter Eichler

PUBLIC VERSION
PRIVILEGED AND CONFIDENTIAL INFORMATION AND PROTECTED MATERIALS REMOVED PURSUANT TO 18 C.F.R. § 388.112

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co. Kentucky Power Company AEP Kentucky Transmission Company, Inc.	)	Docket No. EC22-_____-000

JOINT APPLICATION FOR AUTHORIZATION UNDER SECTION 203 OF THE FEDERAL POWER ACT FOR DISPOSITION OF JURISDICTIONAL FACILITIES

Pursuant to Section 203(a)(1) and 203(a)(2) of the Federal Power Act, as amended ("FPA"),[1] and Part 33 of the regulations of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[2] Liberty Utilities Co. ("Liberty"), Kentucky Power Company ("Kentucky Power"), and AEP Kentucky Transmission Company, Inc. ("Kentucky TransCo" and, collectively with Kentucky Power, the "Acquired Companies") [3] hereby submit this application ("Application") requesting authorization for the disposition of jurisdictional facilities that will result from the acquisition of all issued and outstanding common shares of the Acquired Companies from American Electric Power Company, Inc. ("AEP") and AEP Transmission Company, LLC ("AEP TransCo") by Liberty (the "Transaction").

As demonstrated below, the Transaction is consistent with the public interest because it will not have any adverse effect on competition, rates, or regulation and will not result in any cross-subsidization of a non-utility company or the encumbrance or pledge of utility assets for the benefit

[1] 16 U.S.C. § 824b(a)(1) and (2).

[2] 18 C.F.R. Part 33.

[3] The Acquired Companies together with Liberty shall be collectively referred to as the "Applicants."

of an associate company. The Transaction will also generally result in a deconcentration of the PJM Interconnection, L.L.C. ("PJM") market. Because the Transaction is consistent with the public interest, it should be authorized by the Commission pursuant to FPA Section 203. Applicants respectfully request that the Commission authorize the Transaction pursuant to its authority under FPA Section 203, without modification, condition, or further proceedings.

I. COMMUNICATIONS

Applicants request that all correspondence, pleadings and other communications concerning this filing be served upon the following individuals who should be included on the official service list in this proceeding:[4]

For Liberty:

Sarah Knowlton
General Counsel, Liberty Utilities
116 North Main Street
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Joplin, MO 64801
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kenneth.tillotson@libertyutilities.com

[4] To the extent necessary and to allow all individuals identified herein to be served with copies of any communication issued in this proceeding, the Applicants request waiver of Commission Rule 203(b)(3). 18 C.F.R. § 385.203(b)(3).

For Kentucky Power and Kentucky TransCo:

John C. Crespo
Deputy General Counsel
– Regulatory and Nuclear Services
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wkeyser@steptoe.com

II. DESCRIPTION OF APPLICANTS AND RELEVANT PARTIES TO THE TRANSACTION

A. Liberty

Liberty, a Delaware corporation, is an indirect, wholly-owned subsidiary of Algonquin Power & Utilities Corp. ("Algonquin"). Algonquin is a diversified electric power generation and utility infrastructure company with a head office in Oakville, Ontario. Algonquin is a publicly traded company on the New York Stock Exchange and Toronto Stock Exchange (symbol, AQN). Through its distinct operating subsidiaries, Algonquin owns and operates a diversified portfolio of electric generation, electric transmission, and utility business throughout North America. To the knowledge of Algonquin, no single investor or affiliated group of investors owns directly or indirectly more than ten percent of Algonquin (based on the most current, publicly-available information filed under Algonquin's profiles on the System for Electronic Document Analysis and Retrieval (SEDAR) and the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR)).

As described below and in the attached Exhibit B, Liberty holds, indirectly and through its affiliates, interests in companies that, among other things, engage in the electric utility, electric generation, electric transmission, and natural gas distribution, and pipeline businesses in Canada and the Unites States. Liberty is affiliated with the following electric utilities:

The Empire District Electric Company ("Empire Electric") is a vertically integrated electric utility providing electric service to approximately 177,000 customers in Southwest Missouri, southeast Kansas, northeast Oklahoma, and northwest Arkansas. Empire Electric is a public utility company regulated by the Missouri Public Service Commission, the Kansas Corporation Commission, the Oklahoma Corporation Commission, the Arkansas Public Service Commission, and the Commission. Empire Electric is a transmission-owning member of the Southwest Power Pool, Inc. ("SPP"). All requests for transmission service on Empire Electric's transmission system are made through SPP under the terms and conditions of the SPP Open Access Transmission Tariff ("OATT").

Empire Electric has market-based rate authority[5] and also provides service under cost-based rate schedules on file with the Commission. Empire Electric has a 7.5% undivided interest or 51 MW (seasonal) in the Plum Point Energy Station, a 680.2 (MW) (seasonal) coal-fired facility located in MISO from which Empire also receives an additional 50 MW (seasonal) of generating capacity under a long-term power purchase agreement ("PPA") with Plum Point Energy Associates LLC, one of the other four owners of the Plum Point Energy Station. Empire Electric's share of purchased power from the Plum Point Energy Station is imported into SPP to serve Empire Electric's load. Empire Electric also owns generation facilities in SPP and those generating assets are identified on Exhibit B.[6]

Liberty Utilities (CalPeco Electric) LLC ("CalPeco") is a distribution electric utility that serves approximately 50,000 electric customers in portions of seven counties in eastern California

[5] *See The Empire District Electric Co.,* 116 FERC ¶ 61,150 (2006), *order denying reh'g*, 123 FERC ¶ 61,084 (2008).

[6] The Commission has granted Empire Electric a waiver of the Commission's affiliate restrictions to allow Empire Electric employees to perform certain scheduling and related services for affiliated wind generation projects. *The Empire District Electric Co*., 171 FERC ¶ 61,182 (2020).

near Lake Tahoe. CalPeco owns or controls the 12 MW (summer) Kings Beach diesel-fired generation facility located in Placer County, California (and associated books and records), in the Sierra Pacific Power Company ("SPPC") balancing authority area ("BAA"); the 50 MW Luning Solar generating project located in Mineral County Nevada, in the NV Energy BAA; and the 10 MW Turquois Liberty Solar generating facility in Washoe County, Nevada, in the SPPC BAA. CalPeco also has on file with the Commission several agreements pursuant to which it provides wholesale capacity and energy, emergency backup services, and borderline services to SPPC and/or Pacific Gas & Electric Company.[7] CalPeco does not have a market-based rate tariff on file with the Commission.

Liberty Utilities (Granite State Electric) Corp. ("Granite State") is a distribution electric utility in the State of New Hampshire. It is engaged in the purchase, distribution and sale of electric energy at retail and provides service to approximately 45,000 customers in 23 communities in New Hampshire in a geographic area of approximately 810 square miles. Granite State's distribution system consists of approximately 1,100 miles of distribution lines and 13 substations. Granite State's services, rates, tariff and operating procedures are regulated by the New Hampshire Public Utilities Commission. Granite State has received market-based rate authority,[8] and has a borderline sales tariff on file with the Commission.[9]

Liberty Utilities (Tinker Transmission) LP ("LUTT") owns a segment of three 69kV transmission lines in New Brunswick, Canada that runs through the switchyard of an

[7] The output of the Kings Beach facility is committed to both CalPeco and SPPC pursuant to a long-term agreement. *See Cal. Pac. Elec. Co., LLC*, Docket No. ER10-1703-000, Letter Order, dated Aug. 20, 2010 (accepting agreement for filing). The Commission has disclaimed jurisdiction over CalPeco's distribution system. *Cal. Pac. Elec. Co*., 133 FERC ¶ 61,018 (2010).

[8] *Granite State Elec. Co., et al*., 113 FERC ¶ 61,289 (2005).

[9] *Granite State Elec. Co.*, Docket No. ER11-2894-000, Letter Order dated Mar. 31, 2011.

approximately 33.5 MW hydroelectric facility owned by Algonquin Tinker Gen Co. and is used to connect the Village of Perth Andover to New Brunswick Power Corporation ("NBPC") in the New Brunswick BAA and to Maine Public Service Company at the Canadian border. These facilities are dedicated to and under the operational control of NBPC (with certain activities assigned to the Northern Maine Independent System Administrator, Inc.) and service is provided and a revenue requirement collected under the NBPC Tariff. LUTT is an indirect wholly-owned subsidiary of Algonquin.

Liberty currently has generation affiliates in the PJM market where the Acquired Companies are located and in first tier market Midcontinent Independent System Operator, Inc. ("MISO").

Altavista Solar, LLC ("Altavista") owns an 80 MW (nameplate) solar-powered electric generating facility located in Campbell County, Virginia within the PJM BAA. Altavista is an Exempt Wholesale Generator ("EWG")[10] and has authorization to make sales of energy, capacity and ancillary services at market-based rates.[11] Altavista has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[12]

Great Bay Solar I, LLC ("Great Bay Solar I") owns and operates an approximately 75 MW (nameplate) solar-powered electric generating facility located in Somerset County, Maryland and interconnected to the transmission system of Delmarva Power & Light Company within the PJM BAA. Great Bay Solar I has executed a long-term PPA for the entire capacity of the facility.

[10] *Altavista Solar, LLC*, Docket No. EG20-185, Notice of Self-Certification of Exempt Wholesale Generator Status, filed June 12, 2020, Notice of Effectiveness of Exempt Wholesale Generator Status, September 15, 2020.

[11] *Altavista Solar, LLC*, 174 FERC ¶ 61,127 (2021).

[12] *Altavista Solar, LLC*, 176 FERC ¶ 61,020 (2021)

The term of the PPA is ten years and expires in December 2027. Great Bay Solar I is an EWG[13] and is authorized to sell power at market-based rates.[14] Great Bay Solar I has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[15]

Great Bay Solar II, LLC ("Great Bay Solar II") owns and operates an approximately 43 MW (nameplate) solar-powered electric generating facility located in Somerset County, Maryland, and interconnected to Delmarva Power & Light Company within the PJM BAA through certain facilities owned by Great Bay Solar I that are the subject of a Shared Facilities Agreement on file with the Commission.[16] Great Bay Solar II is an EWG[17] and is authorized to sell power at market-based rates.[18] Great Bay Solar II has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[19]

GSG 6, LLC ("GSG 6") owns and operates a 109.5 MW (nameplate) wind farm located near Compton, Illinois, and interconnected to the transmission system of Commonwealth Edison Company within the PJM BAA. GSG 6 is an EWG[20] and is authorized to sell power at market-

[13] *Great Bay Solar I, LLC*, Docket No. EG17-123, Notice of Effectiveness of Exempt Wholesale Generator Status (issued October 11, 2017).

[14] *Great Bay Solar I, LLC*, Docket No. ER17-2084-000, Letter Order issued August 27, 2017, Notice of Succession accepted October 5, 2017.

[15] *Great Bay Solar I, LLC*, 161 FERC ¶ 61,111 (2017).

[16] *Great Bay Solar I, LLC*, Docket No. ER20-653-000, Letter Order issued February 7, 2020.

[17] *Great Bay Solar II, LLC*, Docket No. EG20-80, Notice of Self-Certification of Exempt Wholesale Generator Status (filed February 7, 2020).

[18] *Great Bay Solar II, LLC*, Docket No. ER20-967-000, Letter Order issued March 30, 2020.

[19] *Great Bay Solar II, LLC*, 173 FERC ¶ 61,124 (2020).

[20] *GSG 6, LLC*, Docket No. EG11-133-000, Notice of Effectiveness of Exempt Wholesale Generator Status, (filed Dec. 21, 2011).

based rates.[21] GSG 6 has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[22]

Minonk Wind, LLC ("Minonk") owns an approximately 200 MW (nameplate) wind generating facility located within the PJM BAA. Minonk is an EWG,[23] and the Commission has authorized Minonk to sell energy, capacity, and ancillary services at market-based rates.[24] Minonk has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[25]

Sandy Ridge Wind, LLC ("Sandy Ridge") owns a 50 MW (nameplate) wind generating facility located in Centre County, Pennsylvania, within the PJM BAA. Sandy Ridge is an EWG[26] and has authorization to make sales of energy, capacity and ancillary services at market-based rates.[27] Sandy Ridge has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[28]

Deerfield Wind Energy, LLC ("Deerfield Wind") owns and operates a 149 MW (nameplate) wind-powered electric generating facility located in central Michigan in the MISO BAA. Deerfield Wind is an EWG[29] and has market-based rate authority.[30] Deerfield Wind has

[21] *GSG 6, LLC*, Docket No. ER11-4694, Letter Order issued November 10, 2011.

[22] *GSG 6, LLC*, 167 FERC ¶ 61,101 (2019).

[23] *Minonk Wind, LLC*, Docket No. EG12-60, Notice of Effectiveness of Exempt Wholesale Generator Status (July 12, 2012).

[24] *Minonk Wind, LLC*, Docket No. ER12-1680-000, Letter Order issued June 12, 2012.

[25] *Minonk Wind, LLC*, 167 FERC ¶ 61,188 (2019).

[26] *Sandy Ridge Wind, LLC*, Docket No. EG11-5-000, Letter Order dated January 6, 2011.

[27] *Sandy Ridge Wind, LLC*, Docket No. ER11-113-000, Letter Order dated December 2, 2010.

[28] *Sandy Ridge Wind, LLC*, 177 FERC ¶ 63,010 (2021).

[29] *Deerfield Wind Energy, LLC*, Docket No. EG16-157, Notice of Self-Certification of Exempt Wholesale Generator Status (filed September 22, 2016).

[30] *Deerfield Wind Energy, LLC*, Docket No. ER16-2703, Letter Order issued December 21, 2016.

executed a long-term PPA with Wolverine Power Supply Cooperative, Inc. for the entire capacity of the facility. The term of the PPA is twenty years and terminates on December 31, 2028.

Odell Wind Farm, LLC ("Odell") owns an approximately 200 MW (nameplate) wind generating facility located in Cottonwood, Jackson, Martin and Watonwan Counties, Minnesota, in the MISO BAA. Odell is an EWG[31] and has market-based rate authority.[32] Odell has executed a long-term PPA with Xcel Energy's Northern States Power Company for the entire capacity of the facility. The term of the PPA is twenty years and terminates on July 28, 2036.

Sugar Creek Wind One LLC ("Sugar Creek") owns and operates an approximately 202 MW (nameplate) wind-powered electric generating facility located in New Holland, Illinois, and is interconnected to the transmission system of Ameren Services Company within MISO. Sugar Creek is an EWG[33] and has market-based rate authority.[34] Sugar Creek has on file a rate schedule to collect a revenue requirement for reactive service under PJM Rate Schedule 2.[35]

Through APUC's affiliation with AAEGES (AY Holdings) B.V. ("AAEGES"), Liberty is affiliated with the following project in PJM:

Old Trail Wind Farm, LLC[36] ("Old Trail") owns and operates an approximately 208.5 MW wind-powered electric generating facility located in McClean County, Illinois that is

[31] *Odell Wind Farm, LLC*, Docket No. EG15-124-000, Notice of Self-Certification of Exempt Wholesale Generator Status (filed September 9, 2015).

[32] *Odell Wind Farm, LLC*, Docket No. ER15-2361-003, Letter Order issued December 11, 2015.

[33] *Sugar Creek Wind One LLC*, Docket No. EG20-207, Notice of Self-Certification of Exempt Wholesale Generator Status (filed July 8, 2020).

[34] *Sugar Creek Wind One LLC*, Docket No. ER20-2379, Letter Order issued October 16, 2020.

[35] *Sugar Creek Wind One LLC*, 175 FERC ¶ 61,005 (2021).

[36] Old Trail is a direct wholly-owned subsidiary of 2007 Vento II, LLC ("Vento II"). BPC US Wind Corporation owns 49% of the Class A membership in Vento II and is itself owned by ASHUSA, Inc. ("ASHUSA"), a Delaware corporation that is a direct, wholly owned subsidiary of Atlantica Sustainable Infrastructure ("ASI"), a UK public limited company that owns a diversified portfolio of contracted renewable energy, power generating, electric transmission and water assets in North and South America and certain markets in Europe, the Middle East and Africa. ASI is owned 44% by AAGES, and the remainder by public shareholders. Other than AAGES, no single shareholder

interconnected to the transmission system of Commonwealth Edison Company within PJM. Old Trail is an EWG[37] and has authorization to make sales of energy, capacity and ancillary services at market-based rates.[38] The entire output of the Old Trail facility is committed to Exelon Generation Company, LLC under a long-term power purchase agreement in effect through February 8, 2026.

In addition to Liberty's electric utilities and generation affiliates, it is also affiliated with natural gas distribution utilities and natural gas pipelines in the United States, as described below.

The Empire District Gas Company ("Empire Gas") is a natural gas utility providing retail natural gas service (sales and distribution) to approximately 43,000 customers in Missouri. Empire Gas is wholly-owned by Empire Electric. In connection with its retail services, Empire Gas holds interstate natural gas transportation and storage capacity on a number of interstate pipelines.

Liberty Utilities (EnergyNorth Natural Gas) Corp. ("EnergyNorth") is a natural gas utility providing retail natural gas service (sales and distribution) to over 95,000 customers in five counties and 35 communities in New Hampshire. EnergyNorth's franchise territory includes southern and central New Hampshire, as well as Berlin, New Hampshire and covers approximately 1,001 square miles. EnergyNorth's distribution system includes approximately 2,210 miles of distribution pipelines, 2.8 miles of transmission-pressure mains, and eight city gates. EnergyNorth's services, rates, tariff and operating procedures are regulated by the New Hampshire Public Utilities Commission. In connection with its retail services, EnergyNorth holds interstate natural gas transportation and storage capacity on a number of interstate pipelines. EnergyNorth

of ASI owns 10% or more of the voting shares of ASI. AAGES, a corporation under the laws of the Netherlands, is 99.9% indirectly owned by APUC and 0.01% indirectly owned by Abengoa, S.A.

[37] *Old Trial Wind Farm, LLC,* 114 FERC ¶ 62,276 (2006).

[38] *Old Trail Wind Farm, LLC,* Docket No. ER07-522-000, Letter Order dated March 15, 2007.

provides regulated propane air service to the approximately 1,200 former customers of New Hampshire Gas Corporation, who are located in and around Keene, New Hampshire.

Liberty Utilities (New England Natural Gas Company) Corp. ("Liberty New England") is a regulated natural gas utility providing natural gas service to approximately 53,000 customers in Massachusetts. Liberty New England has no intrastate transmission. Its facilities are distribution only and used to serve the retail distribution customers of Liberty New England. Liberty New England is regulated by the Massachusetts Department of Public Utilities.

Liberty Utilities (Midstates Natural Gas) Corp. ("Liberty Midstates") is a natural gas utility providing natural gas service to approximately 80,000 customers in Illinois, Iowa, and Missouri (54,500 in Missouri, 22,000 in Illinois, and 4,000 in Iowa). Liberty Midstates' distribution system includes approximately 2,900 miles of pipeline of varying diameters from two inches to 10 inches. Liberty Midstates has a Section 284.224 Limited Jurisdiction Blanket Certificate and Statement of Operating Conditions on file with the Commission.

Liberty Utilities (Peach State Natural Gas) Corp. ("Peach State") is a natural gas utility serving the following counties in the State of Georgia: Barrow, Chattahoochee, Hall, Harris, Jackson, Muscogee, and Oconee. Its distribution assets include approximately 1,270 miles of pipeline of varying diameters from two inches to 16 inches serving approximately 62,000 customers. Of this pipeline, 63 miles are intrastate transmission and the balance is classified as distribution.

Liberty is also affiliated with Algonquin Energy Services Inc. ("AES"). AES is a power marketer that sells energy to commercial and industrial customers. AES holds market-based rate authority from the Commission.[39] Liberty has no transmission or generation affiliates in first tier

[39] *Algonquin Energy Services Inc.,* Docket Nos. ER10-310 *et al.,* Letter Order dated Jan. 7, 2010.

market New York Independent System Operator Inc. ("NYISO"). Liberty's other energy affiliates are identified in its Asset Appendix submitted as Exhibit B.

B. AEP Companies

1. AEP and Kentucky Power

AEP is an investor-owned electric public utility holding company. AEP owns, directly or indirectly, all of the outstanding common stock of its public utility operating companies, including Kentucky Power.[40] AEP's operating companies are located within PJM, SPP, and Electric Reliability Council of Texas, Inc. ("ERCOT") footprints. The operating companies in PJM include Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company, Wheeling Power Company ("Wheeling Power"), and Kingsport Power Company ("AEP East Operating Companies"). Each of the AEP East Companies are public utilities that currently engage in the generation and/or transmission and/or distribution of electric power in their respective states and service territories. Each of the operating companies is authorized to engage in sales of electric capacity and energy at market-based rates, and each has transferred functional control of their transmission facilities to PJM.

