

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_1** Refer to the Application, Section V, Exhibit 1, Workpaper S-3. Reconcile the discrepancy between the issuer being Kentucky Power or West Virginia Economic Development Authority.

**RESPONSE**

The workpaper identifying Kentucky Power is meant to indicate that Kentucky Power has the repayment obligation (similar to the other long-term debt listed), pursuant to its agreement with the West Virginia Economic Development Authority (WVEDA). Pursuant to the parameters of Federal legislation and regulation governing bonds that are exempt from certain types of taxation, WVEDA Solid Waste Disposal Facilities Revenue Refunding Bonds (Kentucky Power Company – Mitchell Project) Series 2014A were issued by the WVEDA. The proceeds of the bonds were contemporaneously loaned to Kentucky Power pursuant to a loan agreement between the WVEDA and Kentucky Power.

Witness: Franz D. Messner

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**DATA REQUEST**

**KPSC 3\_2** Refer to the Application, Section V, Exhibit 1, Workpaper S-3 regarding the \$65 million West Virginia Economic Development Authority, Series 2014A Pollution Control Bond with an issuance date of June 19, 2020 and a maturity date of June 19, 2023. Refer also to Moody's Ratings and Assessments (Moody's), View by Debt tab located at See Kentucky Power Company | View by Debt | Moody's (moody's.com), which reflects that the \$65 million Pollution Control Bond was issued June 13, 2023, with an April 1, 2034, maturity date.

a. Explain the discrepancy between the issuance and maturity dates of the Pollution Control Bond and state whether Kentucky Power refinanced the Pollution Control Bond and issued it June 13, 2023 with an April 1, 2034 maturity date.

b. If Kentucky Power refinanced the Pollution Control Bond, explain why Kentucky Power did not obtain prior Commission approval.

**RESPONSE**

a. The Company respectfully submits that there is no discrepancy between the two documents referenced in this request. The \$65M WVEDA bond was originally issued in 2014 and matures on April 1, 2034, as noted on the referenced Moody's website. The bond's ultimate maturity date does not change. The interest rate for a particular interest rate period can, however, change if the interest rate is reset pursuant to an interest rate remarketing. The interest rate on the WVEDA bond has been reset in several subsequent remarketings, including remarketings in June 2017 and June 2020. The June 19, 2020 remarketing interest rate was in effect during the test year, and that remarketing had a mandatory tender date of June 19, 2023, which is reflected as the maturity date for that interest rate in Application Section V, Exhibit 1, Workpaper S-3. The bond was remarketed again in June 2023 with a mandatory tender date of June 2026. The Company anticipates that in June 2026, it will be remarketed again, likely for another 3-year term. Remarketing terms can vary from 2 - 7 years with 3 or 4 years being more typical.

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b. Commission approval is not required for remarketing because a remarketing is not an issuance of new indebtedness. Rather, a remarketing only resets the interest rate for an existing indebtedness. The Company obtained Commission approval for the original issuance under its then-current long term debt financing authority.

Witness: Franz D. Messner

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**DATA REQUEST**

**KPSC 3\_3** Refer to the Direct Testimony of Lerah M. Kahn (Kahn Direct Testimony), pages 18-19. Explain whether Kentucky Power has provided notice of the proposed changes to the Non-Utility Generator Tariff (Tariff NUG) to the customer currently taking service under Tariff NUG.

**RESPONSE**

Kentucky Power has not provided individualized notice to customers of changes proposed in this case. The Company identified proposed changes to Tariff NUG in the notice it filed in accordance with 807 KAR 5:001, Section 17. Please see the Company's application at paragraph 8 and the Company's August 11, 2023 proof of publication.

Witness: Lerah M. Kahn

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**DATA REQUEST**

**KPSC 3\_4** Refer to Kentucky Power's Response to the July 5, 2023 Deficiency Notice, Exhibit 1, page 139, Terms of Contract. Explain whether Kentucky Power requires any security to cover the estimated Economic Development Rate (EDR) discounts should a customer terminate an EDR contract before the end of its term.

**RESPONSE**

The Company requires security from Tariff E.D.R. customers on a case-by-case basis and is open to modifying Tariff E.D.R. to require reasonable security from EDR customers when appropriate going forward.

Witness: Brian K. West

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**KPSC 3\_5** Refer to the Direct Testimony of Alex E. Vaughan (Vaughan Direct Testimony), page 19, regarding the impact of market liquidity on Kentucky Power's financing decisions and the financial hedging plan.

- a. For the last three years, explain how often market liquidity has been an issue and provide examples.
- b. Explain whether the 36-month tranche period means that Kentucky Power will have multiple concurrent hedge plans with different overlapping 36-month, 18-month, and 6-month tranches.