Kentucky Power is a generation, distribution, and transmission utility that serves approximately 165,000 Kentucky customers. Kentucky Power owns 1,075 megawatts of generation including the Big Sandy Power Plant, a 260-megawatt natural gas-fueled plant located in Louisa, Kentucky. In addition, Kentucky Power currently operates the 1,560-megawatt coal-fueled Mitchell Power Generation Facility located in Moundsville, West Virginia, and owns 50%

[40] AEP's public utility subsidiaries serve retail and wholesale customers within service areas that include portions of the states of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia, and West Virginia. Other AEP subsidiaries are transmission and generation companies that do not have franchised service territories.

of the plant.[41] Kentucky Power also owns 1,263 miles of transmission facilities with interconnections to East Kentucky Power Cooperative, Louisville Gas & Electric Company, Kentucky Utilities Co., and the Tennessee Valley Authority, as well as to its affiliated operating companies Appalachian Power Company, Indiana Michigan Power Company, and Ohio Power Company. All of Kentucky Power's (and Kentucky TransCo's) assets are within the PJM footprint and subject to PJM's functional control.

American Electric Power Service Corporation ("AEPSC") is a service company that provides management and professional services to AEP and its subsidiaries, including accounting, administrative, information systems, engineering, financial, legal, maintenance and other services at cost. AEPSC also performs various marketing, generation dispatch, outage and maintenance coordination, fuel procurement and power-related risk management and trading activities on behalf of AEP and its subsidiary operating companies, including Kentucky Power.

2. AEP TransCo and Kentucky TransCo

AEP TransCo holds an interest in, directly or indirectly, the following transmission-only entities: Kentucky TransCo, AEP Appalachian Transmission Company Inc., AEP Indiana Michigan Transmission Company Inc., AEP Ohio Transmission Company Inc., and AEP West Virginia Transmission Company Inc. (collectively the "AEP East Transmission Companies") and AEP Southwestern Transmission Company Inc. and AEP Oklahoma Transmission Company Inc.

[41] On November 19, 2021, Kentucky Power and Wheeling Power jointly submitted a Mitchell Plant Operations and Maintenance Agreement and a Mitchell Plant Ownership Agreement for filing to the Commission, and filed to cancel the current Mitchell Operating Agreement, in Docket Nos. ER22-452-000 and ER22-453-000. As explained further in the companies' transmittal letter, the new agreements are necessitated by the differing approvals they received from their respective commissions regarding environmental compliance at the Mitchell Power Generation Facility. In addition, Wheeling Power will replace Kentucky Power as the operator of the plant under the new agreements. After receipt of the required regulatory approvals, the new agreements will remain in effect after the closing of the acquisition of Kentucky Power by Liberty described in this Application.

The AEP East Transmission Companies are transmission owning members of PJM. Kentucky TransCo owns and operates under the PJM OATT transmission facilities located within Kentucky.

AEP TransCo's direct owner, AEP Transmission Holding Company, LLC, also co-owns Transource Energy, LLC ("Transource") with Evergy Transmission Company, LLC (a wholly owned, direct subsidiary of Evergy, Inc.). Transource was formed to develop and invest in transmission infrastructure. Its subsidiaries include: Transource West Virginia, LLC, Transource Maryland, LLC, and Transource Pennsylvania, LLC (which are members of PJM); Transource Wisconsin, LLC (which is a member of MISO); Transource Missouri, LLC, Transource Kansas Company, LLC, and Transource Oklahoma, LLC (which are members of SPP). Those subsidiaries with active projects or transmission lines in service have rates on file with FERC or pending approval by FERC, and have transferred or will transfer functional control of their transmission facilities to their respective RTOs.

III. DESCRIPTION OF THE TRANSACTION

Exhibit I contains the Stock Purchase Agreement, which sets forth the terms and conditions of the Transaction. Under the terms of the Stock Purchase Agreement, subject to certain regulatory approvals (including the approval sought from the Commission in this Application) and the satisfaction of certain obligations of Liberty, AEP, and AEP TransCo, Liberty will purchase all of the outstanding common shares of Kentucky Power from AEP and all of the outstanding common shares of Kentucky TransCo from AEP TransCo for approximately $2.846 billion, including approximately $1.221 billion of existing Acquired Company debt. Applicants will not pledge or encumber utility assets, and no public utility will issue or incur debt in connection with the Transaction. The closing date will be the date that is three days after all conditions for closing are fulfilled or waived or as the Applicants mutually agree in writing.

Prior to closing, the Applicants and AEP have committed to cooperate in good faith and use reasonable best efforts in accordance with good utility practice to transition Kentucky Power to a stand-alone utility that is separate and distinct from the AEP East Operating Companies. The Applicants and AEP TransCo have made similar commitments with respect to transitioning Kentucky TransCo to a stand-alone transmission company that is separate and distinct from the AEP East Transmission Companies. Additionally, Liberty, AEP, and AEP TransCo have agreed to a form of a Transition Services Agreement, which will be entered into at closing and by which AEPSC, currently an affiliate of AEP and AEP TransCo, will provide or cause to be provided certain services and other assistance to Kentucky Power and Kentucky TransCo on a transitional basis.

Upon closing of the Transaction, Liberty will own 100% of the common stock of both Kentucky Power and Kentucky TransCo and Kentucky Power and Kentucky TransCo will be wholly-owned subsidiaries of Liberty. Simplified organizational charts reflecting the ownership structure of Kentucky Power and Kentucky TransCo before and immediately after the Transaction closing are attached hereto as Exhibits C-1 and C-2.

The jurisdictional facilities of Kentucky Power that will be affected by the Transaction consist of (i) those transmission facilities owned, operated, or controlled by Kentucky Power (including the limited and discrete interconnection facilities that interconnect Kentucky Power's generation facilities to the grid); (ii) those generation facilities owned, operated, or controlled by Kentucky Power that make wholesale sales; (iii) Kentucky Power's market-based rate tariff, full requirements contracts, and any other tariffs or jurisdictional agreements on file with the Commission; and (iv) associated books and records of Kentucky Power.

The jurisdictional facilities of Kentucky TransCo that will be affected by the Transaction consist of (i) those transmission facilities owned, operated, or controlled by Kentucky TransCo; (ii) any tariffs or jurisdictional agreements on file with the Commission of Kentucky TransCo; and (iii) associated books and records of Kentucky TransCo.

IV. THE TRANSACTION IS CONSISTENT WITH THE PUBLIC INTEREST

Section 203(a) of the FPA provides that the Commission will authorize a proposed transaction if it is "consistent with the public interest." As explained in Order Nos. 642[42] and 669 and the Merger Policy Statement, the Commission examines three factors in determining whether a proposed transaction is consistent with the public interest, namely, upon consummation, its effect on: (i) competition; (ii) rates; and (iii) regulation. Applicants need not show that a proposed transaction positively will benefit the public interest, but rather, that it will be "consistent with the public interest," *i.e.*, that the transaction will not harm the public interest.[43] Additionally, pursuant to the Energy Policy Act of 2005 and Order No. 669,[44] the Commission will determine whether a proposed transaction will result in cross-subsidization of a non-utility associate company or a pledge or encumbrance of utility assets for the benefit of an associate company and, if so, whether the cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

Applicants respectfully submit that the Commission should conclude based on the showing below that the Transaction is consistent with the public interest because it will not have an adverse effect on competition, rates, or regulation. Further, the Transaction will not result in the cross-

[42] *Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Order No. 642, FERC Stats. & Regs. ¶ 31,111 (2000) (cross-referenced at 93 FERC ¶ 61,164) ("Order No. 642"), *order on reh'g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001).

[43] *See, e.g.*, *Texas-New Mexico Power Co.*, 105 FERC ¶ 61,028, at P 23 & n.14 (2003) (citing *Pac. Power & Light Co. v. FPC*, 111 F.2d 1014 (9th Cir. 1940)).

[44] *Transactions Subject to FPA Section 203*, Order No. 669, 113 FERC ¶ 61,315 (2005), *order on reh'g*, Order No. 669-A, 115 FERC ¶ 61,097 (2006), *order on reh'g*, Order No. 669-B, 116 FERC ¶ 61,076 (2006).

subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. Accordingly, Applicants respectfully request that the Commission authorize on or before April 21, 2022, the Transaction without modification, condition, or further proceedings.

A. The Transaction Will Have No Adverse Effect on Competition

In analyzing a proposed transaction's effect on competition, the Commission will attempt to determine whether the transaction will result in higher prices or reduced output in electricity markets, which may occur if the merged entity is able to exercise market power, either alone or in coordination with other firms in the market.[45] In Order No. 642, the Commission identified two types of analyses relevant to determining whether a transaction subject to Commission jurisdiction under Section 203 of the FPA will result in adverse effects on competition: a horizontal market analysis and a vertical market analysis.

However, the Commission does not require the filing of a horizontal competitive analysis as described in Appendix A to the Merger Policy Statement and Section 33.3 of the Commission's regulations if the applicant "[a]ffirmatively demonstrates that the merging entities do not currently conduct business in the same geographic markets or that the extent of the business transactions in the same geographic markets is *de minimis*[.]" [46] Similarly, Section 33.4(a)(2)(i) of the Commission's regulations states that a vertical competitive analysis is not required if the applicant affirmatively demonstrates that "[t]he merging entities currently do not provide inputs to electricity products (*i.e.*, upstream relevant products) and electricity products (*i.e.*, downstream relevant products) in the same geographic markets or that the extent of the business transactions in the same

[45] *See* 18 C.F.R. § 2.26; Order No. 642, at 31,879.

[46] 18 C.F.R. § 33.3(a)(2)(i).

geographic market is *de minimis*."[47] Although the Transaction involves the transfer of ownership interests in companies that own transmission and—with respect to Kentucky Power—generation facilities, rather than a merger, the same standard is applicable.[48]

As demonstrated below, the Transaction raises no horizontal or vertical market power concerns in the relevant geographic market, PJM.[49]

1. The Transaction Raises No Horizontal Market Power Concerns

The Transaction does not raise any horizontal market concerns in the PJM market.[50] Liberty is currently affiliated with 817 MW of generation in PJM[51] or 0.4% of PJM generation market share.[52] After the Transaction and as a result of becoming affiliated with the Kentucky Power generation assets, Liberty will be affiliated with approximately 1,857 MW of generation in PJM or 1% of PJM generation market share. Thus, after closing on the Transaction, the combined generation located in the PJM BAA that is affiliated with Liberty will only increase Liberty's generator market share by .6%. This market share is conservative and assumes no capacity is

[47] *Id*. § 33.4(a)(2)(i).

[48] *See, e.g., Bridgeport Energy LLC*, 114 FERC ¶ 62,166 (2006) (approving upstream transfer of jurisdictional facilities even though the parties did not file a horizontal competitive screen analysis because the parties held only a *de minimis* interest in the relevant market); *AES Armenia Mountain Wind, LLC*, 128 FERC ¶ 62,180 (2009).

[49] When an applicant is located within an ISO or RTO region, the ISO or RTO footprint is the default geographic market, unless the Commission has identified a relevant submarket within the ISO/RTO and the generation owned or controlled by the applicant (or its affiliate) is physically located in such a submarket. *See Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 235-37 (2007) ("Order No. 697").

[50] The Transaction will not result in Liberty becoming affiliated with any additional capacity in first tier markets MISO or NYISO and thus there are no horizontal market concerns in those markets.

[51] This includes Algonquin's New Market Solar facilities (100 MW) expected to come on-line in early 2022.

[52] As at the date hereof, Algonquin indirectly owns (in whole or in part) an aggregate of six wind/solar projects (including the New Market Solar facilities) that are expected to reach commercial operations prior to the end of 2023 and that individually have an expected generating capacity of at least 20 MW. The aggregate expected gross generating capacity of the foregoing projects is approximately 528 MW. Applicants and Dr. Matt E. Arenchild, whose testimony is attached as Exhibit J have analyzed whether the Transaction is consistent with the public interest with and without the additional generation and have concluded that the added generation has no effect on the outcome of the ultimate analysis. Liberty commits to notifying the Commission in this docket in the event it becomes affiliated with additional generation prior to the Commission's approval.

committed under long-term PPAs. The Commission has found that market shares well in excess of Liberty's post-Transaction 1% PJM market share to be *de minimis* and consistent with the public interest[53] and it should make the same conclusion here without any further analysis.

Nevertheless, to ensure that the Transaction will not result in any horizontal market power concerns, Dr. Matt E. Arenchild has conducted a horizontal competitive screen analysis of the Transaction's effect on competition consistent with section 33.3 of the Commission's regulations. Dr. Arenchild employed the Delivered Price Test ("DPT") analysis, as more fully described in his attached testimony, to examine the potential competitive effects of Liberty becoming affiliated with additional generation in PJM.[54] Dr. Arenchild's analyses shows that the Transaction will result in no screen failures in any season or load period in the PJM market.[55] His analyses thus confirms that the Transaction will not have an adverse effect on competition and, as discussed in his testimony,[56] will in fact have an overall deconcentrating effect on the PJM market.[57]

There will thus be no adverse effect on competition because the Transaction will not result in an increase in new generation in the PJM market and Liberty's percentage of total affiliated generation will remain well below what the Commission has previously found to be consistent with the public interest. Dr. Arenchild's analysis fully confirms this point. Consequently, there are no horizontal market power concerns arising from the Transaction.

[53] *See Dominion Energy Fairless, LLC,* 165 FERC ¶ 62,154 (2018) (accepting a section 203 application with a post-transaction market share of 2.7 percent in ISO-NE without a Competitive Analysis Screen)*; see also Essential Power, LLC,* 155 FERC ¶ 62,191, at *4 (2016) (finding the extent of business transactions resulting in market shares of 4.3, 1.0, and less than 5.0 percent to be *de minimis* in ISO-NE, PJM and PJM submarkets, respectively).

[54] Exhibit J.

[55] Exhibit J at 16-16.

[56] Exhibit J at 3-5, 20.

[57] Exhibit J at 3.

2. The Transaction Raises No Vertical Market Power Concerns

Concern with regard to vertical market power generally arises when the combined entity may restrict potential downstream competitors' access to upstream supply markets or increase potential competitors' costs. These circumstances are not present in the Transaction.

The Commission has made clear that where an applicant will have control over both generation and transmission facilities within the same relevant market it will not give rise to vertical market power concerns so long as the transmission facilities continue to be subject to a Commission approved OATT.[58] Having an OATT on file with the Commission is sufficient to "mitigate vertical market power by a transmission provider and its affiliates in a particular market."[59]

Both Kentucky Power and Kentucky TransCo's transmission facilities will remain subject to the PJM OATT on file with the Commission and under the functional control of PJM. The other electric utilities that Liberty is affiliated with—Empire Electric, CalPeco, Granite State, and LUTT—have no transmission facilities in the PJM market or first tier markets and, to the extent they have transmission facilities, those facilities are under the operational control of SPP pursuant to the SPP OATT or, in the case of LUTT, under the operational control of NBPC in Canada. The natural gas utilities that Liberty is affiliated with—Empire Gas, EnergyNorth, Liberty New

[58] *See Fortis, Inc. et al.*, 156 FERC ¶ 61,219, P 44 (2016) (finding no adverse effect on vertical competition where buyer's affiliates held pre-existing interests in generating assets in PJM and were acquiring transmission facilities in PJM because "transmission service over facilities of ITC Interconnector and ITC Lake Erie in PJM will be provided under the PJM Tariff. The Commission *See also Wisconsin Energy Corp*., 151 FERC ¶ 61,015 at P 48 (2015); *ITC Midwest LLC*, 140 FERC ¶ 61,125, P 11 (2012) (recognizing that the Transfer raises no vertical market power concerns because the "transmission service over [the] facilities developed and owned by ITC Midwest (including those related to the Transmission Facilities) is provided pursuant to MISO's Open Access Transmission Tariff….").

[59] *Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295 at P 425, *on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, *on reh'g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *on reh'g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *on reh'g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied Public Citizen, Inc. v. FERC*, 133 S. Ct. 26 (2012).

England, Liberty Midstates, and Peach State—are similarly not located within the PJM market or its first tier markets, and Kentucky Power does not own or operate any such facilities. Kentucky Power does not own any barge or rail capacity, and will no longer have any coal reserve interests as of the closing of the Transaction. Kentucky Power has a firm gas transportation contract with Columbia Gas for the Big Sandy plant and utilizes its capacity in accordance with the Columbia Gas FERC Gas Tariff. In any case, no new inputs to generation will enter the PJM market as a result of the Transaction.

Additionally, neither the Applicants, nor their affiliates have erected, or will erect, barriers to entry in the relevant market.

Accordingly, the Commission should determine that no vertical competitive analysis is required and should conclude that the Transaction will have no adverse effect on vertical market power.

B. The Transaction Will Have No Adverse Effect on Rates

The Transaction will not have an adverse effect on wholesale ratepayers or transmission customers. In assessing the effect that a proposed transaction could have on rates, the Commission's primary concern is "the protection of wholesale ratepayers and transmission customers."[60] In the Merger Policy Statement, the Commission made clear that its concern with the effect of a proposed transaction on rates is to protect ratepayers from rate increases resulting from a proposed disposition of jurisdictional assets. In evaluating a proposed transaction's effect on rates, the Commission examines whether it will have any adverse impacts on wholesale transmission service rates or on the rates charged to long-term requirements customers.[61]

[60] *New England Power Co.*, 82 FERC ¶ 61,179, at 61,659, *order on reh'g*, 83 FERC ¶ 61,275 (1998); *see* Order No. 642, FERC Stats. & Regs. ¶ 31,111, at 31,914.

[61] *See, e.g., Merger Policy Statement*, FERC Stats. & Regs. ¶ 31,044, at 30,123.

The Transaction will not have an adverse effect on the rates charged by either Kentucky Power or Kentucky TransCo to transmission customers. Kentucky Power will continue to provide service to its all requirements customers at the cost set forth in their all requirements contracts. The Acquired Companies both have tariffs that contain a formula rate pursuant to which they recover their transmission rates from eligible transmission customers. No transaction costs associated with this Transaction will be recovered through this formula rate or the all-requirements contracts. To the extent necessary, Applicants pledge to hold harmless all wholesale power and transmission customers from any costs associated with the Transaction for a five-year period.[62] For purposes of this pledge, consistent with Commission orders, "transaction costs" in this context includes all transaction-related costs, including costs related to consummating the Transaction incurred prior and subsequent to the consummation of the Transaction.[63]

Kentucky Power will sell its uncommitted power at market-based rates into the PJM market.[64] The Transaction will have no adverse effect on rates charged by Kentucky Power for any uncommitted generation because it will make wholesale sales solely at market-based rates. The Commission has long recognized that, "when there are market-based rates, the effect on rates is not of concern."[65]

[62] This commitment, however, is not a rate freeze and Kentucky Power and Kentucky TransCo retain full rights to seek changes to rates during this time, in accordance with FPA section 205, to reflect their full costs of service.

[63] Kentucky Power's Reactive Power Tariff sets forth the revenue requirement Kentucky Power receives from its generation assets. The Commission has found that cost-based reactive power rate schedules like Kentucky Power's Reactive Power Tariff do not provide any opportunity for the automatic pass-through of transaction costs to captive wholesale customers. *See Calpine Corp.*, 162 FERC ¶ 61,148 at P 32 (2018); *Bayou Cove Peaking Power, LLC*, 165 FERC ¶ 61,226 at P 105 (2018). In any event, Applicants intend for their hold harmless commitment to apply to Kentucky Power's Reactive Service Tariff.

[64] *Kentucky Power Co.*, Docket No. ER12-1541, Letter Order issued June 21, 2012; *AEP Service Corp.*, 81 FERC ¶ 61,129 (1997).

[65] *See, e.g., Policy Statement on Hold Harmless Commitments*, 155 FERC ¶ 61,189, at P 7 (2016); *Cinergy Corp.*, 140 FERC ¶ 61,180 at P 41 (2012); *NorAm Energy Services, Inc.*, 80 FERC ¶ 61,120, at 61,382-83 (1997).

Finally, with respect to the effect of the Transaction on retail rates, the Commission has stated that it does not generally examine the effects of a transaction on retail rates unless "a state commission lacks adequate authority under state law and asks the Commission to do so."[66] In this case, the Kentucky Public Service Commission has retail rate jurisdiction over Kentucky Power and has adequate authority to protect captive retail customers. Thus, the Transaction will have no effect on rates.

C. The Transaction Will Have No Adverse Effect on Regulation

The Commission's review of a jurisdictional transaction's effect on state or federal regulation is focused on ensuring that the transaction does not result in a regulatory gap.[67] The Transaction will not affect the manner or extent to which the Commission, any state, or any other federal agency may regulate Kentucky Power or Kentucky TransCo. Upon completion of the Transaction, the Acquired Companies will continue to be subject to the jurisdiction of the Commission (and any other regulatory agency or office) to the same extent as before the Transaction. Kentucky Power's retail sales and distribution service will continue to be subject to the jurisdiction of the Kentucky Public Service Commission and the Transaction will in no way impair the ability of the Kentucky Public Service Commission nor any other state utility commission with jurisdiction to regulating the retail sale and distribution service of Kentucky Power. Additionally, certain contracts related to the Mitchell Power Generation Facility will continue to be subject to the Public Service Commission of Kentucky's and the Public Service Commission of West Virginia's jurisdiction. Accordingly, the Transaction will not have an adverse effect on federal or state regulation.

[66] *Mirant Corporation and its Public Utility Subsidiaries*, 111 FERC ¶ 61,425 at P. 37 (2005).

[67] *Merger Policy Statement*, FERC Stats. & Regs. ¶ 31,044, at 30,124-25.

D. The Transaction Will Not Result in Any Cross-Subsidization

Under FPA Section 203(a)(4)[68] and Section 2.26(f) of the Commission's regulations,[69] the Commission is required to determine whether a transaction will result in a cross-subsidization of a non-utility associate company by a utility company, or in a pledge or encumbrance of utility assets for the benefit of an associate company. The Commission has stated that the concern over cross-subsidization is principally a concern over the effect of a proposed transaction on captive ratepayers.[70]

Consistent with the requirements of Order Nos. 669, 669-A, and 669-B, Applicants include verifications regarding each of these factors in Exhibit M to this Application, which relates to both the time of the Transaction as well as the future, and is based on facts and circumstances known or reasonably foreseeable to Applicants.[71] Accordingly, the Transaction does not raise any cross-subsidization concerns.

V. INFORMATION AND EXHIBITS REQUIRED BY SECTION 33.2 OF THE COMMISSION'S REGULATIONS

In accordance with Section 33.2 of the Commission's regulations,[72] Applicants provide the following information:

[68] 16 U.S.C. § 824b(a)(4).

[69] 18 C.F.R. § 2.26(f).

[70] *See* Order No. 669, at P 167.

[71] See Order No. 669 at P 169 (stating that such verifications may be accepted in lieu of any other explanation with respect to cross-subsidization and encumbrance concerns).

[72] As described further herein, Applicants request limited waiver of certain of the filing requirements set forth in Part 33 of the Commission's regulations to the extent the information required is not necessary to determine that the Transaction meets the statutory requirements of Section 203. Waiving these filing requirements under Part 33 is consistent with Commission precedent. *See, e.g.*, *MACH Gen, LLC*, 113 FERC ¶ 61,138 (2005); *Alfalfa Elec. Coop., Inc., et al.*, 105 FERC ¶ 61,311 (2003); *Destec Energy, Inc., et al.*, 79 FERC ¶ 61,373 (1997); *Nat'l Energy & Gas Transmission, Inc.*, 108 FERC ¶ 62,148 (2004); *Northbrook N.Y., LLC*, 130 FERC ¶ 62,128 (2010); *EBG Holdings LLC*, 119 FERC ¶ 62,172 (2007); *Boston Generating, LLC*, 113 FERC ¶ 61,109 (2005).

A. Name and Principal Business Office of Applicants

Liberty Utilities Co.
14920 West Camelback Road
Litchfield Park, AZ 85340

Kentucky Power Company
AEP Kentucky Transmission Company, Inc.
1 Riverside Plaza
Columbus, OH 43220

B. Names and Addresses of the Persons Authorized to Receive Notices and Communications

The names and addresses of persons authorized to receive notices and communications with respect to this Application are identified above in Part I.

C. Description of Applicants

1. Business Activities of Applicants

The business activities of Applicants are described above in Part II. To the extent otherwise deemed necessary, Applicants request a waiver of the requirement in Section 33.2(c)(1) of the Commission's regulations, 18 C.F.R. § 33.2(c)(1), to file Exhibit A.

2. Energy Subsidiaries and Energy Affiliates and their Business Activities

A description of the Applicants' relevant energy subsidiaries and energy affiliates is provided above in Part II, and an asset appendix identifying Liberty's energy affiliates is provided as Exhibit B. Applicants request waiver of Section 33.2(c)(2) of the Commission's regulations, 18 C.F.R. § 33.2(c)(2), to the extent it would require the submission of additional information on Applicants' energy subsidiaries and energy affiliates in Exhibit B, as such information is not relevant to the Commission's review of the Transaction.

3. Organizational Charts Depicting Current and Proposed Post-Transaction Structures

Exhibits C-1 and C-2 set forth simplified organizational charts depicting the pre- and post-Transaction ownership structure of Kentucky Power and Kentucky TransCo.[73] Applicants request partial waiver of Section 33.2(c)(3) of the Commission's regulations, 18 C.F.R. §33.2(c)(3), to the extent necessary to permit it to include only its energy affiliates that are relevant to the Transaction.

4. Business Agreements

The Transaction involves no jurisdictional arrangements among the parties to the Transaction or the Applicants except as described herein above and in the Stock Purchase Agreement attached as Exhibit I. The Transaction will have no effect on any joint ventures, strategic alliances, tolling agreements, or other continuing business arrangements except as described herein. All preexisting contracts, joint ventures, or strategic alliances entered into by Applicants will be honored after consummation of the Transaction, in accordance with their terms. Applicants therefore request waiver of the requirement in Section 33.2(c)(4) of the Commission's regulations, 18 C.F.R. § 33.2(c)(4), to file an Exhibit D.

5. Common Officers or Directors

Currently, there are no common officers or directors between Liberty, on the one hand, and AEP, AEP TransCo, Kentucky Power, and Kentucky TransCo, on the other hand. To the extent that the Transaction may result in any person holding interlocking positions subject to the Commission's regulations, the appropriate filings under 18 C.F.R. Parts 45 and 46 will be made in a timely manner. Accordingly, Applicants request a waiver of the requirement set forth in Section 33.2(c)(5) of the Commission's regulations, 18 C.F.R. § 33.2(c)(5), to file a separate Exhibit E.

[73] The post-Transaction name of Kentucky TransCo will be changed from AEP Kentucky Transmission Company, Inc. to Kentucky Transmission Company, Inc.

6. **Wholesale Power Sales and Transmission Customers**

Relevant information about Applicants' wholesale power sales and rate schedules is provided above in Part II and reported in their respective Electric Quarterly Reports. Applicants therefore respectfully request a waiver of the requirement in Section 33.2(c)(6) of the Commission's regulations, 18 C.F.R. § 33.2(c)(6), to file an Exhibit F to the extent additional information would be required.

D. Description of Jurisdictional Facilities Owned, Operated, or Controlled by Applicants or Applicants' Parent Companies, Subsidiaries, Affiliates and Associate Companies

A description of relevant jurisdictional facilities owned, operated, or controlled by Applicants or Applicants' affiliates is provided above in Parts II and III. The jurisdictional facilities include transmission facilities and tariffs, including Kentucky Power's market-based rates and reactive power tariffs, Kentucky Power and Kentucky TransCo's formula rates and service agreements with third parties and included as rate schedules under the PJM OATT. The effect of the Transaction on Applicants' jurisdictional facilities are described in Part III. Applicants request waiver of the requirement to provide further information regarding jurisdictional facilities owned, operated, or controlled by Applicants' affiliates because such information is not relevant to the Commission's evaluation of the Transaction. In addition, to the extent otherwise deemed necessary, Applicants request waiver of any requirement set forth in Section 33.2(d) of the Commission's regulations, 18 C.F.R. § 33.2(d), to submit this or any additional information as a separate Exhibit G.

E. Narrative Description of the Transaction

A description of the Transaction is set forth above in Part III above and in the Stock Purchase Agreement attached as Exhibit I. To the extent necessary, Applicants request a waiver

of the requirement in Section 33.2(e) of the Commission's regulations, 18 C.F.R. § 33.2(e), to file Exhibit H.

F. Contracts Related to the Transaction

A copy of the Stock Purchase Agreement is attached as Exhibit I. Applicants also respectfully request limited waiver of the requirements in Section 33.2(f) of the Commission's regulations, 18 C.F.R. § 33.2(f), to the extent that it would require the filling of schedules to the Stock Purchase Agreement or any other incidental documents that may be executed in connection with the Transaction that are not relevant to the Commission's evaluation of the Transaction.

G. Consistency of the Transaction with the Public Interest

As discussed above in Part IV, the facts provided in this Application are sufficient to demonstrate that the Transaction will be in the public interest. However, to the extent the Commission requires further analysis of the Transaction, the testimony of Dr. Arenchild, attached as Exhibit J, conclusively demonstrates that the Transaction is consistent with the Public Interest. To the extent necessary, Applicants accordingly request a waiver of the requirement in Section 33.2(g) of the Commission's regulations, 18 C.F.R. § 33.2(g), to file an additional Exhibit J. In accordance with the Commission's regulations, Applicants will supplement the Application promptly to reflect any material changes that may occur after the Application is filed with the Commission but before Commission action.[74]

H. Map

Attached as Exhibit K is a map showing the jurisdictional properties of Kentucky Power and Kentucky TransCo. Applicants request a waiver of the requirement in Section 33.2(h) of the Commission's regulations, 18 C.F.R. § 33.2(h), to provide any additional maps showing the

[74] This includes the addition of any generation in PJM, as referenced *supra* fn. 52.

properties of Liberty, AEP, AEP TransCo, and their respective affiliates. As explained in Part II, Liberty, AEP, and AEP TransCo hold or are affiliated with a variety of assets throughout the United States. It would be unduly burdensome for Applicants to compile a map showing such assets in detail and, Applicants respectfully submit, such level of detail is not necessary for the Commission's evaluation of this Application.

I. Regulatory Orders

Approval of the Transaction (or aspects of it) is required by the Public Service Commission of Kentucky and, with respect to Kentucky Power's interest in the operation of the Mitchell Power Generation Facility in West Virginia, approval from the Public Service Commission of West Virginia with respect to the termination and replacement of the existing operating agreement for that facility. Appropriate notice will be provided under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and to the Committee on Foreign Investment in the United States pursuant to the Defense Production Act of 1950, as amended. Approval by the Federal Communications Commission ("FCC") to transfer or assign any applicable FCC licenses will also be required. Accordingly, Applicants request waiver of the requirement in Section 33.2(i) of the Commission's regulations, 18 C.F.R. § 33.2(i) to file any regulatory approvals in a separate Exhibit L.

J. Cross-Subsidization

Statements supporting the fact that the Transaction will not result in cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company are provided above in Exhibit M attached hereto.

VI. ACCOUNTING TREATMENT

Applicants' present assessment is that the Transaction will not impact the Commission-jurisdictional accounts of any of the Applicants' or their affiliates. If the Transaction does,

however, impact any of these accounts, Applicants will submit the required final accounting entries within six months of the date of consummation of the Transaction.

VII. VERIFICATIONS

Authorized representatives of Applicants have provided the verification required under Section 33.7 of the Commission's regulations[75] in Attachment 1 hereto. Consistent with the Commission's August 20, 2020 notice, given the ongoing public health conditions caused by Coronavirus, Applicants respectfully request waiver of section 33.7 of the Commission's regulations with respect to the requirement that the verification submitted with this Application be notarized.[76]

VIII. REQUEST FOR PRIVILEGED TREATMENT OF DR. ARENCHILD WORKPAPERS

Applicants respectfully request confidential and privileged treatment pursuant to Section 388.112,[77] of certain workpapers underlying the horizontal market analysis performed by Dr. Arenchild, which are included in Exhibit J. Such information constitutes "[t]rade secrets and commercial or financial information obtained from a person [that are] privileged or confidential."[78]

Consistent with the provisions of Section 35.37(f) of the Commission's regulations, the Applicants have included a draft Protective Agreement as Attachment 2. A public version of these workpapers is also submitted.

[75] 18 C.F.R. § 33.7.

[76] *See*, 18 C.F.R. § 33.7; *see also*, Supplemental Notice Waiving Regulations, Docket No. AD20-11-000 (August 20, 2020).

[77] 18 C.F.R. § 385.112.

[78] 18 C.F.R. § 388.107(d).

IX. CONCLUSION

For the reasons set forth above, Applicants request that the Commission: (i) issue an order on or before April 21, 2022 authorizing the Transaction without modification, condition (other than those conditions customarily imposed in FPA Section 203 orders), or further proceedings and (ii) grant the waivers and other relief requested herein.

Respectfully submitted,

/s/Elizabeth W. Whittle
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Nixon Peabody LLP
799 9th Street, N.W.
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Counsel for Liberty Utilities Co.

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Steven J. Ross
William Keyser
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036

Counsel for Kentucky Power Company, and AEP Kentucky Transmission Company, Inc.

Dated: December 22, 2021

Applicants have requested waiver of the requirements to file:

Exhibits A, D, E, F, G, H, and L

EXHIBIT B

Energy Affiliates of Liberty

See Asset Appendix Attached as separate Excel Files

EXHIBIT C-1

Simplified Pre-Transaction Organizational Chart of Acquired Companies

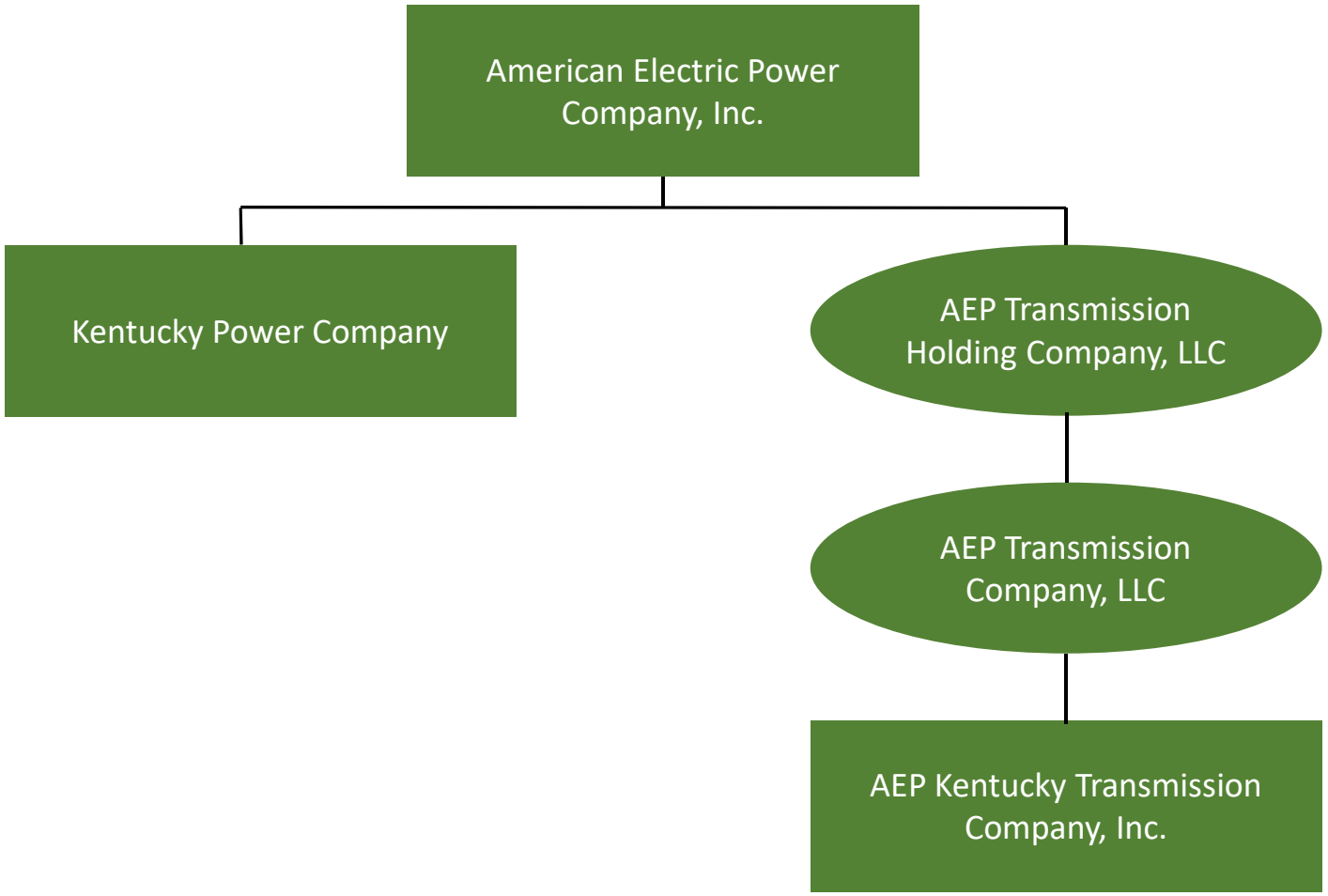
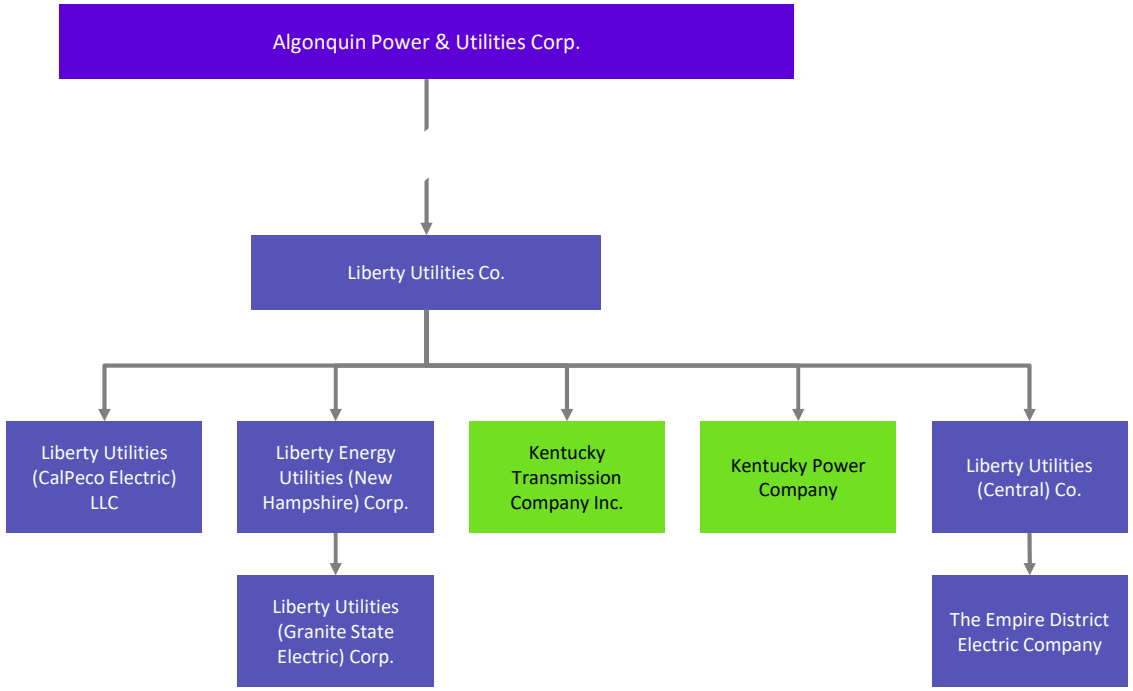

American Electric Power Company, Inc.
Kentucky Power Company
AEP Transmission Holding Company, LLC
AEP Transmission Company, LLC
AEP Kentucky Transmission Company, Inc.

EXHIBIT C-2

Simplified Post-Transaction Organizational Chart of Acquired Companies

POST-TRANSACTIONAL ORGANIZATION CHART



Simplified Organization Chart

EXHIBIT I

STOCK PURCHASE AGREEMENT

BY AND AMONG

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Execution Version

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of October 26, 2021

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Appendices

Exhibits

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of October 26, 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner

consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed

matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing

Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one share certificate and, as of the Effective Date, none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued

or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any

Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items

in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding;

(x) all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired

Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property. True and correct copies of each material real property lease have been made available to Purchaser prior to the date hereof.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies)

or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies (other than title insurance policies) covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser or will be made available to Purchaser upon request prior to the Closing Date. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business that would not reasonably be expected to result in any gap in coverage for the Acquired Companies or their assets or operations) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for a guaranty of certain obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the

Closing Date to be true and correct as of the specified date), (2) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (3) the satisfaction of the conditions set forth in Article VII and (4) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies will, immediately following the Closing, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser

acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action prior to taking any such action as may be reasonably practicable or, if such prior notice is not reasonably practicable, as soon as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case,

having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than, except with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)) and (G) the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement in accordance with the terms of this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher or any Acquired Company Employee who performs material services for the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired

Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that (i) any amendment, modification, extension or replacement of any Collective Bargaining Agreements that apply to employees of Sellers or their Affiliates (including the Covered Employees) contains terms and conditions that are reasonably likely to have a material disproportionate and adverse effect on the Acquired Companies with respect to the Covered Employees as compared to similarly situated employees of other Affiliates of the Sellers, or (ii) any material amendment, modification, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Covered Employees) contains terms and conditions that differ in any material or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such amendment, modification, extension or replacement described in the foregoing clauses (i) or (ii) shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any Acquired Company) shall (i) effect or consent to any waiver, amendment or modification thereunder or take any action thereunder that would require the consent of Kentucky Power or the Operating Committee (as defined in the Mitchell Plant Ownership Agreement) and that, in each case, would affect the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing or (ii) adopt or agree to (including in connection with the execution or effectiveness of the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement) or amend either (A) the Capital Budget, the initial annual operating budget or the initial forecast contemplated by the Mitchell Plant Ownership Agreement or (B) the Budget and Plan contemplated by the Mitchell Plant O&M Agreement,

in each case of clauses (i) and (ii), without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers Disclosure Letter.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any

Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock

or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, that neither Sellers nor

Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter, (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules

until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted

Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies

and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates,

and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper

provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the

insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that each of the Acquired Companies is party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to the Acquired Companies by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause the Acquired Companies to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by the Acquired Companies pursuant to the Utility Money Pool Agreement as a result of the removal of the Acquired Companies from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such

funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate

modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account the Parties' use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use reasonable best efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such reasonable best efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use reasonable best efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Section 4.20(a) of the Sellers Disclosure Letter (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or

agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Concurrently with, and conditioned upon, the closing of any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, Sellers shall cause AEP Generation Resources Inc. to enter into an indemnity agreement for the benefit of Kentucky Power on the terms described on Section 4.20(e) of the Sellers Disclosure Letter.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies with respect to the period prior to Closing from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses

incurred prior to Closing consistent with Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between AEPSC and Nationwide (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in

connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records;

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) providing reasonable assistance to Purchaser to produce financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting Purchaser in the preparation of such financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use reasonable best efforts to (and will use reasonable best efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided,

any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) Sellers agree to use reasonable best efforts to (and will use reasonable best efforts to cause their Affiliates and Representatives to) provide, reasonable assistance to Purchaser for a period of three months following Closing to produce the financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting Purchaser in the preparation of financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from each Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

(c) Purchaser shall indemnify and hold harmless Sellers and their Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(c) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Sellers and their Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(c).