**RESPONSE**

a. Market liquidity overall in PJM has not been an issue. The liquidity referred to on page 19 of Company Witness Vaughan's Direct Testimony was specific to the PJM AD Hub. Although this is a trading hub, the quantity of bids and offers observed at the PJM AD Hub is historically much lower than the more frequently traded PJM Western Hub.

b. No. The Company will not have multiple, overlapping plans. There will be one plan, comprising each month in the 36-month forecast horizon, that is regularly revised and updated. As changes to the inputs result in updates to forecasted load or forecasted resources previously illustrated in this response, the Target Hedge Positions for each forecast month will be refreshed and reviewed. The Company will purchase financial hedges when the position for a forecast month is short. As described in the Direct Testimony of Alex Vaughan at page 19 through 20, this may only be required for a forecast month after it moves from 67% Hedge Interval to 100% Hedge Interval.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_6** Refer to the Vaughan Direct Testimony, pages 27–29.

- a. Explain what the equivalent avoided capacity costs will be based on.
- b. Explain whether a request for proposal has been issued for generation capacity, including solar, to account for divestiture of Kentucky Power's interest in the Mitchell generating facility.

**RESPONSE**

- a. The equivalent avoided capacity costs will be based on the estimated average PJM 5CP reduction that the solar facility would contribute to the system. This average will then be multiplied by the capacity price \$/MW Day from the Company's fundamentals forecast and further multiplied by 365 days.
- b. Yes, an All-Source request for proposal was issued by Kentucky Power on September 22, 2023.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_7** Refer to the Vaughan Direct Testimony, page 31. Provide the time period and supporting calculations for the assertion that Kentucky Power will purchase approximately 33,500 fewer MWh on-peak energy and 49,008 MWh of total energy from PJM as a result of the proposed solar garden. Provide all calculations in Excel spreadsheet format, with all formulas, columns, and rows unprotected and fully accessible.

**RESPONSE**

The time period is based on an annual amount, assumed in the first year of 25MW of solar operation. This amount would vary based on the actual resources procured and as the resources degrade over time. Kentucky Power utilized a hypothetical location of a solar facility through PVWatts.nrel.gov to produce the 8,760 load shape then expanded the generation to a capacity factor that is in line with capacity factors observed from similar systems in other AEP East Operating companies. A high-level analysis was done with the estimated generation to determine whether the energy was produced during an On or Off-peak time. See Attachment KPCO\_R\_KPSC\_3\_7\_Attachment1 for the 8,760 and the On/Off-peak analysis.

Witness: Alex E. Vaughan



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**DATA REQUEST**

**KPSC 3\_8** Refer to the Vaughan Direct Testimony, page 33. Explain whether, and if so how, the low-income energy credit will be affected by the proposed hedging program.

**RESPONSE**

No, the low-income energy credit will not be affected by the proposed hedging program because the hedging program will not change energy volumes consumed.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_9** Refer to Kentucky Power's Response to Commission Staff's First Request for Information (Staff's First Request), Item 49. Identify what amount of the \$128,125.09 billed to residential customers for the delayed payment charge was billed prior to January 13, 2021.

**RESPONSE**

\$58,375.29 of the \$128,125.09 was billed to residential customers prior to January 13, 2021.

Witness: Scott E. Bishop

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**DATA REQUEST**

**KPSC 3\_10** Refer to Kentucky Power's Response to Commission Staff's Second Request for Information (Staff's Second Request), Item 1. Provide an index of the attachments to this response.

**RESPONSE**

See KPCO\_R\_KPSC\_3\_10\_Attachment1 for the requested information.

Witness: Brian K. West

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**DATA REQUEST**

**KPSC 3\_11** Refer to Kentucky Power's Response to Staff's Second Request, Item 12.

- a. Provide the administrative costs of the Residential Energy Assistance (REA) program each year for the last 5 years.
- b. Explain why Kentucky Power cannot use current administrative personnel and supplies to administer the REA programs to ensure all funds go to customers in need.

**RESPONSE**

a. Please see the below table for amounts paid to CAK for administration of the Company's HEA programs by calendar year.

YEAR	CAK HEART ADMIN COSTS	CAK THAW ADMIN COSTS	TOTAL
2018	64,408.00	0.00	64,408.00
2019	36,825.00	21,398.41	58,223.41
2020	80,156.81	30,408.00	110,564.81
2021	106,855.09	101,100.14	207,955.23
2022	96,910.77	35,758.02	132,668.79
2023-thru June	49,012.36	16,160.35	65,172.71

b. The Company contracts with CAK in accordance with the Commission's May 4, 2020 Order in Case No. 2019-00366, attached as KPCO\_R\_KPSC\_3\_11\_Attachment1. Specifically, the Commission directed in that order that all utility HEA programs must be administered by a single agency:

*Based upon the substantial evidence in the case record, the Commission finds that the current organizational structure with multiple agencies conducting similar work at different costs (some of which cannot be validated) and with different results is unnecessarily duplicative and an inefficient use of ratepayer funds. The Commission concludes that a single administering agency that acts as a hub for subcontractors performing front line services would result in economies of scale, lower operating costs, and reliable oversight that best serves ratepayers interests, as well as the interests of those eligible for HEA program assistance....*

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*...The Commission concludes that CAK's unique role makes it the logical choice to become the single administering agency. CAK is the statewide association that represents and supports all CAAs in Kentucky, and thus has 'affiliate' offices in all 120 Kentucky counties. As the administering agency for Kentucky Power's HEA, CAK worked closely with Kentucky Power to refine the parameters of Kentucky Power's HEA to better serve Kentucky Power's service territory. In addition to HEA programs, CAK has a history of administering programs that are subcontracted to CAAs providing front line services...*

*...The Commission does not have the statutory authority to require CAK to accept a role as the single administering agency for HEA programs. The Commission nevertheless has authority over HEA programs, and thus states that moving forward, HEA programs must be administered by a single agency. The parties to this matter are on notice that it is not reasonable to continue to operate HEA programs with multiple administering agencies due to the inconsistencies and inefficiencies documented in the record.*

On July 2, 2020, CAK provided notice in Case No. 2019-00366 that its Board of Directors agreed to CAK acting as the single administering agency for the HEA programs.

Witness: Lerah M. Kahn

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF HOME	)	
ENERGY ASSISTANCE PROGRAMS OFFERED	)	CASE NO.
BY INVESTOR-OWNED UTILITIES PURSUANT	)	2019-00366
TO KRS 278.285(4)	)	

ORDER

On October 28, 2019, the Commission initiated this proceeding to investigate home energy assistance (HEA) programs offered by investor-owned jurisdictional utilities and funded, primarily, by ratepayer funds, ordinarily pursuant to KRS 278.285(4).<sup>1</sup> The purpose of this proceeding is to develop and implement superior program attributes as compared to the current programs, including, but not limited to, uniform administrative, funding, and eligibility standards for HEA programs that advance consistent, effective, and accountable HEA programs across the Commonwealth that are beneficial to and easily accessed by eligible low-income customers, resulting in increased benefits to all ratepayers.

Six investor-owned utilities with ratepayer-funded HEA programs and one investor-owned utility with an HEA program funded only by shareholder funds were made parties

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<sup>1</sup> The HEA programs at issue in this proceeding are funded through a mix of ratepayer funds and shareholder funds. The Commission's statutory authority applies only to ratepayer funds. However, the Commission has long encouraged utilities to include shareholder funds as a funding source for HEA programs to ensure program accountability, reasoning that a utility will pay closer attention to a program that receives shareholder funding. We note that there are similar programs that are funded through shareholder funds and voluntary donations only, and not with ratepayer funds. The Commission has limited jurisdiction over such programs, and thus uniform HEA program parameters will not necessarily apply to programs that are not funded with ratepayer funds.

in the Order initiating this proceeding: Columbia Gas of Kentucky, Inc. (Columbia); Delta Natural Gas Company, Inc. (Delta); Duke Energy Kentucky, Inc. (Duke Kentucky); Kentucky-American Water Company (Kentucky-American);<sup>2</sup> Kentucky Power Company (Kentucky Power); Kentucky Utilities Company (KU); and Louisville Gas and Electric Company (LG&E). The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) and Community Action Kentucky, Inc. (CAK) are intervenors in this proceeding.

The parties responded to four rounds of discovery, filed written comments, and, on February 25, 2020, participated in a formal conference that further discussed the parties' discovery responses. On March 17, 2020, an informal conference was held so that the parties<sup>3</sup> could collaboratively develop a joint proposal for uniform HEA program parameters. After a substantive discussion, the parties produced a document with common HEA program tenets. Due to a public health state of emergency, a formal hearing scheduled for April 22 and 23, 2020 was canceled. The evidence of record is robust and the parties' collaboration produced their recommended uniform parameters. Therefore, the Commission finds that this matter should be submitted for a decision based upon the substantial evidence in the record.

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<sup>2</sup> Kentucky-American's assistance program is funded through shareholder funds and voluntary donations. Kentucky-American was included as a party to this proceeding because of accountability and administrative attributes that the Commission wished to draw upon in developing uniform HEA program parameters.

<sup>3</sup> Representatives of agencies that currently administer HEA programs but are not parties to this proceeding also participated in the informal conference.

## BACKGROUND

In 2001, the Kentucky Legislature revised KRS 278.285 to authorize HEA programs as part of the demand-side management (DSM) programs<sup>4</sup> that jurisdictional utilities can offer to their customers.<sup>5</sup> HEA programs provide financial assistance to eligible low-income residential customers who may not necessarily be able to pay their utility bills. HEA programs benefit all utility customers, not just those who receive financial assistance. The primary benefit to eligible low-income customers is an increased ability to pay for utility service. For ratepayers who are not eligible to participate in HEA programs, the primary benefit is a reduction in utility costs, and thus a reduction in rates as a result of avoided costs that would otherwise be incurred from debt collection and from writing off uncollectible accounts.