(d) Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require any Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the good faith determination of the Sellers, would unreasonably interfere with the conduct of the business of the Sellers and their Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Sellers or any of their Affiliates; (v) adopt resolutions (whether by the board of directors of the Sellers or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by any Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Sellers that would provide Purchaser the right to terminate this Agreement (unless waived by Purchaser); or (v) cooperate to the extent it would require the disclosure of information which the Sellers or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Sellers or any of the Acquired Companies or violate any Applicable Law to which the Sellers or any of the Acquired Companies is a party.

(e) Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to the Closing, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered

Employees who, as of the Closing Date, would have become eligible for retiree medical coverage under any Seller Benefit Plan within two (2) years following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result

of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make an offer of employment to each of the Covered Support Employees, which offer shall be based on the terms of the applicable Collective Bargaining Agreement and conditioned upon the occurrence of the Closing and effective as of the Closing Date. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Non-Covered Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least 21 days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any

such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13 shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within

two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2 (e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $65,000,000 (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated

hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.21, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) subject to Section 9.2(a)(iv), representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, other than Liabilities to the extent relating to or arising in connection with any Contract between Sellers or any of their current, former or future Affiliates, on the one hand, and any Purchaser Indemnified Party, on the other hand, that is in effect at any time following the Closing, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA, (iv) for any failure of the representations and warranties in Section 2.8 to be true and correct in all respects as of the date of this Agreement and as of Closing solely to the extent with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), which shall be deemed to be a Material Contract hereunder (and such representations and warranties (solely to the extent with respect to such Joint Use Operating Agreement) shall be deemed to survive the Closing indefinitely) or any failure to comply with Section 4.1(a)(iii) (disregarding the word "materially" therein for these purposes) solely to the extent with respect to such Joint Use Agreement or (v) for any of the matters set forth on Section 9.2(a) of the Sellers Disclosure Letter.

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing, (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified Party, on the other hand, that is in effect at any time following the Closing or (iv) any Person, assets or Liabilities other than an Acquired Company or as otherwise expressly transferred to Purchaser pursuant to this Agreement).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be,

shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
1 Riverside Plaza
Columbus, OH 43215
Attention: Charles E. Zebula
Email: cezebula@aep.com

AEP Transmission Company, LLC
1 Riverside Plaza
Columbus, OH 43215
Attention: Stephan T. Haynes
Email: sthaynes@aep.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
c/o Algonquin Power & Utilities Corp.

354 Davis Road, Suite 100
Oakville, Ontario, Canada L6J 2X1
Attention: Chief Legal Officer
Email: Jennifer.Tindale@APUCorp.com
notices@APUCorp.com
with a copy (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP 425 Lexington Avenue
New York, NY 10017
Attention: Eli Hunt
Email: Eli.Hunt@stblaw.com

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary

Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific

performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or

relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The

words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: Charles E Zebula

Name: Charles E. Zebula

Title: Executive Vice President – Portfolio Optimization

AEP TRANSMISSION COMPANY, LLC

By: Charles E Zebula

Name: Charles E. Zebula

Title: Vice President

LIBERTY UTILITIES CO.

By: Jody J Allison

Name: Jody Allison
Title: President

By: _____

Name: Todd Wiley
Title: Treasurer and Secretary

LIBERTY UTILITIES CO.

By: _____
Name: Jody Allison
Title: President

By: _____
Name: Todd Wiley
Title: Treasurer and Secretary

[Signature Page to Stock Purchase Agreement]

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $2,846,000,000.

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect

to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time taking the sum of the total consolidated amounts forecast for each month during such period set forth on Appendix III (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum

product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date; (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that

are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-eight million one hundred five thousand U.S. dollars (-$38,105,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher

level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and (viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)

Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee

Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

EXHIBIT J

TESTIMONY OF DR. MATT E. ARENCHILD

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co.	)	
Kentucky Power Company	)	**Docket No. EC22-___-000**
AEP Kentucky Transmission Company, Inc.	)	

AFFIDAVIT OF MATTHEW E. ARENCHILD

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INTRODUCTION

My name is Matthew E. Arenchild. I am a Partner at Guidehouse Inc. ("Guidehouse", f/k/a Navigant Consulting) in the Energy, Sustainability and Infrastructure ("ESI") group. My business address is 35 Iron Point Circle, Suite 225, Folsom, CA 95630. I hold a Ph.D. in economics as well as an M.S. in Applied Economics and Finance and have worked on issues surrounding the U.S. electricity industry for over 20 years. A primary focus of my consulting work has been related to market power issues concerning mergers, asset acquisitions, and market-based rate applications. I have conducted numerous analyses based on the Federal Energy Regulatory Commission's ("FERC" or "Commission") various market power guidelines and have developed proprietary models and databases to implement these analyses. I often file affidavits before the Commission analyzing market power in wholesale electric markets. My resume is included in Exhibit J-1.

I have been asked by counsel for Liberty Utilities Co. ("Liberty"), Kentucky Power Company ("Kentucky Power" or "KPC") and AEP Kentucky Transmission Company, Inc. ("Kentucky TransCo" and collectively, "Applicants") to evaluate the potential competitive impact on electricity markets of Liberty acquiring Kentucky Power and Kentucky TransCo ("Transaction"). Under the proposed Transaction, Liberty will acquire Kentucky Power and Kentucky TransCo from American Electric Power Company, Inc. ("AEP") and AEP Transmission Company, LLC ("AEP TransCo"). The acquired generation and transmission assets are all located in the PJM Interconnection, L.L.C. ("PJM").

The potential horizontal market power effects of the Transaction are those arising from the combination of generation affiliated with Liberty with the generation being acquired that theoretically could enable Liberty or its affiliates to increase prices in relevant electricity markets. Potential vertical market power effects arise from barriers to entry that might undercut the presumption that long-run generation markets are competitive, including the potential to use control over fuel supplies, fuel transportation facilities, or electric transmission (including electric transmission acquired under the Transaction) to exert vertical market power by increasing rivals' costs.

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As I demonstrate below, the Transaction will not have an adverse effect on horizontal competition in any relevant wholesale electricity market. Overall, the transaction is deconcentrating in both energy and capacity markets (excepting only negligible HHI changes in Available Economic Capacity for certain periods) and raises no concerns in ancillary service markets. There also are no vertical effects of the Transaction that raise market power concerns.

SUMMARY OF ANALYSIS AND CONCLUSIONS

The key element of the Transaction of relevance to my competitive analysis is the extent of geographic overlap in generation currently owned or controlled by Liberty and its affiliates with the generation being acquired pursuant to the Transaction. As noted, the Transaction involves the acquisition of generation owned in PJM. Generation affiliated with Liberty and AEP is summarized Exhibits J-2 and J-3, respectively.

As I describe herein, no competitive concerns are present as a result of the Transaction. The relevant facts and my conclusions are summarized as follows:

In the PJM market, the horizontal effect of the Transaction resulting from the combination of generation is small and, in fact, reduces market concentration because the Transaction results in generating capacity being transferred from a larger entity (AEP) to a smaller entity (Liberty). In PJM, Liberty owns or is affiliated with 817 MW of generation on an installed capacity basis, all of which is from energy-limited resources (solar and wind farms).[1] Under the Transaction, Liberty will acquire 1,040 MW of natural gas and coal-fired generation from AEP's current affiliate, Kentucky Power. The specific generating facilities being acquired are the 260 MW gas-fired Big Sandy 1 generating facility and 50 percent of the Mitchell 1 and Mitchell 2 coal-fired generating facilities (770 MW and 790 MW, respectively). AEP currently has 14,776 MW of

[1] Unless otherwise noted, generator ratings are based on EIA Form 860 (summer Net Dependable Capacity) or Liberty and AEP's Asset Appendices. Note that for solar and wind facilities, the summer Net Dependable Capacity rating is typically equivalent to Nameplate ratings. Liberty's reported total capacity in PJM includes the New Market Solar facility (100 MW) expected to come on-line in 2022. Finally, the output of a portion of Liberty's resources in PJM is sold under long-term sales contracts to unaffiliated third-parties. In my analysis, I have conservatively not incorporated these long-term sales.

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owned-generating capacity in PJM and 1,234 MW of long-term purchases, for total generating resources of 16,010 MW. Installed capacity in PJM is approximately 184,000 MW.[2]

Post-Transaction, Liberty will own and control approximately 1 percent of installed capacity in PJM, and the change in market concentration on the basis of installed capacity is a negative 9 points, as shown in Table 1 below. Thus, the Transaction clearly does not raise competitive issues.[3]

Table 1: Effect of Combined Transactions in PJM (Installed Capacity)

	Pre-Transaction			Post-Transaction			
	MW	Market Share	HHI Contribution	MW	Market Share	HHI Contribution	HHI Change
Liberty	817	0.4%	0.2	1,857	1.0%	1.0	1
AEP and Affiliates	16,010	8.7%	75.9	14,970	8.1%	66.4	(10)
PJM Installed Capacity	183,779	100.0%		183,779	100.0%		(9)

Notwithstanding these basic facts, I also conducted a Competitive Analysis Screen for PJM, which further demonstrates the lack of competitive concerns. The Delivered Price Test ("DPT") for the energy market is readily passed for both the Economic Capacity ("EC") and Available Economic Capacity ("AEC") measures. The DPT demonstrates that for both the EC and AEC measures, the PJM market is unconcentrated in all periods/load conditions. For the EC measure the changes in HHI due to the Transaction are negative, while for the AEC measure the HHI changes are essentially zero. Thus, the Transaction readily passes the DPT screens.

I also demonstrate that are no competitive concerns in relevant capacity or ancillary services markets in PJM. In the capacity market the Transaction deconcentrates the potential supply, consistent with the installed capacity review. With respect to ancillary services, given that Liberty's generation consists entirely of intermittent solar and wind capacity that is not well-suited

[2] *2021 Quarterly State of the Market Report for PJM: January through March 2021*, May 13, 2021, Table 1-1, http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2021/2021q1-som-pjm-sec1.pdf.

[3] The relevant geographic market in the context of the Transaction is the PJM footprint. None of the generation currently owned or affiliated with Liberty in PJM is located in a Commission-recognized energy submarket. Because there is no overlap in any submarket, the RTO-wide market is the only relevant energy market for purposes of my analysis. Similarly, the relevant geographic market for capacity is the RTO-wide market.

to providing ancillary services, the Transaction will not materially impact the ancillary services markets.

Finally, there also are no vertical market power issues raised by the Transaction. The transmission facilities that are being acquired as part of the Transaction are under control of PJM's open access transmission tariff ("OATT") and the Transaction does not impact this arrangement. Liberty and its affiliates do not currently (Pre-Transaction) have any ownership interest in, or control of, fuel supplies or delivery systems in the relevant markets. No fuel supply sources or delivery systems are being acquired in the Transaction that would allow Liberty to exercise market power. New entry into the PJM market has been robust. Accordingly, there are no concerns with regard to barriers to entry.

DESCRIPTION OF RELEVANT PARTIES

I have summarized below the facts about Liberty and AEP, AEP TransCo, Kentucky Power, and Kentucky Power TransCo that are relevant to my competitive analysis. A more complete description of the relevant parties and their affiliates and subsidiaries, and the Transaction, is included in the Application.

Liberty Utilities Co.

Liberty, a Delaware corporation, is an indirect, wholly-owned subsidiary of Algonquin Power & Utilities Corp. ("Algonquin"). Algonquin is an electric power generation and utility infrastructure company with a head office in Oakville, Ontario. Through its distinct operating subsidiaries, Algonquin owns and operates a diversified portfolio of electric generation, electric transmission, and utility business throughout North America.[4] The Application details Algonquin's resources. The specific generating facilities located in PJM are shown in Exhibit J-2.[5] As shown, all of Liberty's generating resources are either solar or wind facilities.

[4] The generation directly relevant to the Transaction is that located in PJM. In the DPT analysis, capacity that is located in first-tier markets is also included as potential supply in the analysis. Liberty has affiliated generating capacity in the Midcontinent Independent System Operator, Inc. ("MISO"), first-tier to PJM, that totals about 680 MW at three wind farms. This generating capacity (most of which is sold under long-term contract to unaffiliated third parties) is included in the DPT analysis.

[5] Exhibit J-2 includes all the existing generation as well as the New Market Solar facility, which is expected to be in-service in 2022. I understand that Algonquin indirectly owns (in whole or in part) an aggregate of five additional wind

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Kentucky Power and Kentucky TransCo

Kentucky Power and Kentucky TransCo are owned by AEP. In PJM, AEP also owns various operating companies including Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company, Wheeling Power Company, and Kingsport Power Company (collectively the "AEP East Operating Companies"). AEP also owns the following transmission-only entities in PJM: Kentucky TransCo, AEP Appalachian Transmission Company Inc., AEP Indiana Michigan Transmission Company Inc., AEP Ohio Transmission Company Inc., and AEP West Virginia Transmission Company Inc. (collectively the "AEP East Transmission Companies").[6] The AEP East Transmission Companies are transmission owning members of PJM.

The total generation owned or purchased under long-term contract by AEP in PJM totals about 16,000 MW and is shown in Exhibit J-3.[7] In Exhibit J-3, the generating capacity being acquired by Liberty under the Transaction (shown in highlight in Exhibit J-3) totals 1,040 MW, a relatively small amount of AEP's overall generating resources in PJM.[8]

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and solar projects that are expected to reach commercial operations prior to the end of 2023 and located in PJM (with a total capacity of about 430 MW). In workpapers, I provide an analysis of installed capacity and the capacity market including this additional capacity and there is no material impact on my numerical results or conclusions.

[6] AEP Transmission Holding Company, LLC, parent of AEP TransCo, also co-owns Transource Energy, LLC ("Transource") with Evergy Transmission Company, LLC (a wholly owned, direct subsidiary of Evergy, Inc.). Transource was formed to develop and invest in transmission infrastructure. Its subsidiaries include: Transource West Virginia, LLC, Transource Maryland, LLC, and Transource Pennsylvania, LLC (which are members of PJM); Transource Wisconsin, LLC (which is a member of MISO); Transource Missouri, LLC, Transource Kansas Company, LLC, and Transource Oklahoma, LLC (which are members of SPP). Those subsidiaries with active projects or transmission lines in service have rates on file with FERC or pending approval by FERC, and have transferred or will transfer functional control of their transmission facilities to their respective RTOs.

[7] AEP's generating resources in markets first-tier to PJM consists of two wind farms in MISO whose output is sold to unaffiliated third-parties.

[8] Currently, Kentucky Power has a contract with an affiliate for 393 MW tied to the Rockport generating facility. This contract expires at the end of 2022. I have not included the contract in my analyses of installed capacity or the capacity market. This treatment is conservative because including the contract would result in the numerical analyses finding that the Transaction further deconcentrates the PJM market (i.e., the changes in HHI would be more negative as additional capacity is transferred from the larger supplier to the smaller supplier Post-Transaction). I have included the contract in the DPT analyses in order to match Liberty's load obligations and generating resources Post-Transaction. In workpapers, I provide analyses of installed capacity and the capacity market including the contract as additional capacity being transferred Post-Transaction to Liberty and there is no material impact on my numerical results or conclusions (the reductions in market concentration are larger).

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Kentucky Power is a generation, distribution, and transmission utility that serves approximately 165,000 customers. In addition to the generating resources owned by Kentucky Power at the Big Sandy Power Plant and the Mitchell Power Generation Facility,[9] Kentucky Power also owns 1,263 miles of transmission facilities with interconnections to East Kentucky Power Cooperative, Louisville Gas & Electric Company, Kentucky Utilities Co., and the Tennessee Valley Authority, as well as to its affiliated operating companies Appalachian Power Company, Indiana Michigan Power Company, and Ohio Power Company. All of Kentucky Power's (and Kentucky Transco's) transmission assets are within the PJM footprint and subject to PJM's functional control.

FRAMEWORK FOR THE ANALYSIS

Market power is defined as the ability of a firm to profitably maintain prices above competitive levels for a significant period of time. Market power analysis of a proposed merger or other combination of assets examines whether a merger or transaction would cause a material increase in the combining firms' market power or a significant reduction in the competitiveness of relevant markets. The focus is on the effects of the transaction, which means that the analysis examines those business areas in which the combining firms are competitors. This is referred to as horizontal market power assessment. In most instances, a transaction will not affect competition in markets in which the combining firms do not compete. Of relevance to my analysis, the Transaction will combine generation affiliated with Liberty with the relevant Kentucky Power generation in PJM. In the context of the Transaction, the focus is properly on those markets in which these entities are actual or potential competitors (in this instance, PJM). The analysis is intended to measure the adverse impact, if any, of the elimination of a competitor as a result of the combination in relevant markets.

Potential vertical market effects of a proposed merger or other combination relate to the combining firms' ability and incentives to use their market position over a product or service to affect competition in a related business or market. For example, vertical effects could result if a

[9] As noted, Kentucky Power owns 50 percent of the Mitchell Power Generating Facility. On November 19, 2021, Kentucky Power and Wheeling Power jointly submitted a Mitchell Plant Operations and Maintenance Agreement and a Mitchell Plant Ownership Agreement for filing to the Commission, and filed to cancel the current Mitchell Operating Agreement, in Docket Nos. ER22-452-000 and ER22-453-000.

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transaction created an opportunity and incentive to operate electric transmission facilities in a manner that created market power for the generation activity of the post-transaction company that did not exist previously. The Commission has identified market power as also arising from dominant control over potential generation sites or over fuel supply and fuel transportation systems. Such dominant control could undercut the presumption that long-run generation markets are competitive and could injure competition by raising rivals' costs.

Understanding the competitive impact of a transaction requires defining the relevant market (or markets) in which the combining firms participate. Participants in a relevant market include all suppliers, and in some instances, potential suppliers, who can compete to supply the products produced by the combining parties and whose ability to do so diminishes the ability of the combining parties to increase prices. Hence, determining the scope of a market is fundamentally an analysis of the potential for competitors to respond to an attempted price increase. Typically, markets are defined in two dimensions: geographic and product. Thus, the relevant market is composed of companies that can supply a given product (or its close substitute) to customers in a given geographic area.

My analysis is conducted in the context of the Commission's orders governing mergers. In December 1996, the Commission issued Order No. 592,[10] the "Merger Policy Statement," which provides a detailed analytic framework for assessing the horizontal market power arising from electric utility mergers (the Appendix A analysis). This analytic framework is organized around a market concentration analysis. The Commission adopted the U.S. Department of Justice ("DOJ") and Federal Trade Commission ("FTC") 1992 *Horizontal Merger Guidelines* for measuring market concentration levels by the HHI.[11] On November 15, 2000, the Commission issued its

[10] *Inquiry Concerning the Comm'n's Merger Policy Statement Under the Federal Power Act, Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044 (1996) ("Merger Policy Statement" or "Order No. 592"), *order on reconsideration*, 79 FERC ¶ 61,321 (1997).

[11] To determine whether a proposed merger requires further investigation because of the potential for a significant anti-competitive impact, the DOJ/FTC *Guidelines* consider the level of the HHI after the merger (the post-merger HHI) and the change in the HHI that results from the combination of the market shares of the merging entities. In the *Revised Filing Requirements*, the Commission adopted the 1992 *Guidelines*' standards. Markets with a post-merger HHI of less than 1000 are considered "unconcentrated." Mergers in such markets are presumed to have no anti-competitive impact. Markets with post-merger HHIs of 1000 to 1800 are considered "moderately concentrated." In those markets, mergers that result in an HHI change of 100 points or fewer are considered unlikely to have anti-competitive effects. Finally, post-merger HHIs of more than 1800 are considered to indicate "highly concentrated" markets. In these

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Revised Filing Requirements Under Part 33 of the Commission's Regulations,[12] which affirmed the screening approach to mergers consistent with the Appendix A analysis set forth in the Merger Policy Statement, and codified the need to file a Competitive Analysis Screen and the exceptions therefrom. The policy was reaffirmed on February 16, 2012.[13] Specifically, the Commission's regulations require a DPT to measure EC, defined as energy that can be delivered into a destination market at a delivered cost less than 105 percent of the destination market price. The screening test also provides for an analysis of AEC, defined as energy over and above that required to meet native load and other long-term obligations that meets the delivered price test. If a proposed merger raises no horizontal market power concerns (*i.e.*, passes the Competitive Analysis Screen), the inquiry generally is terminated with respect to horizontal market power.