## DISCUSSION

The Commission reviews and approves HEA program surcharges paid by ratepayers to ensure they are fair, just, and reasonable. As recent cases and the record in this proceeding have made clear, HEA programs offered by jurisdictional utilities vary greatly and have raised a host of concerns regarding the HEA programs' efficacy, accountability, and accessibility:

- Administration. There are different organizational and fee structures across the HEA programs.<sup>6</sup> Each of the HEA programs is administered by a different administering

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<sup>4</sup> Demand-side management programs are designed to reduce energy consumption through specific measures, such as rebates for energy-saving products, weatherization, and education.

<sup>5</sup> 2001 Kentucky Laws Ch. 11 (H.B. 305).

<sup>6</sup> Columbia's Response to Commission Staff's First Request for Information (Staff's First Request), Items 1-4 (filed Nov. 18, 2019); Delta's Response to Staff's First Request, Items 1-4 (filed Nov. 14, 2019); Duke Kentucky's Response to Staff's First Request, Items 1-4 (filed Nov. 18, 2019); Kentucky Power's



agency. Some of the administering agencies conduct the back-office functions and subcontract the front-office functions for accepting and evaluating HEA program applications to other local community nonprofits, such as one of the 23 community action agencies (CAA) in Kentucky. Other administering agencies conduct both the front-office and back-office functions.

Administrative fees paid to the administering agencies vary and range from 7 percent to 15 percent of the program funds, with additional fixed amount fees paid to CAAs for processing applications and enrollments.<sup>7</sup> Among the programs, the administrative fee percentages are not based on the same criteria; some are based on a percentage of budgeted program funds, others are based on costs to administer the programs. The differences in administrative fee amounts do not appear to be based on a quantifiable financial basis because there are no significant differences in the corresponding services delivered by the administering agencies.

- Oversight. Given that funding sources for HEA programs include ratepayer funds, one critical area of accountability is program oversight. Auditing requirements and general oversight vary greatly between programs.<sup>8</sup> Some utilities require monthly report and annual audits. Other utilities merely review invoices from the agency that administers that utility's HEA program to ensure the agency calculated the correct administrative fee

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Response to Staff's First Request, Items 1–4 (filed Nov. 18, 2019); LG&E/KU's Response to Staff's First Request, Items 1–4 (filed Nov. 18, 2019) Columbia's Response to Commission Staff's Second Request for Information, Items 4-5 (filed Jan. 3, 2020).

<sup>7</sup> *Id.*; Kentucky-American Response to Staff's First Request, Items 1, 4.

<sup>8</sup> *Id.* at Item 3; Columbia's Response to Staff's Second Request, Items 9–11; Delta's Response to Staff's Second Request, Items 3–5 (filed Jan. 3, 2020); Duke Kentucky's Response to Staff's Second Request, Items 5-6 (filed Jan. 3, 2020); Kentucky Power's Response to Staff's Second Request, Item 3 (filed Jan. 3, 2020); LG&E/KU Response to Staff's Second Request, Item 9 (filed Jan. 3, 2020).

percentage, but do not review the amounts the agency is authorizing for eligible participants, which may result in the HEA program under- or overcollecting funds from ratepayers.

- Funding. Five of the HEA programs at issue are funded, in significant part, through a monthly per-meter surcharge billed to residential customers.<sup>9</sup> The per-meter surcharge amount varies among the utilities from a low of \$0.10 per meter to a high of \$0.30 per meter. One of the HEA programs is funded through a volumetric surcharge billed to residential customers.<sup>10</sup> The unequal funding is not correlated to differing economic conditions or need in each utilities' service territory. Instead, based on a review of past proceedings, these varying funding levels are correlated to the substance and involvement by intervening parties in past rates cases for each particular utility. As such, utilities serving areas with highly organized low-income advocates tend to have HEA program surcharges that are more closely correlated to economic conditions or need. As a result, those areas without similar involvement or advocacy are adversely impacted by funding levels untethered to a rational basis.

- Eligibility Requirements. All HEA programs have eligibility requirements, but the requirements are not consistent from program to program.<sup>11</sup> All HEA programs have income requirements tied to federal poverty guidelines (FPG) and vary from 110 percent

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<sup>9</sup> KRS 278.285 provides that the cost of HEA programs can be assigned only to the customer class that benefits from the programs. Thus, monthly surcharges that fund HEA programs and benefit residential customers can only be assessed on residential customers.

<sup>10</sup> Columbia Tariff Sheet No. 51b.

<sup>11</sup> Order Opening, Appendix C (Ky. PSC Oct. 28, 2019) Columbia's Response to Staff's First Request, Item 1; Delta's Response to Staff's First Request, Item 1; Duke Kentucky's Response to Staff's First Request, Item 1; Kentucky Power's Response to Staff's First Request, Item 1; LG&E/KU's Response to Staff's First Request, Item 1.

of FPG to 200 percent of FPG. Similarly, there is no consistency regarding participation in other programs, such as weatherization, or additional participation criteria added, such as amount of arrearage. Some HEA programs prioritize past-year participants in eligibility determinations, others determine eligibility on a first-come, first-served basis, and some have prioritization criteria with eligibility determinations made after a set period in which applications are accepted.

- Benefits. HEA program benefits dictate not only the benefit amount, but also the period when HEA programs are offered, whether the money is allocated between the summer cooling season versus winter heating season, and the fuel source used by eligible HEA participants.<sup>12</sup> Some HEA program benefits have not been revised since the programs were established a decade or more ago. Other programs, such as Kentucky Power's HEART and THAW programs, are frequently reviewed and revised to tailor the benefits to the identified need.

- Accessibility. There is no consistent effort across utility service territories by program administrators to enroll eligible households, resulting in an unequal distribution of services.<sup>13</sup> Although HEA program availability ideally should be tied to the number of customers or poverty levels per county within the service area, participation appears to

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<sup>12</sup> Columbia's Response to Staff's First Request, Items 5-6; Delta's Response to Staff's First Request, Items 5-6; Duke Kentucky's Response to Staff's First Request, Items 5-6; Kentucky Power's Response to Staff's First Request, Items 5-6; LG&E/KU's Response to Staff's First Request, Items 5-6; Columbia's Response to Staff's Second Request, Items 6-7; Delta's Response to Staff's Second Request, Items 9; Duke Kentucky's Response to Staff's Second Request, Item 9; LG&E/KU's Response to Staff's Second Request, Item 8; Delta's Response to Commission Staff's Third Request for Information (Staff's Third Request), Item 4 (filed Feb. 14, 2020).

<sup>13</sup> Kentucky Power's Response to Staff's Third Request, Item 4 (filed Feb. 14, 2020); Feb. 25, 2020 Formal Conference Video Transcript (CVT) at 9:43:42, 9:49:25. Kentucky Power testified how it made a mid-course correction with the assistance of CAK to address unequal participation in one HEA program.

be higher in areas where the agencies accepting applications have a stronger marketing effort or closer relationship with the utility.

### FINDINGS

The case record is replete with specific details regarding the existing HEA programs. Based on the substantial evidence filed in the record by the parties and the program parameters proposed by the parties, the Commission finds that the below program parameters are reasonable; have corrected identified deficiencies in the current HEA programs, are in the public interest; will result in rates that are fair, just, and reasonable; and will achieve the purpose of this proceeding: consistent, effective, and accountable HEA programs that are more beneficial to and easily accessed by eligible low-income customers, and result in increased benefits to all ratepayers. With clear, consistent parameters, the Commission will be better able to evaluate the effectiveness of the HEA programs moving forward, including their impact on uncollectible accounts and disconnections for nonpayment.

### Administration

As discussed above, each utility deals with separate agencies that administer their respective HEA programs and each administering agency has its own fee structure, often unsupported by hard data. From a review of the program histories, it appears that the current organizational structure for HEA programs arose by happenstance as different interested parties intervened in cases in which HEA programs were established or amended, or in which one utility opted to mirror parameters from an HEA program established by another utility.

As part of standardizing HEA parameters, the Commission prefers an organizational structure with as few administrating agencies as possible with which utilities, and the Commission, coordinate within operating HEA programs.<sup>14</sup> In response to the Commission's stated preference, the majority of utilities agreed to a single HEA administrator, but ultimately the parties' consensus agreement on HEA parameters was that there was a preference for a single HEA administrator, but who that is can vary by utility.<sup>15</sup>

Based upon the substantial evidence in the case record, the Commission finds that the current organizational structure with multiple agencies conducting similar work at different costs (some of which cannot be validated) and with different results is unnecessarily duplicative and an inefficient use of ratepayer funds. The Commission concludes that a single administering agency that acts as a hub for subcontractors performing front line services would result in economies of scale, lower operating costs, and reliable oversight that best serves ratepayers' interests, as well as the interests of those eligible for HEA program assistance. Because the financial benefits to ratepayers are not limited to customers of investor-owned utilities, the Commission envisions expanding HEA programs to other utilities under its jurisdiction at some future time. A potential expansion of HEA programs is all the more reason to establish a single administering agency now.

The Commission concludes that CAK's unique role makes it the logical choice to become the single administering agency. CAK is the statewide association that

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<sup>14</sup> CVT at 3:05:24.