Both the Merger Policy Statement and the Commission's Revised Filing Requirements provide that a screen analysis (or filing of the data needed for the screen analysis) is not required where applicants do not sell products in the same geographic markets or the extent of their business transactions in the same geographic markets is *de minimis*.[14] Arguably, the *de minimis* exception is relevant for the Transaction, where Post-Transaction, Liberty Utilities market share of installed capacity is about 1 percent.

Relevant Product Markets

The Commission generally is concerned with the following relevant product markets: non-firm energy, short-term capacity (firm energy), long-term capacity, and certain ancillary services.[15]

markets, mergers that increase the HHI by 50 points or fewer are unlikely to have a significant anti-competitive impact, while mergers that increase the HHI by more than 100 points are considered likely to reduce market competitiveness.

[12] *Revised Filing Requirements Under Part 33 of the Comm'n's Regulations*, FERC Stats. & Regs. ¶ 31,111 (2000) ("Order No. 642"), *order on reh'g*, 94 FERC ¶ 61,289 (2001).

[13] *Analysis of Horizontal Market Power under the Federal Power Act*, 138 FERC ¶ 61,109 (2012).

[14] Order No. 592 at 30,113 provides: "[I]t will not be necessary for the merger applicants to perform the screen analysis or file the data needed for the screen analysis in cases where the merging firms do not have facilities or sell relevant products in common geographic markets. In these cases, the proposed merger will not have an adverse competitive impact (*i.e.*, there can be no increase in the applicants' market power unless they are selling relevant products in the same geographic markets) so there is no need for a detailed data analysis." The Commission's regulations provide that a Competitive Analysis Screen need not be filed if the applicant "[a]ffirmatively demonstrates that the merging entities do not currently conduct business in the same geographic markets or that the extent of the business transactions in the same geographic markets is *de minimis*." 18 C.F.R. § 33.3(a)(2)(i).

[15] *See* 18 C.F.R. § 33.3(c)(1).

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Both EC and AEC are used as measures of energy in conducting the DPT to assess horizontal market power. Under both measures, capacity that is attributed to a market participant is that capacity controlled by it that can reach the destination market, taking transmission constraints and costs into account, at a price no higher than 105 percent of the destination market price.[16] The definition of EC (and correspondingly AEC) relies on the tenet that generation is attributed to the party that own or controls the generation.[17] This definition of Economic Capacity clearly requires that generation resources attributed to a party in the Competitive Analysis screen include any generation under the party's "operational control".

The Commission in recent years has given more weight to the results of AEC analyses in non-restructured markets (*i.e.*, where traditional suppliers maintain load-serving responsibility),[18] and, conversely, more weight to the results of EC analyses in substantially restructured markets.

I conducted both an EC and AEC analysis for PJM.

Relevant Geographic Markets

Traditionally, the Commission has defined the relevant geographic markets as centered on the control areas (now balancing authority areas ("BAAs")) where applicants are located and, for transmission-owning entities, on BAAs directly interconnected with the applicants (*i.e.*, first-tier BAAs). Both Order No. 592 and Order No. 642 continue to define the relevant geographic market in terms of BAAs (or destination markets) in which applicants control generation and first-tier

[16] *See* 18 C.F.R. § 33.3(c)(4).

[17] "(A) Economic capacity means the amount of generating capacity owned or controlled by a potential supplier with variable costs low enough that energy from such capacity could be economically delivered to the destination market. Prior to applying the delivered price test, the generating capacity meeting this definition must be adjusted by subtracting capacity committed under long-term firm sales contracts and adding capacity acquired under long-term firm purchase contracts (i.e., contracts with a remaining commitment of more than one year). The capacity associated with any such adjustments must be attributed to the party that has authority to decide when generating resources are available for operation. Other generating capacity may also be attributed to another supplier based on operational control criteria as deemed necessary, but the applicant must explain the reasons for doing so." *Id.*

[18] *See, e.g., Nevada Power Co.*, 113 FERC ¶ 61,265 at P 15 (2005) (finding that AEC is a more accurate measure for markets where utilities have significant native load obligations). Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 112. *See also Kansas City Power & Light Co.*, 113 FERC ¶ 61,704 at PP 31, 35 (2005) ("[U]tilities with a native load obligation are obligated to secure and devote resources to serve that native load. Depending on load conditions, some or all of those resources are not available to the wholesale market and the available economic capacity measure accounts for that.").

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destination markets, where applicable.[19] However, the Commission's practice has been to aggregate customers that have the same supply alternatives into a single destination market, and RTOs and ISOs generally are default markets where applicable. Where transmission constraints exist within an RTO/ISO, the Commission also has considered submarkets as separate geographic markets.[20] The relevant geographic market in the context of the Transaction is PJM.

Competitive Analysis Screen

The Competitive Analysis Screen is intended to be a conservative screen to determine whether further analysis of market power is necessary.[21] If the Competitive Analysis Screen shows that the relevant entities will not be able to exercise market power in narrowly defined markets in which they or their affiliates own or control generation, it generally follows that they cannot have market power in more broadly defined and more geographically remote markets.

As described earlier, the Competitive Analysis Screen measures the HHI changes in the energy market resulting from a transaction. The acceptable HHI changes depend on whether the post-transaction market is unconcentrated, moderately concentrated, or highly concentrated.

Description of Methodology

I performed the DPT analysis for PJM using a model that includes each potential supplier as a distinct "node" or area that is connected via a transportation (or "pipes") representation of the transmission network. Each link in the network has its own non-simultaneous limit and cost, and a simultaneous import limit ("SIL") is imposed across these individual limits. Potential suppliers may use economically and physically feasible links or paths to reach the destination market. I consider potential supply within these markets and markets first-tier to the destination market. This generally is a conservative approach as it limits import supply to a smaller group of potential

[19] Order No. 592 at 30,119; 18 C.F.R. § 33.3(c)(2).

[20] Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,890-1 (2000), citing *Atlantic City Elec. Co.*, 80 FERC ¶ 61,126 (1997); *Consolidated Edison, Inc.*, 91 FERC ¶ 61,225 (2000). To the extent there are internal transmission constraints within these markets, the Commission has considered smaller markets within these single control areas as potentially relevant. Likewise, the Commission's indicative screens for purposes of determining eligibility to obtain authority to sell at market-based rates also use BAAs or RTOs/ISOs as default geographic markets. Order No. 697 at P 231 and P 246 (citing to a number of Commission decisions involving electric utility mergers).

[21] *See* Order No. 642 at 31,879 and 31,886-87; Order No. 592 at 30,119; *Analysis of Horizontal Market Power under the Federal Power Act* at 35.

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market participants than if, for example, participants in second-tier markets were considered as potential supply. To the extent more generation meets the economic element of the DPT (*i.e.*, 105 percent of the market price)[22] than actually can be delivered on the transmission network, scarce transmission capacity is allocated based on the relative amount of economic generation that each party controls at a constrained interface.

The key data sources and methodology relevant to conducting the DPT are described below, with details provided in workpapers.

Time Periods

For the relevant market, I examined ten time periods, selected to reflect a broad range of system conditions. Broadly, I evaluated hourly load data to aggregate similar hours. I defined periods within three seasons (Summer, Winter and Shoulder) to reflect the differences in unit availability, load, and transmission capacity. Hours were first separated into seasons to reflect differences in generating availability and then further differentiated by load levels during each season.[23] For each season, hours were segmented into peak and off-peak periods.[24] The periods evaluated (and the designations used to refer to these periods in exhibits) are:

SUMMER (June-July-August)

Super Peak 1 (S_SP1):	Top load hour
Super Peak 2 (S_SP2):	Top 10% of peak load hours
Peak (S_P):	Remaining peak hours
Off-peak (S_OP):	All off-peak hours

WINTER (December-January-February)

Super Peak (W_SP):	Top 10% of peak load hours
Peak (W_P):	Remaining peak hours

[22] *See* 18 C.F.R. 33.3(c)(4).

[23] Appendix A requires applicants to evaluate the merger's impact on competition under different system conditions. For example, aggregating summer peak and shoulder peak conditions may mask important differences in unit availability and, therefore, a merger could potentially affect competition differently in these seasons. Thus, applicants are directed to evaluate enough sufficiently different conditions to show the merger's impact across a range of system conditions. On the other hand, the DOJ/FTC *Horizontal Merger Guidelines* discuss the ability to "sustain" a price increase, and a finding that a structural test (like the HHI statistic) violates the safe harbor for some small subset of hours during the year may not be indicative of any market power problems.

[24] Peak and off-peak hours were defined according to the North American Electric Reliability Corporation ("NERC') definitions.

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Off-peak (W_OP):	All off-peak hours

SHOULDER (March-April-May-September-October-November)

Super Peak (SH_SP):	Top 10% of peak load hours
Peak (SH_P):	Remaining peak hours
Off-peak (SH_OP):	All off-peak hours

Study Year

I analyzed 2021/2022 market conditions, consistent with the Order No. 642 requirement that the analysis be forward looking. Even though my analysis approximates 2021/2022 future market conditions, the primary source of data on generation is current and recent historical data. Where appropriate, I adjusted relevant data to approximate 2021/2022 conditions, including load and generation dispatch (*i.e.*, fuel) costs. The study period used for purposes of my analysis is December 2021 to November 2022, which fully encompasses each of the four seasons in the year that the Commission typically relies on. I included generation expected to be on-line by mid-2022, and excluded units already retired or approved for retirement prior to or by mid-2022.

Market Price Levels

The Commission has confirmed that market prices for both a base case and sensitivities are required, stating that "every Delivered Price Test should address three scenarios: the Base Case, in which applicants should use appropriate forecasted market prices to model post-merger competition in the study area, and sensitivity analyses of the Base Case that measure the effect of increasing or decreasing the market prices relative to the Base Case."[25] The Commission also has indicated a preference to use "actual market prices rather than price proxies such as system lambda."[26] Here, for my base case prices, I rely on two years of historical prices in PJM, adjusted to reflect forecasted fuel prices for 2021/2022, expected unit operation and a review of the amount of generation that is deemed economic in each time period compared to overall load. I conducted

[25] *Duke Energy Corp.*, 136 FERC ¶ 61,245 at P 118 (2011) (footnote omitted).
[26] *Id.*, at P 121.

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sensitivity analyses using slightly higher and lower prices (changing prices by 10 percent).[27] The underlying cost assumptions in my analysis (e.g., gas costs) are consistent with the market prices.

Import Limits and Allocation of Limited Transmission Capacity

I use SIL data accepted by the Commission in connection with the market-based rate triennial filings in the Northeast Region for PJM that were initially filed in December 2016.[28] Interface limits are based on data from a number of sources, including information published by the RTOs, the Northeast Power Coordinating Council and OASIS data. Appendix A notes that there are various methods for allocating transmission and instructs applicants to support the method used.[29] I allocated transmission using a pro rata method based on relative ownership shares of capacity, taking into account both interface limits and SILs.[30] Ultimately, the shares at the destination market represent the prorated share of EC and AEC that is economically and physically feasible.

IMPACT OF THE TRANSACTION ON COMPETITION

Horizontal Market Power

Consistent with the guidance in the Merger Policy Statement and the Revised Filing Requirements, I examined the relevant market in which the generation subject to the Transactions is located, namely PJM. The DPT demonstrates that for both the EC and AEC measures, the PJM market is unconcentrated in all periods/load conditions. For the EC measure, the changes in HHI due to the Transaction are negative, while for the AEC measure, the HHI changes are essentially zero. Thus, the Transaction readily passes the DPT screens.

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[27] *NRG Energy, Inc.*, 141 FERC ¶ 61,207at P 63 (2012) ("*NRG Energy*"). I also conducted the DPT analyses using "unadjusted" market prices and the results, provided in workpapers, are not materially different.

[28] *Letter Order,* Dominion Energy Marketing, Inc. et al., Docket No. ER13-434-005, et al. (June 9, 2017); (SIL Study for PJM). These SIL values for PJM are also listed on the Commission's website for entities to use as part of the Commission's market-based rate program (see https://www.ferc.gov/media/accepted-market-power-studies-and-sil-values-chart-2).

[29] *See* Order No. 592, ¶ 31,044 at 30,133: "In many cases, multiple suppliers could be subject to the same transmission path limitation to reach the same destination market and the sum of their economic generation capacity could exceed the transmission capability available to them. In these cases, the available transfer capability must be allocated among the potential suppliers for analytic purposes. There are various methods for accomplishing this allocation. Applicants should support the method used."

[30] The pro rata methodology used here has been affirmed in a number of Commission orders. *See, e.g., PPL Corporation,* 149 FERC ¶ 61,260 at P 84 (2014) ("*PPL*"), and *NRG Energy*, at P 63.

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Delivered Price Test

Economic Capacity

The DPT demonstrates that the PJM market is unconcentrated, and the Transaction readily passes the DPT screens in all periods/load conditions, as shown in Table 2 below and Exhibit J-4. HHI changes are negative in an unconcentrated market, and the results of the price sensitivities (plus and minus 10 percent) are not materially different (see Exhibit J-4). Thus, the DPT analysis does not reflect any competitive concerns.

Table 2: DPT Results for PJM (Economic Capacity)

		Pre-Transaction						Post-Transaction						
		Liberty		AEP				Liberty		AEP				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
S_SP1	$ 150	196	0.1%	13,457	7.7%	175,591	451	1,506	0.9%	12,147	6.9%	175,591	440	(10)
S_SP2	$ 56	197	0.1%	13,457	7.9%	171,147	446	1,506	0.9%	12,147	7.1%	171,147	435	(11)
S_P	$ 41	197	0.1%	12,942	8.4%	153,882	443	1,506	1.0%	11,632	7.6%	153,882	430	(13)
S_OP	$ 36	141	0.1%	12,365	9.1%	136,275	448	1,451	1.1%	11,056	8.1%	136,275	433	(15)
W_SP	$ 70	265	0.2%	12,952	8.0%	162,419	419	1,459	0.9%	11,758	7.2%	162,419	409	(10)
W_P	$ 58	266	0.2%	12,774	9.1%	140,526	428	1,459	1.0%	11,581	8.2%	140,526	414	(14)
W_OP	$ 48	241	0.2%	11,820	10.2%	115,859	475	1,435	1.2%	10,626	9.2%	115,859	456	(18)
SH_SP	$ 50	257	0.2%	10,618	7.0%	152,414	427	1,211	0.8%	9,664	6.3%	152,414	419	(8)
SH_P	$ 40	258	0.2%	9,883	7.7%	128,471	422	1,212	0.9%	8,930	7.0%	128,471	412	(10)
SH_OP	$ 33	215	0.2%	9,361	8.6%	108,668	447	983	0.9%	8,593	7.9%	108,668	436	(11)

Available Economic Capacity

Where retail electricity markets have been opened to competition, the link is broken between long-term (essentially perpetual) load-serving commitments and owned generation. This is replaced by a mix of competitively sourced physical supply contracts and financial hedging contracts entered into by the traditional utilities to serve load that has not migrated to competitive retail suppliers, plus whatever long-term contracts competitive retail suppliers enter into, if any, to secure supplies. There is limited information available about many of these contracts. Further, loads can shift among suppliers in relatively short periods as individual retail customers change suppliers. In such circumstances, conducting a traditional AEC analysis by trying to identify long-term firm load commitments and linking them to specific generation portfolios cannot be expected to produce very stable or reliable market concentration metrics. Furthermore, because the link between generation capacity and long-term load serving obligations has been significantly reduced, AEC provides a less reliable, and less relevant measure of the competitive effects of

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generation ownership. While EC provides the sounder basis for assessing markets where retail access is present, consistent with Commission precedent, I conducted an AEC analysis.

The Commission has considered AEC in PJM, noting that some states in PJM (including Kentucky) have not implemented retail choice,[31] and that utilities may retain provider of last resort ("POLR") obligations even in states with retail competition.[32] Even in those states where utilities retain POLR obligations, most of the utilities procure energy supply to meet those obligations through competitive solicitations. In that sense, there no longer is any linkage between the utilities' (or their affiliates') owned generation and their POLR obligations in those states. In conducting my analysis, I linked load-serving "obligations" to generation in PJM based on available information about which generation is committed to serving PJM utilities' load obligations.[33] For Kentucky Power, I assigned load based on information from its FERC Form 1 (reporting peak load of around 1,300 MW). No load or long-term commitments in PJM are assigned to Liberty Pre-Transaction.

The DPT demonstrates that the PJM market also is unconcentrated for AEC, and the Transaction readily passes the DPT screens in all periods/load conditions, as shown in Table 3 below and Exhibit J-5. HHI changes are 1 point or less in an unconcentrated market, and thus do not reflect any competitive concerns. There are minor changes in market concentration in some time periods resulting from changing Kentucky Power's load obligations from being served by AEP's generating resources Pre-Transaction to being served by Liberty's generating resources Post-Transaction, but these changes are not material and the DPT screens are readily met. The results of the price sensitivities (plus and minus 10 percent) are not materially different (see Exhibit J-5).

[31] *NRG Energy,* at n. 115 ("The Commission notes that although EC may be the more relevant measure for energy markets where retail competition exists, Applicants' analyses under the AEC measure is also appropriate because while some states within PJM have implemented retail choice, Indiana, Kentucky, North Carolina, Tennessee, Virginia, and West Virginia have not.")

[32] *PPL*, at P 88.

[33] This methodology has been accepted by the Commission in a number of different proceedings and I detail the specific assumptions made for the AEC analysis in workpapers.

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Table 3: DPT Results for PJM (Available Economic Capacity)

		Pre-Transaction						Post-Transaction						
		Liberty		AEP				Liberty		AEP				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
S_SP1	$ 150	202	0.2%	543	0.4%	123,142	412	232	0.2%	512	0.4%	123,142	412	(1)
S_SP2	$ 56	201	0.2%	1,698	1.4%	123,080	402	345	0.3%	1,553	1.3%	123,080	402	0
S_P	$ 41	201	0.2%	3,820	3.3%	117,173	397	608	0.5%	3,414	2.9%	117,173	397	(0)
S_OP	$ 36	146	0.1%	4,731	4.5%	105,711	390	700	0.7%	4,177	4.0%	105,711	388	(2)
W_SP	$ 70	276	0.2%	2,521	2.1%	120,137	366	437	0.4%	2,359	2.0%	120,137	366	1
W_P	$ 58	279	0.3%	4,226	4.0%	104,983	412	628	0.6%	3,878	3.7%	104,983	412	(0)
W_OP	$ 48	258	0.3%	4,119	4.7%	87,121	442	690	0.8%	3,687	4.2%	87,121	440	(1)
SH_SP	$ 50	267	0.2%	830	0.7%	112,129	384	253	0.2%	845	0.8%	112,129	385	0
SH_P	$ 40	270	0.3%	2,337	2.4%	98,176	378	478	0.5%	2,130	2.2%	98,176	378	0
SH_OP	$ 33	234	0.3%	2,802	3.4%	82,478	385	353	0.4%	2,683	3.3%	82,478	386	1

Capacity Market

There also are no concerns raised in the PJM Reliability Pricing Mechanism ("RPM") capacity market, as presented in Table 4 below. I evaluated the impact on the capacity market using public information on total capacity reported in the PJM Resource Model.[34] As shown, Liberty's market share of the PJM capacity market following the Transaction is 0.7 percent and the HHI change associated with the Transaction is negative, reflecting that a significantly larger current potential supplier (AEP) has less supply to offer in the capacity market Post-Transaction and that Liberty is currently a very minor participant in the capacity market. However, overall AEP and Kentucky Power participate in the Fixed Resource Requirement alternative to RPM in PJM and so their participation in the RPM market is limited.

[34] Based on PJM's most recent (2023/2024) Resource Model (posted August 23, 2021). https://www.pjm.com/markets-and-operations/rpm. For Liberty's resources, I have included information from Liberty on its capacity offers into the market from the units detailed in Exhibit J-2. Using alternative measures to conduct the analysis, such as offered capacity or cleared capacity, would not materially change the results shown in the table.

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Table 4: Effect of Combined Transactions in PJM RPM Capacity Market (RTO)

	Pre-Transaction			Post-Transaction			
	MW	Market Share	HHI Contribution	MW	Market Share	HHI Contribution	HHI Change
Liberty	169	0.1%	0.0	1,244	0.7%	0.4	0
AEP and Affiliates	15,148	8.2%	66.6	14,072	7.6%	57.5	(9)
Resource Model MW (ICAP)	185,544	100.0%		185,544	100.0%		(9)

Ancillary Services Markets

The Transaction raises no competitive concerns in PJM ancillary services markets.

PJM operates a single RTO-wide regulation market, with supply provided by generators via automatic control signals or by demand response capability. The regulation and synchronized reserve markets are cleared on a co-optimized basis in real-time with the energy market and the provision of operating reserves. The Transaction raises no competitive concerns in the regulation market. Participant behavior in the regulation market has been deemed competitive.[35]

Primary reserve includes synchronized reserves provided by resources synchronized to the system that can respond within ten minutes, and non-synchronized reserves that can be provided by units capable of providing energy within ten minutes. PJM operates an RTO-wide market for primary reserves, as well as a Mid-Atlantic Dominion Subzone. Participant behavior and market performance have been deemed competitive for Tier 2 synchronized reserves.[36] Supplemental (30-minute) reserve requirements are supplied through the Day-Ahead Scheduling Reserve ("DASR") market. While requirements are determined by reliability regions, it clears as an RTO-

[35] The weighted average market concentration of all resources in 2020 was moderately concentrated. The ratio of average hourly offered supply of regulation to average hourly regulation demand was 1.45 (for ramp hours) or 1.47 (for non-ramp hours), indicating substantial supply of regulation. *2020 State of the Market Report for PJM*, Section 10 (Ancillary Service Markets), at 463.
http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2020/2020-som-pjm-sec10.pdf.

[36] *Id.*, at 459. There is no formal market for Tier 1 synchronized reserves. *Id.* at 460. The ratio of eligible tier 2 synchronized reserve to synchronized reserve required was 17.9 in the RTO Synchronized Reserve Zone in 2020. *Id.*, at 461.

wide market, simultaneously with the day-ahead energy market. Market performance was deemed competitive in 2020.[37]

Based on these facts, including market performance and the relative oversupply of regulation and reserve products, I conclude that there are no concerns with respect to the PJM ancillary services markets raised by the Transaction.[38]

Vertical Market Power

Concern with regard to vertical market power generally arises when the combined entity may restrict potential downstream competitors' access to upstream supply markets or increase potential competitors' costs. The Transaction does not raise any competitive concerns with regard to vertical market power.

First, with respect to ownership of transmission facilities, the Commission has concluded that there are no market power concerns provided the transmission facilities continue to be subject to a Commission approved OATT.[39] Specifically, having an OATT on file with the Commission is sufficient to "mitigate vertical market power by a transmission provider and its affiliates in a particular market."[40] Both Kentucky Power and Kentucky TransCo's transmission facilities will remain subject to the PJM OATT on file with the Commission and under the functional control of PJM. Liberty is not affiliated with any entities that have transmission facilities in the PJM market

[37] *Id.*, at 449. In 2020, the average available hourly DASR was more than 52,000 MW, relative to average purchased MW of approximately 4,900 MW. *Id.*, at 462.

[38] I also reviewed historical sales data and find that Algonquin has not made meaningful Ancillary Services sales in PJM. My review is a based on transactions reported in the Commission's Electric Quarterly Report ("EQR") database for Q1, 2019 through Q3, 2021. See workpapers.

[39] *See Fortis, Inc. et al*., 156 FERC ¶ 61,219, P 44 (2016) (finding no adverse effect on vertical competition where buyer's affiliates held pre-existing interests in generating assets in PJM and were acquiring transmission facilities in PJM because "transmission service over facilities of ITC Interconnector and ITC Lake Erie in PJM will be provided under the PJM Tariff. The Commission *See also Wisconsin Energy Corp*., 151 FERC ¶ 61,015 at P 48 (2015); *ITC Midwest LLC*, 140 FERC ¶ 61,125, P 11 (2012) (recognizing that the Transfer raises no vertical market power concerns because the "transmission service over [the] facilities developed and owned by ITC Midwest (including those related to the Transmission Facilities) is provided pursuant to MISO's Open Access Transmission Tariff….").

[40] *Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295 at P 425, *on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, *on reh'g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *on reh'g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *on reh'g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied Public Citizen, Inc. v. FERC*, 133 S. Ct. 26 (2012).

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or first tier markets and, to the extent they have transmission facilities, those facilities are subject to a Commission approved OATT.

Second, with respect to control over fuel supplies, the natural gas utilities that Liberty is affiliated with are described in the Application. These affiliates (Empire Gas, EnergyNorth, Liberty Midstates, and Peach State) are not located within the PJM market or its first-tier markets. Kentucky Power does not own or operate any gas facilities. It has a firm gas transportation contract with Columbia Gas for the Big Sandy plant. Kentucky Power does not own any barge or rail capacity, and will no longer have any coal reserve interests as of the closing of the transaction.

Third, there are no other barriers to entry that raise concerns. Nor is there a basis to overcome the Commission's presumption that long-term markets are competitive.[41] The entry of new generation and its ownership by numerous independent entities to date evidence a lack of entry barriers.

Moreover, there is a significant amount of potential new generating in PJM that reflects the lack of barriers to entry. For example, PJM has almost 150,000 MW of capacity in the active generation queue, including about 11,000 MW under construction.[42]

In short, none of the vertical market power concerns that the Commission typically considers exists with respect to the Transaction, and hence it will not create or enhance vertical market power.

CONCLUSION

The market power analyses discussed herein demonstrate that the Transaction will not have adverse competitive effects in the relevant markets.

[41] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,649 n.86 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[42] See, e.g., 2021 State of the Market Report for PJM, First Quarter, Table 12-14.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed the 21st day of December 2021.

Matthew E. Arenchild

Exhibit J-1

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Professional Summary

Dr. Arenchild is a Partner at Guidehouse in the firm's Energy, Sustainability and Infrastructure (ESI) group. He has extensive experience in applied economics and regulation in the energy field, particularly with respect to addressing the challenges facing the United States electric industry.

Dr. Arenchild has worked with numerous companies throughout the United States on energy and electric utility issues affecting wholesale and retail markets, including electric industry restructuring, analyzing market power at the state and federal level, antitrust cases, litigation, electric transmission access and rates, market manipulation, and compliance issues.

Dr. Arenchild has testified before the Federal Energy Regulatory Commission (FERC) and appeared before industry groups and state regulatory commissions. Dr. Arenchild has led Guidehouse's development of various models and databases that are used in evaluating energy markets.

A significant amount of Dr. Arenchild's recent experience has been on issues in the Western US markets, including analyzing the Western Energy Imbalance Market, CAISO's markets, and wholesale markets more generally as part of expert testimonies to FERC or strategic assignments.

Dr. Arenchild currently directs Guidehouse's long-term support for a transmission-owning entity in the West and its owners, who are primarily municipal utilities. Guidehouse's responsibilities includes overseeing all aspects of operating in the evolving wholesale market, including transmission planning, operations, rates and compliance. Dr. Arenchild leads Guidehouse's Folsom, CA office and helps manage Federal Regulatory and Rates offerings and its Energy Market's team as part of his leadership role in Guidehouse's ESI group.

Professional Experience (Select examples)

Wholesale Electric Markets - Market Power/Antitrust (FERC, DOJ/FTC)

- Applied the FERC's Appendix A merger guidelines, including the Delivered Price Test (DPT), for a variety of clients, including for entities merging, seeking market-based rate (MBR) authority, or seeking strategic advice on the firms that could be acquired. Developed models and databases for conducting Delivered Price Test (DPT) and other required analyses. Provided expert testimony as necessary for clients before the relevant regulatory bodies.
- Provided regulatory and compliance assistance for market participants seeking to obtain or renew their MBR authority. Conducted FERC's Market Share Analysis and Pivotal Supplier Analysis (the "Indicative Screens") and provided expert testimony as necessary. Reviewed entities' processes and compliance with other facets of MBR authority, including required Asset Appendix and Electric Quarterly Report (EQR) submittals.

- Analyzed the Energy Imbalance Market (EIM) for entities evaluating participating in markets; provided expert testimony on market power issues for entities seeking to participate in EIM.
- Led development of a proprietary model (CEMA) to evaluate behavioral market power issues and effectiveness of alternative bidding strategies on market clearing prices and profits. The CEMA model has been filed in state proceedings.
- Led modeling effort for retail market power study using a commercial chronological production cost model (PROSYM). The model was used to conduct a behavioral analysis by evaluating the profitability of various bidding strategies and to provide input data for the corresponding structural analyses.

Restructuring/Stranded Investment

- Part of team assisting investor-owned utilities during restructuring hearings in Pennsylvania and Maryland. Specific responsibilities included preparing and evaluating fuel forecasts and estimating the cost of new capacity. These inputs were used to estimate the future market price of energy and capacity using GE's MAPS simulation model. Analyzed proposals to securitize a portion of the utility's stranded investment.

Litigation/Market Manipulation/Compliance

- Conducted a variety of analyses in support of entities' regulatory filings and confidential negotiations regarding the California "crisis" and subsequent investigations.
- Supported a number of clients in FERC investigations or audits for compliance matters, including for potential violations of Codes of Conduct, Standards of Conduct and reporting requirements (including Electric Quarterly Reports). Provided analytical support, as well as making presentations to FERC, in order to resolve outstanding issues. Formulated and presented recommendations to senior management regarding going-forward procedures to ensure compliance.
- Provided regulatory and analytical support for entities facing regulatory Show Cause Orders or Section 206 proceedings at FERC on a variety of topics.

Transmission/Distribution/Ancillary Services/Rates

- Analyzed various entities' integrated resource plans to evaluate compliance with relevant federal and state laws and regulations, resource selection options, and the entities' ability to meet reliability requirements, including ancillary services and ramping needs.
- Analyzed the methodology used to calculate MW-Mile transmission rates contained in the MAPP Restated Agreement (providing expert testimony to FERC).
- Evaluated the types of transmission service traditionally offered in the electric industry, focusing specifically on the meaning of "firm" transmission service, which was the key issue in a lawsuit between two Pacific Northwest electric utilities.
- Worked with Power Technologies Inc (PTI) and electric utility clients to develop flow-based database for use in market power analysis, including flowgate framework and Transfer Distribution Factors.

- Led a number of efforts to develop transmission capacity values for use in market power analyses in both the Eastern Interconnection and the WECC, working with utility and NERC personnel.
- Worked with client's transmission personnel in developing methodologies for estimating simultaneous import limits that are consistent with FERC's methodology.
- Evaluated proposal to equalize distribution costs in a state. Proposed alternative methodologies that the client could support and that would result in a more favorable cost allocation method for the company.
- Lead author for report analyzing provision of Ancillary Services in the WECC and FERC's existing regulations.

Other Projects in the Energy and Environmental Fields

- Lead or assist on various aspects of Guidehouse's support for the Transmission Agency of Northern California (TANC), which includes market and regulatory analysis, transmission operations (including OASIS and rates), transmission planning, and all aspects of administration.
- Analyzed the opportunity for existing and potential Qualifying Facilities to participate in the relevant markets as part of a group of utilities' petition to be relieved of their obligation to purchase from such facilities located in their respective service territories under Section 210M of PURPA.
- Acted as primary outside consultant for two affiliated parties negotiating a new power supply contract. New power supply agreement relied on traditional "split the savings" concept, adjusted for specific factors of importance to the affiliates to maximize the overall benefits.
- Analyzed displacement provisions in a contract between an investor-owned utility and a Qualifying Facility in the Pacific Northwest. Evaluated the Qualifying Facility's methodology for displacement and developed a new model to determine displacement based on engineering constraints and considering the interaction between the cogenerator and its host facility, its gas contracts with subsidiaries, and other contractual arrangements.
- Estimated the non-market damages suffered by a country as a result of Iraq's actions during the Gulf War. Project included team members traveling to impacted gulf state country. The estimates were filed with a UN commission.
- Evaluated the cost profiles of different technologies to produce a product used in nuclear warheads (tritium). Specific recommendations were made to the secretary of the Department of Energy regarding the most cost-effective means of replenishing the United States' stockpile of the product.

Testimony, Presentations, Conferences and Memberships (Select examples)

Testimony, Presentations, Conferences and Memberships

» Analysis of Transmission Rate Methodology in MAPP: *Affidavit of Matthew Arenchild*, "Motion to Intervene, Protest, Request for Suspension and for Further Procedures of Otter Tail Power Company," February 1997, Docket Nos. OA97-163, *et al*.

» Section 205 Triennial Market Power Analysis (including EIM) in the Northwest Region for Portland General Electric Company: *Affidavit of Matthew E. Arenchild*, June 28, 2019, Docket No. ER10-2249.

» Energy Imbalance Market: Notice of Change in Status of Portland General Electric Company: *Affidavit of Matthew E. Arenchild*, June 16, 2017, Docket No. ER10-2249.

» Section 205 Triennial Market Power Analysis in the Northwest Region for Portland General Electric Company: *Affidavit of Matthew E. Arenchild*, June 30, 2016, Docket No. ER10-2249.

» Section 205 Analysis: Notice of Change in Status of Portland General Electric Company: *Affidavit of Matthew E. Arenchild*, August 26, 2016, Docket No. ER10-2249.

» Evaluation of Opportunities for Qualifying Facilities in the Service Territories of Southwestern Public Service Company, Oklahoma Gas and Electric, Public Service Company of Oklahoma and Southwestern Electric Power Company: *Affidavit of William H. Hieronymus and Matthew E. Arenchild,* "Xcel Energy Services Inc., Southwestern Public Service Company, Oklahoma Gas and Electric Company, American Electric Power Service Corporation, Public Service Company of Oklahoma and Southwestern Electric Power Company," September 25, 2007, Docket No. QM07-5.

» Affidavit for Mieco, Inc. in Docket No. EL09-56 ("Brown Proceeding"), *Affidavit of Matthew E. Arenchild*, "People of the State of California, ex rel. Edmund G. Brown, Jr., Attorney General v. Powerex Corp. (f/k/a/ British Columbia Power, *et al*.," September 3, 2009, Docket No. EL09-56.

» Testimony for Merrill Lynch Capital Services, Inc. in Docket No. EL02-71 ("Lockyer Proceeding"), *Prepared Answering Testimony of Matthew E. Arenchild*, "State of California, ex rel. Bill Lockyer, Attorney General v. British Columbia Power Company, *et al*.," September 17, 2009, Docket No. EL02-71.

» Testimony for Commerce Energy, Inc. in Docket No. EL02-71 ("Lockyer Proceeding"), *Prepared Answering Testimony of Matthew E. Arenchild*, "State of California, ex rel. Bill Lockyer, Attorney General v. British Columbia Power Company, *et al*.," September 17, 2009, Docket No. EL02-71.

» Section 205 Analysis for Arizona Public Service Company: *Affidavit of Matthew E. Arenchild, "*Arizona Public Service Company*,"* March 8, 2010, Docket No. ER99-4124*.*

» Section 205 Analysis for Xcel Energy Services Inc., *et al.*: *Affidavit of Matthew E. Arenchild*, "Xcel Energy Services Inc., Public Service Company of Colorado," June 30, 2010, Docket Nos. ER98-4590, *et al.*

» Section 203 Analysis of Nevada Power Company acquiring a portion of Reid Gardner Unit 4: *Joint Affidavit of Julie Solomon and Matthew E. Arenchild,* "Nevada Power Company," April 22, 2013, Docket No. EC13-96.

» Section 203 Analysis: *Affidavit of Matthew E. Arenchild*, "Tucson Electric Power Company, *et al*." May 15, 2014, Docket No. EC14-88. (Gila River Power Block 3 analysis).

» Section 203 Analysis: *Affidavit of Matthew E. Arenchild,* "Union Power Partners, L.P. *et al.*," March 17, 2015, Docket No. EC15-98; *Supplemental Affidavit of Matthew E. Arenchild*, June 30, 2015; *Second Supplemental Affidavit of Matthew E. Arenchild*, September 18, 2015; *Third Supplemental Affidavit of Matthew E. Arenchild*, December 7, 2015.

» Section 205 Response to the February 22, 2016 Show Cause Order of Tucson Electric Power Company, *et al.*, April 21, 2016, Docket Nos. ER10-2564, *et al.*

» Section 205 Updated Market Power Analysis of the Black Hills MBR Sellers for the Northwest Region: *Affidavit of Matthew E. Arenchild*, June 30, 2016, Docket Nos. ER11-4436, *et al*.

» Energy Imbalance Market: Notice of Change in Status of Idaho Power Company: *Affidavit of Matthew E. Arenchild*, September 6, 2017, Docket No. ER10-2126, Attachment B.

» Energy Imbalance Market: Notice of Change in Status of Powerex Corp.: *Affidavit of Matthew E. Arenchild and Julie R. Solomon*, November 15, 2017, Docket No. ER10-2397, Attachment A.

» Notice of Inquiry: Modifications to the Commission Requirements for Review of Transactions under Section 203 of the Federal Power Act and Market-Based Rate Applications under Section 205 of the Federal Power Act, Comments to the Federal Energy Regulatory Commission, Market Power Experts (John R. Morris, Julie R. Solomon, Matthew E. Arenchild, *et al*.), Docket No. RM16-21, November 28, 2016.

» Speaker: American Power Conference, April 2000: "The Role of the Electric Transmission Network in Market Power Analysis."

» Speaker: Morgan Lewis/CRA, International Conference, May 2006: "Getting from Surviving to Thriving in the New Compliance Era: What to do if faced with an Audit/Investigation."

» Center for Research in Regulated Industries, Western Conference, June 2018: "Planning the Western Grid – Impact of New Policies and Technology."

Work History

- Partner/Managing Director/Director, Navigant/Guidehouse (2010 – Present)
- Principal, Charles River Associates (2002 – 2010)
- Principal Consultant**,** PA Consulting and its predecessor companies (PHB Hagler Bailly and Putnam, Hayes & Bartlett) (1996 – 2002)

Education

- Ph.D., Economics, Washington State University
- M.S., Applied Economics and Finance, University of California, Santa Cruz
- B.A., Economics, University of California, Santa Cruz

Exhibit J-2

Liberty Resources in PJM

BAA	Plant Name	Nameplate (MW)	Generation (MW)		Ownership Share	Net Interest/ Purchase (Sales)	
			Summer	Winter		Summer	Winter
Owned							
PJM	Shady Oaks Wind Farm (aka GSG 6)	109.5	109.5	109.5	100%	110	110
PJM	Minonk Wind	200.0	192.3	192.3	100%	192	192
PJM	Sandy Ridge Wind	50.0	48.2	48.2	100%	48	48
PJM	Great Bay Solar I*	75.0	75.0	75.0	100%	75	75
PJM	Great Bay Solar II	43.0	43.0	43.0	100%	43	43
PJM	Altavista Solar, LLC	80.0	80.0	80.0	50%	40	40
PJM	New Market Solar Project	100.0	100.0	100.0	100%	100	100
PJM	Old Trail Wind Farm*	208.5	208.5	208.5	100%	209	209
Owned Generation						**817**	**817**

Ratings from EIA Form 860 (2020) (Operable or Proposed) or Asset Appendix.

* Sold under Long-Term contract.

Exhibit J-3

AEP Resources in PJM

Owned Generation			Generation (MW)		Ownership Share	Net Interest/ Purchase (Sales)	
BAA	Plant Name	Nameplate (MW)	Summer	Winter		Summer	Winter
PJM	Berrien Springs 1-12	7	5	2	100%	5	2
PJM	Big Sandy 1	281	260	260	100%	260	260
PJM	Buchanan 1-10	4	2	2	100%	2	2
PJM	Buck 1-3	8	9	16	100%	9	16
PJM	Byllesby 1-4	22	32	18	100%	32	18
PJM	Cardinal 1	615	585	595	100%	585	595
PJM	Ceredo 1-6	519	450	516	100%	450	516
PJM	Claytor 1-4	75	59	113	100%	59	113
PJM	Clifty Creek (K)	1,304	1,173	1,198	43%	510	521
PJM	Clinch River 1	238	230	235	100%	230	235
PJM	Clinch River 2	238	230	235	100%	230	235
PJM	Clyde Peaking Engine	9	9	9	100%	9	9
PJM	Constantine 1-4	1	0	1	100%	0	1
PJM	Cook Nuclear 1	1,152	1,009	1,084	100%	1,009	1,084
PJM	Cook Nuclear 2	1,133	1,168	1,194	100%	1,168	1,194
PJM	Deer Creek Solar	3	1	1	100%	1	1
PJM	Dresden 1-3	678	540	625	100%	540	625
PJM	Elkhart 1-3	3	1	2	100%	1	2
PJM	Fowler Ridge II	200	200	200	50%	100	100
PJM	John E. Amos 1	816	800	800	100%	800	800
PJM	John E. Amos 2	816	800	800	100%	800	800
PJM	John E. Amos 3	1,300	1,300	1,299	100%	1,300	1,299
PJM	Kyger Creek (K)	1,087	963	991	43%	419	431
PJM	Leesville 1-2	40	50	50	100%	50	50
PJM	London 1-3	14	14	14	100%	14	14
PJM	Marmet 1-3	14	14	14	100%	14	14
PJM	Mehoopany Wind Energy	141	141	141	50%	70	70
PJM	Mitchell 1 (KPC)	816	770	770	50%	385	385
PJM	Mitchell 1 (WPC)	816	770	770	50%	385	385
PJM	Mitchell 2 (KPC)	816	790	790	50%	395	395
PJM	Mitchell 2 (WPC)	816	790	790	50%	395	395
PJM	Mottville1-4	2	0	1	100%	0	1
PJM	Mountaineer 1	1,300	1,299	1,299	100%	1,299	1,299
PJM	Niagara 1-2	4	2	3	100%	2	3
PJM	Olive Solar	5	3	3	100%	3	3
PJM	Racine 1-2*	47	20	26	100%	20	26
PJM	Rockport 1	1,300	1,300	1,299	100%	1,300	1,299
PJM	Rockport 2	1,300	1,300	1,299	100%	1,300	1,299
PJM	Smith Mountain 1-5	548	586	586	100%	586	586
PJM	St. Joe Solar (South Bend)	20	12	12	100%	12	12
PJM	Twin Branch 1-8	5	4	5	100%	4	5
PJM	Twin Branch Solar	3	1	1	100%	1	1
PJM	Watervliet Solar	5	2	2	100%	2	2
PJM	Winfield 1-3	25	19	24	100%	19	24
Subtotal, Owned Generation						**14,776**	**15,127**

Exhibit J-3

Long-term PPAs (Purchases)

BAA	Seller Name	Start Date	End Date	PPA (MW)
PJM	BP Wind Energy	1/31/2009	1/31/2029	100
PJM	BP Wind Energy	12/17/2009	12/17/2029	50
PJM	E.ON	1/16/2013	1/15/2033	100
PJM	EDPR	12/23/2014	12/22/2034	200
PJM	Invenergy	9/30/2009	9/30/2029	51
PJM	Invenergy	10/31/2009	10/31/2029	50
PJM	Invenergy	8/13/2010	8/31/2030	101
PJM	BP Wind Energy	2/27/2009	2/27/2029	99
PJM	Orion	1/14/2008	1/31/2028	75
PJM	Enel	7/30/2001	7/30/2027	80
PJM	NextEra	1/1/2018	12/31/2037	120
PJM	BP Wind Energy	12/17/2009	12/17/2029	100
PJM	LS Power	5/26/2010	5/31/2030	10
PJM	EDPR	1/1/2013	12/31/2032	99
Subtotal, Long-term Purchases				**1,234**
TOTAL, Owned and Long-Term Purchases (PJM)				**16,010**

Owned Generation Ratings from EIA Form 860 (2020) (Operable) or Asset Appendix.