<sup>15</sup> Commission Staff's Informal Conference Memo (Ky. PSC Mar. 16, 2020), Attachment, Common Tenets (Common Tenets).

represents and supports all CAAs in Kentucky, and thus has “affiliate” offices in all 120 Kentucky counties. As the administering agency for Kentucky Power’s HEA, CAK worked closely with Kentucky Power to refine the parameters of Kentucky Power’s HEA to better serve Kentucky Power’s service territory. In addition to HEA programs, CAK has a history of administering programs that are subcontracted to CAAs providing front line services, including the federal Low Income Home Energy Assistance Program (LIHEAP) and a program that assists Kentuckians obtain health insurance through the federal insurance exchange.<sup>16</sup> In response to a question at the formal conference, CAK affirmed that it had the technical and operational ability to act as the single administering agency.<sup>17</sup> If CAK were to be the administering agency for HEA funds, it could build upon its existing system and expertise.

The Commission does not have the statutory authority to require CAK to accept a role as the single administering agency for HEA programs. The Commission nevertheless has authority over HEA programs, and thus states that moving forward, HEA programs must be administered by a single agency. The parties to this matter are on notice that it is not reasonable to continue to operate HEA programs with multiple administering agencies due to the inconsistencies and inefficiencies documented in the record. Therefore, the Commission finds that, if CAK declines the Commission’s request for CAK to become the sole administering agency for HEA programs under the Commission’s jurisdiction, then the Commission will explore other options, including proposals from agencies with experience in successfully administering HEA programs.

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<sup>16</sup> CVT at 3:07:11, 3:07:20.

<sup>17</sup> CVT at 3:08:05.

Regarding delineating program functions between the administering agencies and subcontracting agencies, whether CAK or another agency is the administering agency, the Commission requests that CAK provide guidance on an appropriate assignment of functions based upon CAK's considerable experience with the proposed organizational structure.

The Commission concurs with the parties' HEA common tenets that administrative fees should reflect actual, quantifiable costs, and should be capped at 10 percent of program funds.<sup>18</sup> The parties raised the issue that some flexibility was required for large expenditures, and asserted that such flexibility should be separately negotiated by each utility and administrator. With a single administering agency with significant experience subcontracting front line services, the fee structure should better align fees earned with the actual costs of providing the service.

The parties' recommended that ratepayer-funded HEA programs operate using a common information technology system.<sup>19</sup> Currently, all CAAs that administer ratepayer-funded HEA programs use CASTiNET, a software system developed by CAK.<sup>20</sup> The Commission concurs with the parties that using a common information technology system promotes consistency and economies of scale. This economy of scale and scope further underscores the need for a single administering agency.

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<sup>18</sup> Common Tenets, unnumbered item 4.

<sup>19</sup> *Id.*, unnumbered item 2.

<sup>20</sup> CVT at 2:40:25.

The parties also raised an issue regarding the types of costs allowed to be covered in administrative fees, such as legal and information technology fees.<sup>21</sup> The parties recommended that legal and information technology fees be allowed only if directly related to administration of HEA funds. The Commission agrees that fees should be directly related to the administration of HEA programs. However, the Commission concludes that it would be more reasonable for this issue to be negotiated by utilities in their contract with the administering agency, and that the contract be subject to Commission review, including any amendments thereof. This permits the utilities to negotiate contract terms that incorporate matters that are unique to that utility while retaining Commission oversight into the reasonableness of such terms.

#### Oversight

The parties provided recommendations regarding program audits, monthly reports, and annual reports. The parties proposed that program management audits be conducted by a third party occur every five years, with copies of the audits filed with the Commission.<sup>22</sup> The Commission agrees that a program management audit should be conducted every five years by a third party. Pursuant to KRS 278.255, the Commission finds that a competent, qualified, and independent firm selected by the Commission should be retained to perform a full and comprehensive program management audit. The Commission further finds that, pursuant to KRS 278.255(3), the utilities should bear the cost of the HEA program management audit, which will be included in the cost of service

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<sup>21</sup> Common Tenets, unnumbered item 4.

<sup>22</sup> *Id.*, unnumbered item 11.



of a utility for ratemaking purposes, or deferred if incurred outside of a utility ratemaking test year.

The parties also proposed monthly reporting to utilities by the administering agency, based upon data provided by subcontracting agencies, with other communications as determined by each utility.<sup>23</sup> In order to be useful, the Commission concludes that monthly reports should be standardized. Because each subcontracting agency uses the same software, standardizing monthly reports should not be problematic. The Commission commends LG&E, KU, and Kentucky Power for the substance and quality of reports provided by its HEA program administrators pursuant to their contracts with the three utilities. The Commission finds that these reports should be used as models for standardized reports developed for HEA programs and elements that should be included in monthly reports are set forth in Appendix A. Additionally, the Commission expects utilities to thoroughly review monthly reports, not merely use them as an invoice to expend customer funds. The Commission will not allow utilities to shirk their obligation to protect customer funds administered through these programs.

Finally, the parties proposed annual reporting to the Commission.<sup>24</sup> During the informal conference, the parties agreed that the annual report should include any recommendations the administrator or utility have regarding changes to the uniform program parameters or to any utility-specific requirements. The Commission concurs with these proposals. The annual reports should include elements set forth in Appendix

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<sup>23</sup> *Id.*, unnumbered item 11.