PPA amounts from Asset Appendix.

* Racine 1-2 are in the process of being sold to unaffiliated entity.

Exhibit J-4

Delivered Price Test Results - Economic Capacity

Base Prices

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 150	196	0.1%	13,457	7.7%	175,591	451	1,506	0.9%	12,147	6.9%	175,591	440	(10)
PJM	S_SP2	$ 56	197	0.1%	13,457	7.9%	171,147	446	1,506	0.9%	12,147	7.1%	171,147	435	(11)
PJM	S_P	$ 41	197	0.1%	12,942	8.4%	153,882	443	1,506	1.0%	11,632	7.6%	153,882	430	(13)
PJM	S_OP	$ 36	141	0.1%	12,365	9.1%	136,275	448	1,451	1.1%	11,056	8.1%	136,275	433	(15)
PJM	W_SP	$ 70	265	0.2%	12,952	8.0%	162,419	419	1,459	0.9%	11,758	7.2%	162,419	409	(10)
PJM	W_P	$ 58	266	0.2%	12,774	9.1%	140,526	428	1,459	1.0%	11,581	8.2%	140,526	414	(14)
PJM	W_OP	$ 48	241	0.2%	11,820	10.2%	115,859	475	1,435	1.2%	10,626	9.2%	115,859	456	(18)
PJM	SH_SP	$ 50	257	0.2%	10,618	7.0%	152,414	427	1,211	0.8%	9,664	6.3%	152,414	419	(8)
PJM	SH_P	$ 40	258	0.2%	9,883	7.7%	128,471	422	1,212	0.9%	8,930	7.0%	128,471	412	(10)
PJM	SH_OP	$ 33	215	0.2%	9,361	8.6%	108,668	447	983	0.9%	8,593	7.9%	108,668	436	(11)

Prices +10%

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 165	196	0.1%	13,457	7.6%	176,513	452	1,506	0.9%	12,147	6.9%	176,513	442	(10)
PJM	S_SP2	$ 62	197	0.1%	13,457	7.8%	171,679	446	1,506	0.9%	12,147	7.1%	171,679	436	(11)
PJM	S_P	$ 45	197	0.1%	13,357	8.2%	162,880	446	1,506	0.9%	12,048	7.4%	162,880	434	(12)
PJM	S_OP	$ 40	141	0.1%	12,695	8.7%	146,321	444	1,450	1.0%	11,385	7.8%	146,321	430	(14)
PJM	W_SP	$ 77	265	0.2%	12,952	7.9%	164,671	421	1,459	0.9%	11,758	7.1%	164,671	411	(10)
PJM	W_P	$ 64	266	0.2%	12,774	8.3%	153,426	420	1,459	1.0%	11,581	7.5%	153,426	409	(11)
PJM	W_OP	$ 53	241	0.2%	12,046	9.6%	125,472	441	1,434	1.1%	10,853	8.6%	125,472	425	(16)
PJM	SH_SP	$ 55	257	0.2%	10,618	6.9%	154,344	429	1,211	0.8%	9,664	6.3%	154,344	421	(8)
PJM	SH_P	$ 44	257	0.2%	10,279	7.5%	137,054	424	1,211	0.9%	9,325	6.8%	137,054	414	(9)
PJM	SH_OP	$ 36	215	0.2%	9,554	8.3%	115,425	440	1,169	1.0%	8,600	7.5%	115,425	428	(12)

Prices -10%

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 135	196	0.1%	13,457	7.7%	174,220	447	1,506	0.9%	12,147	7.0%	174,220	437	(10)
PJM	S_SP2	$ 50	197	0.1%	13,457	7.9%	170,016	446	1,506	0.9%	12,147	7.1%	170,016	435	(11)
PJM	S_P	$ 37	197	0.1%	12,744	8.9%	143,697	451	1,507	1.0%	11,434	8.0%	143,697	437	(14)
PJM	S_OP	$ 32	141	0.1%	12,122	9.6%	126,188	469	1,216	1.0%	11,047	8.8%	126,188	455	(15)
PJM	W_SP	$ 63	266	0.2%	12,952	8.3%	156,975	436	1,459	0.9%	11,758	7.5%	156,975	425	(11)
PJM	W_P	$ 52	266	0.2%	12,152	9.7%	125,168	445	1,460	1.2%	10,958	8.8%	125,168	428	(16)
PJM	W_OP	$ 43	242	0.2%	11,601	10.6%	109,861	502	1,216	1.1%	10,626	9.7%	109,861	485	(17)
PJM	SH_SP	$ 45	257	0.2%	10,450	7.3%	143,678	441	1,211	0.8%	9,496	6.6%	143,678	432	(9)
PJM	SH_P	$ 36	258	0.2%	9,657	8.2%	117,456	441	1,212	1.0%	8,703	7.4%	117,456	430	(12)
PJM	SH_OP	$ 30	216	0.2%	8,824	9.0%	97,775	442	715	0.7%	8,325	8.5%	97,775	433	(8)

Analysis includes Rockport contract Post-Transaction

Exhibit J-5

Delivered Price Test Results - Available Economic Capacity

Base Prices

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 150	202	0.2%	543	0.4%	123,142	412	232	0.2%	512	0.4%	123,142	412	(1)
PJM	S_SP2	$ 56	201	0.2%	1,698	1.4%	123,080	402	345	0.3%	1,553	1.3%	123,080	402	0
PJM	S_P	$ 41	201	0.2%	3,820	3.3%	117,173	397	608	0.5%	3,414	2.9%	117,173	397	(0)
PJM	S_OP	$ 36	146	0.1%	4,731	4.5%	105,711	390	700	0.7%	4,177	4.0%	105,711	388	(2)
PJM	W_SP	$ 70	276	0.2%	2,521	2.1%	120,137	366	437	0.4%	2,359	2.0%	120,137	366	1
PJM	W_P	$ 58	279	0.3%	4,226	4.0%	104,983	412	628	0.6%	3,878	3.7%	104,983	412	(0)
PJM	W_OP	$ 48	258	0.3%	4,119	4.7%	87,121	442	690	0.8%	3,687	4.2%	87,121	440	(1)
PJM	SH_SP	$ 50	267	0.2%	830	0.7%	112,129	384	253	0.2%	845	0.8%	112,129	385	0
PJM	SH_P	$ 40	270	0.3%	2,337	2.4%	98,176	378	478	0.5%	2,130	2.2%	98,176	378	0
PJM	SH_OP	$ 33	234	0.3%	2,802	3.4%	82,478	385	353	0.4%	2,683	3.3%	82,478	386	1

Prices +10%

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 165	202	0.2%	543	0.4%	124,063	415	232	0.2%	512	0.4%	124,063	415	(0)
PJM	S_SP2	$ 62	200	0.2%	1,698	1.4%	123,604	400	345	0.3%	1,553	1.3%	123,604	400	(0)
PJM	S_P	$ 45	200	0.2%	4,235	3.4%	125,351	392	607	0.5%	3,829	3.1%	125,351	390	(2)
PJM	S_OP	$ 40	144	0.1%	5,061	4.4%	115,246	397	698	0.6%	4,507	3.9%	115,246	393	(4)
PJM	W_SP	$ 77	275	0.2%	2,521	2.1%	122,387	370	437	0.4%	2,359	1.9%	122,387	369	(0)
PJM	W_P	$ 64	275	0.2%	4,225	3.6%	118,178	370	624	0.5%	3,877	3.3%	118,178	368	(2)
PJM	W_OP	$ 53	255	0.3%	4,345	4.5%	96,037	418	687	0.7%	3,913	4.1%	96,037	415	(3)
PJM	SH_SP	$ 55	266	0.2%	830	0.7%	113,819	385	251	0.2%	844	0.7%	113,819	385	0
PJM	SH_P	$ 44	267	0.2%	2,732	2.6%	106,720	383	474	0.4%	2,524	2.4%	106,720	382	(1)
PJM	SH_OP	$ 36	229	0.3%	2,994	3.4%	89,133	374	534	0.6%	2,689	3.0%	89,133	372	(2)

Prices -10%

			Pre-Transaction						Post-Transaction						
			Liberty		AEP				Liberty		AEP				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	MW	Mkt Share	MW	Mkt Share	Market Size	Market HHI	HHI Chg
PJM	S_SP1	$ 135	202	0.2%	543	0.4%	121,771	406	232	0.2%	512	0.4%	121,771	406	(0)
PJM	S_SP2	$ 50	201	0.2%	1,698	1.4%	122,172	404	346	0.3%	1,553	1.3%	122,172	404	(0)
PJM	S_P	$ 37	204	0.2%	3,623	3.4%	107,465	397	610	0.6%	3,216	3.0%	107,465	395	(2)
PJM	S_OP	$ 32	149	0.2%	4,489	4.7%	95,897	403	468	0.5%	4,170	4.3%	95,897	400	(3)
PJM	W_SP	$ 63	278	0.2%	2,522	2.2%	114,753	385	440	0.4%	2,360	2.1%	114,753	384	(1)
PJM	W_P	$ 52	282	0.3%	3,604	3.9%	92,914	420	630	0.7%	3,256	3.5%	92,914	418	(2)
PJM	W_OP	$ 43	260	0.3%	3,901	4.8%	81,254	469	473	0.6%	3,688	4.5%	81,254	467	(2)
PJM	SH_SP	$ 45	271	0.3%	663	0.6%	104,806	410	256	0.2%	678	0.6%	104,806	410	0
PJM	SH_P	$ 36	276	0.3%	2,112	2.4%	87,421	377	484	0.6%	1,905	2.2%	87,421	376	(1)
PJM	SH_OP	$ 30	241	0.3%	2,267	3.1%	74,256	416	92	0.1%	2,417	3.3%	74,256	417	1

Analysis includes Rockport contract Post-Transaction

EXHIBIT K

MAP OF ACQUIRED COMPANIES
JURISDICTIONAL FACILITIES


Mitchell Plant
Moundsville
West Virginia
Ashland
Big Sandy Plant
Louisa
Pikeville
Frankfort
Hazard
Kentucky

EXHIBIT M

Verification Regarding Cross-Subsidization and Pledge or Encumbrance of Utility Assets

Section 33.2(j) of the Commission's regulations, 18 C.F.R. § 33.2(j), provides that an application under Section 203 of the Federal Power Act shall contain, in an Exhibit M, an explanation "[o]f how applicants are providing assurance, based on facts and circumstances known to them or that are reasonably foreseeable, that the proposed transaction will not result in, at the time of the transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company."

In accordance with this requirement, Applicants submit, based on facts and circumstances known to them or that are reasonably foreseeable, that the proposed Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company. In support thereof, Applicants state as follows.

(i) Liberty does not directly own any utility assets. Kentucky Power, Kentucky TransCo and certain of Liberty's public utility affiliates own a variety of electric utility assets which are pledged or encumbered by loans or bonds, as is common in the electric utility industry. The bonds issued by Kentucky Power, Kentucky TransCo, and those Liberty affiliates that are currently outstanding are identified on pages 256-257 of their respective FERC Form 1s, which Applicants respectfully incorporate by reference. The Transaction will not result in any additional direct pledges or encumbrances of utility assets. *See* 18 C.F.R. § 33.2(j)(1)(i).

(A) The Transaction will not result in "[a]ny transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company." *See* 18 C.F.R. § 33.2(j)(1)(ii)(A). The Transaction involves the transfer of the equity interests of Kentucky Power and Kentucky TransCo.

(B) Kentucky Power and Kentucky TransCo may, in order to effectuate the Transaction, issue new debt and/or equity. The Transaction, however, will not result in "[a]ny new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company." *See* 18 C.F.R. § 33.2(j)(1)(ii)(B).

(C) As noted, Kentucky Power and Kentucky TransCo may, in order to effectuate the Transaction, issue new debt and/or equity. The Transaction, however, will not result in "[a]ny new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company." *See* 18 C.F.R. § 33.2(j)(1)(ii)(C).

(D) The Transaction will not result in "[a]ny new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than

non-power goods and services agreements subject to review under sections 205 and 206 of the Federal Power Act." *See* 18 C.F.R. § 33.2(j)(1)(i)(D).

In light of the foregoing, and the general fact that the Transaction as a whole is an "arm's-length" agreement between unaffiliated entities, Applicants submit that there is no need for a further examination of cross-subsidization, pledge and encumbrance concerns as to the Transaction.

ATTACHMENT 1

Verifications

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co. Kentucky Power Company AEP Kentucky Transmission Company, Inc.	)	Docket No. EC22-_____-000

VERIFICATION

I, Todd Wiley, verify under penalty of perjury that I am the Secretary Treasurer of Liberty Utilities Co. and that I have the authority to verify the foregoing Application on behalf of Liberty Utilities Co.; that I have read the Application and know the contents thereof; and that all of the statements contained therein with respect to Liberty Utilities Co. and its affiliates are true and correct to the best of my knowledge, information and belief.

Executed on this 22nd day of December, 2021.

Todd Wiley, Secretary Treasurer
Liberty Utilities Co.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co. Kentucky Power Company AEP Kentucky Transmission Company, Inc.	)))))	Docket No. EC22-_____-000

VERIFICATION

I, Stephan T. Haynes, verify under penalty of perjury that I am the Senior Vice President - Strategy & Transformation of American Electric Power Service Corporation, and that I have the authority to verify the foregoing Application on behalf of Kentucky Power Company and AEP Kentucky Transmission Company, Inc.; that I have read the Application and know the contents thereof; and that all of the statements contained therein with respect to those entities and their affiliates are true and correct to the best of my knowledge, information and belief.

Executed on this 20th day of December, 2021.

Stephan T. Haynes
Senior Vice President - Strategy & Transformation,
American Electric Power Service Corporation, as
agent for Kentucky Power Company and AEP
Kentucky Transmission Company, Inc.

ATTACHMENT 2

Proposed Form of Protective Agreement

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co.	)	
Kentucky Power Company	)	Docket No. EC22-_____-000
AEP Kentucky Transmission Company, Inc.	)	
	)	

PROTECTIVE ORDER

(Issued)

1. Participants in this proceeding(s) may exchange documents or materials that are deemed to contain Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII), as those terms are defined herein. Accordingly, IT IS ORDERED THAT this Protective Order shall govern the use of all such material produced by, or on behalf of, any Participant in the above-captioned proceeding(s).

2. The Commission's regulations[79] and its policy governing the labelling of controlled unclassified information (CUI),[80] establish and distinguish the respective designations of Privileged Material and CEII. As to these designations, this Protective Order provides that a Participant:

A. *may* designate as Privileged Material any material which customarily is treated by that Participant as commercially sensitive or proprietary or material subject to a legal privilege, which is not otherwise available to the public, and which, if disclosed, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and

B. *must* designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a), (c).

3. For the purposes of this Protective Order, the listed terms are defined as follows:

A. Participant(s): As defined at 18 C.F.R. § 385.102(b).

[79] *Compare* 18 C.F.R. § 388.112, *with* 18 C.F.R. § 388.113. This Protective Order does not alter the respective requirements imposed by these sections on Privileged Material or CEII.
[80] *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*, 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

B. Privileged Material:[81]

i. Material (including depositions) provided by a Participant in response to discovery requests or filed with the Commission, and that is designated as Privileged Material by such Participant;[82]

ii. Material that is privileged under federal, state, or foreign law, such as work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Privileged Material by such Participant;[83]

iii. Any information contained in or obtained from such designated material;

iv. Any other material which is made subject to this Protective Order by the Presiding Administrative Law Judge (Presiding Judge) or the Chief Administrative Law Judge (Chief Judge) in the absence of the Presiding Judge or where no presiding judge is designated, the Federal Energy Regulatory Commission (Commission), any court, or other body having appropriate authority, or by agreement of the Participants (subject to approval by the relevant authority);

v. Notes of Privileged Material (memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Privileged Material);[84] or

vi. Copies of Privileged Material.

vii. Privileged Material does not include:

a. Any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state

[81] The Commission's regulations state that "[f]or the purposes of the Commission's filing requirements, non-CEII subject to an outstanding claim of exemption from disclosure under FOIA will be referred to as privileged material." 18 C.F.R. § 388.112(a). The regulations further state that "[f]or material filed in proceedings set for trial-type hearing or settlement judge proceedings, a participant's access to material for which privileged treatment is claimed is governed by the presiding official's protective order." 18 C.F.R. § 388.112(b)(2)(v).
[82] *See infra* P 11 for the procedures governing the labeling of this designation.
[83] The Commission's regulations state that "[a] presiding officer may, by order . . . restrict public disclosure of discoverable matter in order to . . . [p]reserve a privilege of a participant. . . ." 18 C.F.R. § 385.410(c)(3). To adjudicate such privileges, the regulations further state that "[i]n the absence of controlling Commission precedent, privileges will be determined in accordance with decisions of the Federal courts with due consideration to the Commission's need to obtain information necessary to discharge its regulatory responsibilities." 18 C.F.R. § 385.410(d)(1)(i).
[84] Notes of Privileged Material are subject to the same restrictions for Privileged Material except as specifically provided in this Protective Order.

court, unless the information or document has been determined to be privileged by such agency or court;

b. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order; or

viii. Additional Subcategories of Privileged Material in Oil Pipeline Proceedings:

a. Section 15(13) Privileged Material:[85] Any materials, permitted to be produced by this Protective Order, concerning the nature, kind, quantity, destination or routing of any products tendered or delivered to a Participant for interstate transportation by or on behalf of a specific shipper, when the identity of the shipper is contained in or may be discerned from the material to be provided. This subcategory shall not apply if the shipper to whom such information pertains consents that the information be categorized as Privileged Material under the other provisions of this Protective Order or produced outside the scope of this Protective Order.

b. Highly Confidential Privileged Material: A Participant may use this designation for those materials that are of such a commercially sensitive nature among the Participants or of such a private, personal nature that the producing Participant is able to justify a heightened level of confidential protection with respect to those materials.

C. Critical Energy/Electric Infrastructure Information (CEII): As defined at 18 C.F.R. §§ 388.113(a), (c).

D. Non-Disclosure Certificate: The certificate attached to this Protective Order, by which Participants granted access to Privileged Material and/or CEII must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All executed Non-Disclosure Certificates must be served on all Participants on the official service list maintained by the Secretary of the Commission for this proceeding.

[85] Section 15(13) of the Interstate Commerce Act, 49 U.S.C. § 15(13), prohibits disclosure of information pertaining to the business activities of oil pipeline shippers or consignees. Participants disclosing such information in accordance with the terms of this Protective Order will be deemed to not have contravened the prohibitions of this statutory provision.

E. Reviewing Representative:[86] A person who has signed a Non-Disclosure Certificate and who is:

i. Commission Trial Staff designated as such in this proceeding;

ii. An attorney who has made an appearance in this proceeding for a Participant;

iii. Attorneys, paralegals, and other employees associated for purposes of this case with an attorney who has made an appearance in this proceeding on behalf of a Participant;

iv. An expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;

v. A person designated as a Reviewing Representative by order of the Presiding Judge, the Chief Judge, or the Commission; or

vi. Employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.[87]

4. Privileged Material and/or CEII shall be made available under the terms of this Protective Order only to Participants and only to their Reviewing Representatives as provided in Paragraphs 6-10 of this Protective Order. The contents of Privileged Material, CEII or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this specific proceeding.