<sup>24</sup> *Id.*, unnumbered item 11.

B, which will assist the Commission in evaluating the effectiveness and reasonableness of the HEA program parameters.

**Funding**

The Commission has long had concerns regarding the differing per meter surcharges between HEA programs. The majority of HEA surcharge amounts were established as part of settlement agreements in past cases or established by the Commission a decade ago and never revised over time, even as customer rates have increased. Columbia's HEA surcharge is a volumetric rate of \$0.0582 per Mcf, with an annual true-up filing that readjusts the surcharge amount based upon the amount collected in the previous year.<sup>25</sup> The remaining utilities' HEA surcharge is based on a per-meter amount. The per-meter fees are as follows:

<b>Utility</b>	<b>Per Meter HEA Surcharge</b>
Delta	\$0.20
Duke Kentucky	\$0.10
Kentucky Power	\$0.30
Kentucky Utilities	\$0.30
LG&E	\$0.25

The parties proposed that the HEA surcharge amount be assessed on a per-meter basis with utility-specific surcharge amounts.<sup>26</sup> The Commission concurs that the HEA surcharge should be a per-meter fee, but is not persuaded that the surcharge amount should be utility-specific. As part of standardizing HEA program parameters, the Commission must also identify those parameters that, due to unique characteristics of a utility's service territory, cannot reasonably be standardized. The HEA surcharge amount

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<sup>25</sup> Columbia Tariff Sheet No. 51b.

<sup>26</sup> Common Tenets, unnumbered item 6.

does not fall into that category. The Commission finds it more reasonable to establish a uniform minimum amount, with utilities having the option of increasing the HEA surcharge amount on a utility-by-utility basis in a future rate case. In evaluating the information provided by the parties, the Commission concludes that the minimum surcharge amount of \$0.30 per meter assessed on residential meters should be sufficient to address the demonstrable need to assist eligible low-income customers with their utility bills. The \$0.30-per-meter surcharge results in an annual bill impact as follows:

<b>Utility</b>	<b>Electric Customers Annual Bill Impact</b>	<b>Gas Customers Annual Bill Impact</b>	<b>Combined Gas and Electric Customers Annual Bill Impact</b>
Columbia		(\$0.10) <sup>27</sup>	
Delta		\$1.20	
Duke Kentucky	\$2.40	\$2.40	\$4.80
Kentucky Power	\$0.00		
Kentucky Utilities	\$0.00		
LG&E	\$0.60	\$0.60	\$1.20

The Commission further finds that those utilities with a per-meter HEA surcharge under \$0.30, Columbia, Delta, Duke Kentucky, and LG&E should implement a \$0.30-per-meter HEA surcharge on residential customers effective as of the date of this Order.

Since the first HEA programs were approved, the Commission has consistently stated its position that it is important that any investor-owned utility offering an HEA program funded with ratepayer funds should also participate by including shareholder funds. This position is based on the belief that a utility will be more vigilant in its oversight of the HEA program if the utility and its shareholders have a financial interest. Indeed, the record in this matter indicates that the utilities that have provided the largest amount of shareholder funds for HEA administration have also exhibited the most significant

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<sup>27</sup> Based on an average residential natural gas usage of 5.3 Mcf per month.

oversight of those HEA programs. Further, the Commission's position also represents a preference that shareholders bear some of the costs of HEA programs in order to reduce the costs borne by customers. While the Commission cannot require an investor-owned utility to commit shareholder funds to an HEA program, we strongly encourage utilities to include shareholder funds in HEA programs otherwise exclusively funded by ratepayers.

### Benefits

As stated above, the Commission's goal in establishing this proceeding was to standardize the HEA parameters to the extent possible, which meant identifying parameters that, due to unique characteristics of a utility's service territory, cannot reasonably be standardized. HEA program benefits, including amount and program year, are one of the parameters that cannot reasonably be standardized because they reflect and respond to different needs within each utility's service territory. Where one utility's customers may have the greatest need for assistance with winter heating bills, another utility's customers may have the greatest need for assistance with summer cooling bills.

The parties' proposed that HEA program benefits be utility-specific determinations, made in consultation with the central administering agency or subcontracting agencies.<sup>28</sup> Regarding the benefit amount, the parties proposed that the amount be a fixed amount, developed by the utility in consultation with the administering agency and subcontractor agencies, and reviewed every one-to-three years. The parties agreed that the number of participant slots should be determined by funding levels for each HEA program. Finally, the parties agree that any program funds not spent in a program year should roll over to

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<sup>28</sup> Common Tenets, unnumbered items 3 and 5.

the next program year, and that unspent funds should be reviewed in light of necessary changes to ensure HEA benefits.