5. All Privileged Material and/or CEII must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to Paragraphs 7-9 of this Protective Order.

6. Privileged Material and/or CEII must be handled by each Participant and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 9 of this Protective Order. Privileged Material and/or CEII shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Material and/or CEII, but such copies automatically become Privileged Material and/or CEII.

[86] For oil pipeline proceedings involving the additional subcategories of Privileged Material, there shall also be Section 15(13) Reviewing Representatives and Highly Confidential Reviewing Representatives subject to the corresponding terms of this definition.

[87] In oil pipeline proceedings, individuals that have direct or supervisory responsibilities over the purchase, sale, marketing, or exchange of crude oil or petroleum products (including liquefied petroleum gases), are ineligible to qualify as a Reviewing Representative.

Reviewing Representatives may make notes of Privileged Material, which shall be treated as Notes of Privileged Material if they reflect the contents of Privileged Material.

7. If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 7, such Reviewing Representative may not use information contained in any Privileged Material and/or CEII obtained in this proceeding for a commercial purpose (e.g. to give a Participant or competitor of any Participant a commercial advantage):

A. Energy marketing;

B. Direct supervision of any employee or employees whose duties include energy marketing; or

C. The provision of consulting services to any person whose duties include energy marketing.

8. If a Participant wishes to designate a person not described in Paragraph 3.E above as a Reviewing Representative, the Participant must seek agreement from the Participant providing the Privileged Material and/or CEII. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 3.D of this Protective Order with respect to those materials. If no agreement is reached, the matter must be submitted to the Presiding Judge for resolution.

9. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Material and/or CEII pursuant to this Protective Order until three business days after that Reviewing Representative first has executed and served a Non-Disclosure Certificate.[88] However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order, and must take all reasonable precautions to ensure that Privileged Material and/or CEII are not disclosed to unauthorized persons. All executed Non-Disclosure Certificates must be served on all Participants on the official service list maintained by the Secretary of the Commission for the proceeding.

10. Any Reviewing Representative may disclose Privileged Material and/or CEII to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Privileged Material and/or CEII are disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 3.D of this Protective Order, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-

[88] During this three-day period, a Participant may file an objection with the Presiding Judge or the Commission contesting that an individual qualifies as a Reviewing Representative, and the individual shall not receive access to the Privileged Material and/or CEII until resolution of the dispute.

Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the Non-Disclosure Certificate for as long as the Protective Order is in effect.[89]

11. All Privileged Material and/or CEII in this proceeding filed with the Commission, submitted to the Presiding Judge, or submitted to any Commission personnel, must comply with the Commission's *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*.[90] Consistent with those requirements:

A. Documents that contain Privileged Material must include a top center header on each page of the document with the following text: CUI//PRIV.[91] Any corresponding electronic files must also include this text in the file name.

B. Documents that contain CEII must include a top center header on each page of the document with the following text: CUI//CEII. Any corresponding electronic files must also include this text in the file name.

C. Documents that contain both Privileged Material and CEII must include a top center header on each page of the document with the following text: CUI//CEII/PRIV. Any corresponding electronic files must also include this text in the file name.

D. The specific content on each page of the document that constitutes Privileged Material and/or CEII must also be clearly identified. For example, lines or individual words or numbers that include both Privileged Material and CEII shall be prefaced and end with "BEGIN CUI//CEII/PRIV" and "END CUI//CEII/PRIV".

12. If any Participant desires to include, utilize, or refer to Privileged Material or information derived from Privileged Material in testimony or other exhibits during the hearing in this proceeding in a manner that might require disclosure of such materials to persons other than Reviewing Representatives, that Participant first must notify both counsel for the disclosing Participant and the Presiding Judge, and identify all such Privileged Material. Thereafter, use of such Privileged Material will be governed by procedures determined by the Presiding Judge.

13. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the production or use of Privileged Material and/or CEII on any appropriate ground.

14. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority, to find this Protective Order should not apply to all or any materials previously designated Privileged

[89] *See infra* P 19.
[90] 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).
[91] The parties in oil pipeline proceedings may desire additional protection in their handling of the following types of material as defined in this Protective Order: Section 15(13) Privileged Material; and Highly Confidential Privileged Material. Participants may incorporate these descriptive subcategories into their document labels as needed (e.g., CUI//PRIV-Section 15(13) or CUI//PRIV-HC).

Material pursuant to this Protective Order. The Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

15. Each Participant governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority.

16. Subject to Paragraph 18, the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), or the Commission shall resolve any disputes arising under this Protective Order pertaining to Privileged Material according to the following procedures. Prior to presenting any such dispute to the Presiding Judge, the Chief Judge or the Commission, the Participants to the dispute shall employ good faith best efforts to resolve it.

A. Any Participant that contests the designation of material as Privileged Material shall notify the Participant that provided the Privileged Material by specifying in writing the material for which the designation is contested.

B. In any challenge to the designation of material as Privileged Material, the burden of proof shall be on the Participant seeking protection. If the Presiding Judge, the Chief Judge, or the Commission finds that the material at issue is not entitled to the designation, the procedures of Paragraph 18 shall apply.

C. The procedures described above shall not apply to material designated by a Participant as CEII. Material so designated shall remain subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's CEII Coordinator that such material need not retain that designation.

17. The designator will have five (5) days in which to respond to any pleading requesting disclosure of Privileged Material. Should the Presiding Judge, the Chief Judge, or the Commission, as appropriate, determine that the information should be made public, the Presiding Judge, the Chief Judge, or the Commission will provide notice to the designator no less than five (5) days prior to the date on which the material will become public. This Protective Order shall automatically cease to apply to such material on the sixth (6th) calendar day after the notification is made unless the designator files a motion with the Presiding Judge, the Chief Judge, or the Commission, as appropriate, with supporting affidavits, demonstrating why the material should continue to be privileged. Should such a motion be filed, the material will remain confidential until such time as the interlocutory appeal or certified question has been addressed by the Motions Commissioner or Commission, as provided in the Commission's regulations, 18 C.F.R. §§ 385.714, .715. No Participant waives its rights to seek additional administrative or judicial remedies after a Presiding Judge or Chief Judge decision regarding Privileged Material or the Commission's denial of any appeal thereof or determination in response to any certified

question. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Material and/or CEII in the files of the Commission.

18. Privileged Material and/or CEII shall remain available to Participants until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Privileged Material and/or CEII is concluded and no longer subject to judicial review. After this time, the Participant that produced the Privileged Material and/or CEII may request (in writing) that all other Participants return or destroy the Privileged Material and/or CEII. This request must be satisfied with within fifteen (15) days of the date the request is made. However, copies of filings, official transcripts and exhibits in this proceeding containing Privileged Material, or Notes of Privileged Material, may be retained if they are maintained in accordance with Paragraph 5 of this Protective Order. If requested, each Participant also must submit to the Participant making the request an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Privileged Material and/or CEII. To the extent Privileged Material and/or CEII are not returned or destroyed, they shall remain subject to this Protective Order.

19. Regardless of any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Judge, the Chief Judge, or the Commission. All CEII designations shall be subject to the "[d]uration of the CEII designation" provisions of 18 C.F.R. § 388.113(e).

20. Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

Presiding Administrative Law Judge

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Utilities Co. Kentucky Power Company AEP Kentucky Transmission Company, Inc.	)))))	Docket No. EC22-_____-000

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Privileged Material[92] and/or Critical Energy/Electric Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of Privileged Material and/or CEII, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____

Printed Name: _____

Title: _____

Representing: _____

Date: _____

[92] If applicable, for pipeline proceedings involving additional subcategories of Privileged Material, the signatory should indicate here whether this Non-Disclosure Certificate additionally governs access to:
□ : Section 15(13) Privileged Material
□ : Highly Confidential Privileged Material

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_54 Explain whether the Joint Applicants currently have any deferred tax accounts on their balance sheets. If "yes," please identify the account(s), the amount carried therein, and provide a summary of the nature of the balance.

a. For each deferred tax balance identified above, please state what impact the proposed transaction will have on the account (e.g., will the proposed transaction result in a loss of any deferred tax credits?).

RESPONSE

The Joint Applicants object to this request on the basis that it seeks information that is outside the scope of this proceeding and that is neither relevant to this proceeding or calculated to lead to the discovery of admissible evidence. In support of this objection the Joint Applicants state that information concerning whether AEP or Liberty have any deferred tax accounts on their balance sheets has nothing to do with the Commission's inquiry into this matter, which, pursuant to KRS 278.020(6) and (7), is whether Liberty has the financial, technical, and managerial abilities to provide reasonable service and that the proposed acquisition is in accordance with law, for a proper purpose, and consistent with the public interest. Subject to and without waiving this objection, the Joint Applicants state: Yes. Kentucky Power records deferred tax accounts on its balance sheets. All Kentucky Power balance sheet accounts will be transferred and there will be no impact on deferred taxes due to the proposed transaction. Please see Kentucky Power's 2020 FERC Form 1, https://elibrary.ferc.gov/eLibrary/filedownload?fileid=020CBDEF-66E2-5005-8110-C31FAFC91712, for the recent inventory of the accounts and balances. Please also see response to AG 1-11.

Witness: Allyson L. Keaton

Witness: Michael McCuen

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
Attorney General's First Set of Data Requests
Dated January 13, 2022

DATA REQUEST

AG 1_55 Do the Joint Applicants agree that there are two categories of costs for the proposed transaction, namely: (1) costs-to-achieve the transaction (e.g., due diligence reports, legal counsel, etc.); and (2) costs-to-achieve cost savings in the post-transaction structure (e.g., systems integration, etc.)? If not, please identify the categories and provide a definition.

a. For the costs-to-achieve the transaction, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective shareholders, and those costs that are allocated to or the responsibility of their respective ratepayers, if any. Include any allocation methodologies.
b. For the costs-to-achieve cost savings in the post-transaction structure, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective shareholders, and those costs that are allocated to or the responsibility of their respective ratepayers, if any. Include any allocation methodologies.
c. For the costs-to-achieve the transaction, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective non-regulated operations. Include any allocation methodologies.
d. For the costs-to-achieve cost savings in the post-transaction structure, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective regulated operations. Include any allocation methodologies.

RESPONSE

Liberty utilizes a slightly different taxonomy than that suggested in the question. In place of cost-to-achieve cost savings, given that synergies are not the motivating factor for the transaction, no cost category has been identified to achieve such savings; rather, Liberty has identified one-time costs to complete the transition as "Transition Costs," which is defined below. In terms of "costs-to-achieve" the Transaction, those costs more closely align with "Transaction Costs" as defined below:

- Transaction Costs - internal and external costs of due diligence, legal and other professional support to evaluate and execute the transaction, and carry out the requisite regulatory approvals; and

- Transition Costs - costs to enable the handover of operational control from the buyer to the seller). This category is further separated into:

    - One-Time Transition Costs - costs of staff required to work on the transitioning of the business from AEP to Liberty, IT support and external services between agreement to the sale and closing; and

    - Long Lived Transition Costs – capital investments to enable day-to-day operations continuity, particularly where sellers retain some or all of the pre-existing systems.

Transition investments in the context of the current sale arise due to Kentucky Power not being a standalone utility but rather one integrated with AEP's technology systems that cannot be "carved out" from AEP and thus require replacement with Liberty's systems. Liberty expects the cost of these investments to be absorbed by the existing rate funding for AEP's systems that will be removed from the rate base as the transition period winds down.

The following responses to parts a.-d. are based on Liberty's nomenclature described above applied to the equivalent terms (to the extent practicable) in the question:

a. Liberty does not allocate any Transaction Costs to its customers; these costs are borne exclusively by shareholders. AEP-incurred costs associated with the sale of Kentucky Power are not being charged to Kentucky ratepayers.
b. Neither Transaction Costs nor one-time Transition Costs will be allocated to customers. The impact of the Long Lived Transition Costs will replace similar costs that may currently be in Kentucky Power's rates that will no longer be in the rate base after the next rate case
c. Liberty does not allocate any Transaction Costs or One-Time Transitions Costs in M&A transactions involving regulated companies to its unregulated affiliates as they are not implicated by this Transaction. This is consistent with situations where the purchase of unregulated assets has no impact on the regulated utilities and therefore has no allocations to regulated entities. AEP-incurred costs associated with the sale of Kentucky Power are not being charged to Kentucky ratepayers.
d. Please see the response to item c.

Witness: Stephan T. Haynes

Witness: Peter Eichler

American Electric Power Company, Inc.
Kentucky Power Company
Liberty Utilities Co.
KPSC Case No. 2021-00481
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Dated January 13, 2022

DATA REQUEST

AG 1_56 Do the Joint Applicants agree that there are certain costs associated with the proposed transaction that are attributable solely to the process of obtaining the approval of the transaction (e.g., legal counsel for the regulatory proceedings)?

RESPONSE

Yes. Please see the response to AG 1-55.

Witness: Stephan T. Haynes

Witness: Peter Eichler

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DATA REQUEST

AG 1_57 Do the Joint Applicants consider the reduction of tax liability or the obtainment of tax benefits as cost savings?

RESPONSE

Without understanding the specific nature of the reduction in liability or tax benefit contemplated, the Joint Applicants cannot opine on the concepts being referenced as such a determination would be highly fact specific.

Witness: Allyson L. Keaton

Witness: Peter Eichler

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DATA REQUEST

AG 1_58 Do the Joint Applicants consider the reduction of a company's or unit's operating loss a cost savings?

RESPONSE

As with its response to AG 1-57, the Joint Applicants are unable to opine on the question without more information regarding the facts, circumstances, and context contemplated by the hypothetical as such a determination would be highly fact specific.

Witness: Allyson L. Keaton

Witness: Peter Eichler

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DATA REQUEST

AG 1_59 Provide an itemized schedule that shows the cost-to-achieve the transaction by year for as many years as your projections provide. (This is a request for a schedule that shows the estimated costs by year, by applicant). In this schedule, identify by year for as many years as your projections provide the following:

a. the assignment of costs to each of the Joint Applicants' shareholders;
b. the assignment of costs, if any, to each of the Joint Applicants' ratepayers; and
c. the breakdown of the assignment of costs between regulated and non-regulated operations of each of the Joint Applicants.

RESPONSE

a. The table below demonstrates the costs that Liberty expects shareholders to incur in 2021 and 2022 which is consistent with the taxonomy laid out in the response to AG 1-55.

('000)	**2021 Estimate**	**2022 Estimate**
Transaction Costs	**$72,200**	**N/A**
One-Time Transition Costs	**$2,106**	**$4,869**

AEP's cost-to achieve the transaction will be charged to the AEP parent company and borne by the shareholders. There will be no costs assigned to the ratepayers of Kentucky.

b. Zero

c. Zero

Witness: Stephan T. Haynes

Witness: Peter Eichler

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DATA REQUEST

AG 1_60 Provide an itemized schedule that shows the costs-to-achieve the cost savings in the post-transaction structure by year for as many years as your projections provide. (This is a request for a schedule that depicts the estimated costs by year). In this schedule, identify by year for as many years as your projections provide the following:

a. the assignment of costs to each of the Joint Applicants' shareholders;
b. the assignment of costs, if any, to each of the Joint Applicants' ratepayers; and
c. the breakdown of the assignment of costs between regulated and non-regulated operations of each of the Joint Applicants.

RESPONSE

a.–c. Consistent with Liberty's response to AG 1-55, the company's cost tracking terminology does not include a cost item termed "costs-to-achieve the cost savings."

Witness: Peter Eichler

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DATA REQUEST

AG 1_61 For each category of costs to achieve cost savings in the post transaction structure, did each of the Joint Applicants determine the allocation percentages to separate out the non-regulated cost savings from the regulated costs savings? For example, did the Joint Applicants determine the amount of total staffing cost savings to allocate to regulated operations and the amount to allocate to non-regulated operations?

a. Provide documentation of all allocations. If the Joint Applicants did not do so, please explain why not.

RESPONSE

Please refer to Liberty's response to AG 1-55.

Witness: Peter Eichler

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DATA REQUEST

AG 1_62 For each category of costs to achieve cost savings in the post transaction structure, identify:

a. the allocation process, including the factors, for allocating costs between regulated and non-regulated operations.

b. the corresponding amount of cost savings allocated to non-regulated operations for that category.

RESPONSE

a.-b. As discussed in AG 1-55, cost savings are not expected, and therefore no allocations of cost-savings are expected for the non-regulated operations.

Witness: Peter Eichler

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DATA REQUEST

AG 1_63 Provide due diligence report(s) conducted.

RESPONSE

AEP objects to this request on the basis that it seeks information that is outside the scope of this proceeding and that is neither relevant to this proceeding nor calculated to lead to the discovery of admissible evidence. As to AEP, the information sought is not relevant to the Commission's inquiry into this matter, which, pursuant to KRS 278.020(6) and (7), is whether Liberty has the financial, technical, and managerial abilities to provide reasonable service and whether the proposed acquisition is in accordance with law, for a proper purpose, and consistent with the public interest. Subject to and without waiving the foregoing objection, AEP states that neither American Electric Power Company, Inc. nor Kentucky Power Company prepared any due diligence reports in connection with the transaction.

Please see the attached confidential due diligence report performed by Liberty, JA_R_AG_1_63_ConfidentialAttachment_Project Nickel Due Diligence Report.pdf.

Witness: Stephan T. Haynes

Witness: Peter Eichler

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DATA REQUEST

AG 1_64 In the course of conducting their due diligence reviews, did the Joint Applicants identify any facts or circumstances that would have a material adverse effect on their customers? If yes, please identify same and provide the associated documents.

RESPONSE

The Joint Applicants did not identify any facts or circumstances that would have a material adverse effect on Kentucky Power customers.

Witness: Stephan T. Haynes

Witness: Peter Eichler

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AG 1_65 Explain whether the proposed transaction will or could result in any changes in accounting principles / practices for either KPCo or Liberty, or for any of their subsidiaries or affiliates? If yes, please summarize the change(s), and identify the impact on KPCo ratepayers, whether direct or indirect, if any.

RESPONSE

The Joint Applicants are not aware of any changes in accounting principles / practices at this time.

Witness: Peter Eichler

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DATA REQUEST

AG 1_66 Do the Joint Applicants anticipate any substantive changes in any existing contracts of the Joint Applicants with other vendors (e.g., engineering, information technology, maintenance, etc.)? If so, please summarize the changes.

RESPONSE

No substantive changes in contracts with vendors are anticipated at this time.

Witness: Peter Eichler

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AG 1_67 Do the Joint Applicants anticipate entering any new contracts as a consequence of the proposed transaction? If so, will any of the entities with whom the Joint Applicants will enter into said contract(s) be affiliated in any way with the Joint Applicants, or any of their employees, stockholders, officers, contractors, consultants, or directors?

RESPONSE

In the Seller's Disclosure Letter please see page 3 bottom half (under the bullet "The following new agreements….") and on page 57 the first, third and fifth bullets.

Additionally, to the extent that AEP has contracted for goods and/or services on behalf of Kentucky Power, Liberty must either assume or discontinue those contracts, or enter into new contracts for the same or similar goods and/or services. Liberty's transition team is in the process of determining the status of all AEP contracts applicable to Kentucky Power. Kentucky Power will enter into affiliate service agreements with Algonquin Power & Utilities Corp., Liberty Utilities (Canada) Corp., Liberty Utilities Co., and Liberty Utilities Service Corp. for certain services described in the Algonquin Power & Utilities Corp. Cost Allocation Manual provided in response AG 1-40.

Witness: Stephan T. Haynes

Witness: Peter Eichler

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DATA REQUEST

AG 1_68 Assuming the proposed transaction is approved, will KPCo be exposed to any type of contractual liability or obligations that it otherwise would not have faced but for the approval? If so, please describe in detail.

RESPONSE

To the extent that AEP has contracted for goods and/or services on behalf of Kentucky Power, Liberty must either assume or discontinue those contracts, or enter into new contracts for the same or similar goods and/or services. Liberty's transition team is in the process of determining the status of all AEP contracts applicable to Kentucky Power. Kentucky Power will enter into affiliate service agreements with Algonquin Power & Utilities Corp., Liberty Utilities (Canada) Corp., Liberty Utilities Co., and Liberty Utilities Service Corp. for certain services described in the Algonquin Power & Utilities Corp. Cost Allocation Manual provided in response to AG 1-40.

Witness: Peter Eichler

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DATA REQUEST

AG 1_69 Assuming the proposed transaction is approved, will KPCo be exposed to any increased insurance premiums, whether health insurance, disability, life, etc., that it otherwise would not have faced but for the approval? If so, please describe in detail.

RESPONSE

Liberty does not anticipate the transaction's approval creating any material changes in Kentucky Power's insurance premiums.

Witness: Peter Eichler

American Electric Power Company, Inc.
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DATA REQUEST

AG 1_70 Assuming the proposed transaction is approved, will KPCo be exposed to any additional contributions to any pension plans, medical plans, etc. for employees that it otherwise would not have faced but for the approval? If so, please describe in detail, together with any applicable employee's or officer's name(s), if known, as well as amount.

RESPONSE

There will be no additional contributions to any of the pension, medical plans etc. The Liberty plans are substantially similar to the current plans available at Kentucky Power Company.

Witness: David Swain