The Commission concurs with the parties that HEA program benefits should be a utility-specific determination, made in consultation with the central administering agency or subcontracting agencies. However, each utility must obtain Commission approval for the proposed HEA program terms prior to implementation.

### Eligibility

In standardizing the eligibility parameters for HEA programs, the Commission sought to reasonably expand the opportunity for those most in need of assistance and remove artificial barriers that prevented those in need from receiving assistance. To that end, the parties were asked to analyze how different eligibility parameters would impact their HEA programs. In addition, the parties provided thoughtful recommendations during discovery and during the informal conference. The Commission draws upon the robust record to develop the eligibility parameters. We note that the eligibility parameters discussed below are minimum requirements. To allow for flexibility to meet utility-specific needs, utilities may develop additional eligibility parameters subject to Commission review and approval.

1. Income Threshold. The parties recommended flexible parameters for income eligibility, with the option of establishing the income threshold as either the LIHEAP equivalent, which currently is 130 percent of FPG, or 200 percent of FPG.<sup>29</sup> The Commission notes that Duke Kentucky had proposed raising the income eligibility

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<sup>29</sup>*Id.*, unnumbered item 8.

threshold for its HEA program to 200 percent of FPG in a separate case; the request was denied and deferred to a decision in this proceeding.<sup>30</sup>

The Commission is not persuaded by the parties' proposal that the income threshold be flexible because there is no indication that there are utility-specific unique income characteristics that would justify not standardizing this parameter. The Commission agrees with the parties that establishing the income threshold at 200 percent of FPG is reasonable.<sup>31</sup> As CAK explained, because LIHEAP and other assistance programs carry a maximum of 130 percent income threshold, many households are left without another form of assistance.<sup>32</sup> In discovery requests,<sup>33</sup> the parties acknowledged that an increase in the income threshold could result in additional applicants, which is especially important for those HEA programs that cannot expend all program funds because the program's low income threshold reduces the pool of eligible applicants. For example, Delta has an income threshold of 110 percent of FGP and rarely expends all program funds, but indicated that, if the income threshold was increased, it could expend all available funds.

The Commission further finds that the implementation of the 200 percent income threshold should be effective as of the start of the respective HEA program year.

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<sup>30</sup> Case No. 2018-00370, *Electronic Annual Cost Recovery Filing for Demand Side Management by Duke Energy Kentucky, Inc.* (Ky. PSC Oct. 2, 2019), Order at 12.

<sup>31</sup> Voluntary energy cost assistance programs established pursuant to KRS 278.287 that are funded by voluntary donations are outside the scope of this proceeding. Thus, the income threshold set forth in KRS 278.287(6)(c) is not applicable to the HEA programs that are the subject of the proceeding.

<sup>32</sup> CAK's Response to Staff's Second Request, Item 4 (filed Feb. 14, 2020).

<sup>33</sup> Columbia's Response to Staff's Second Request, Item 13; Delta's Response to Staff's Second Request, Item 10; Duke Kentucky's Response to Staff's Second Request, Item 7; LG&E/KU's Response to Staff's Second Request, Item 10.

Implementing a new income threshold during the program year, rather than at the start of the program year, would result in confusion and administrative inefficiency.

2. Prioritization. To address the expected increase in the applicant pool, the Commission concurs with the parties that a prioritization system must be developed for eligible applicants, other than first come, first served.<sup>34</sup> As CAK stated, HEA programs are not intended to provide generalized financial assistance to low-income households, but instead are designed to provide limited and targeted assistance to ratepayers whose “economic equilibrium is disrupted by seasonal fluctuations in utility bills or sudden rate increases.”<sup>35</sup> Thus, the Commission finds the parties’ proposal to develop prioritization criteria in consultation with the administering agency or subcontracting agencies to be reasonable. The Commission agrees with the parties that a prioritization system must include a provision for waitlists, which are dissolved at the end of the program year. The Commission also agrees that the prioritization methodology should be periodically reviewed and revised as necessary.

Consistent with the purpose of prioritization and to afford eligible applicants an equal opportunity for assistance, the Commission finds that there should not be a carryover or preference for past program participants. At the start of each program year, each eligible applicant should receive equal consideration under the prioritization methodology.

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<sup>34</sup> Common Tenets, unnumbered item 9. For examples of prioritization, see Kentucky Power’s Response to Staff’s Second Request, Item 2; LG&E/KU’s Response to Staff’s Second Request, Item 3.

<sup>35</sup> CAK’s Response to Staff’s Second Request, Item 5.

3. Customer Status. Although not addressed in the Common Tenets, numerous parties made the same recommendation that eligible applicants must be active utility customers who have electric and/or natural gas as their primary heat source.<sup>36</sup> The parties also recommended that applicants should be responsible for home energy costs with the bill in their name or in a spouse's name.<sup>37</sup> The Commission finds these eligibility parameters reasonable given the nature and purpose of HEA programs.

4. Weatherization. Many HEA programs include a requirement that an applicant must apply for or be enrolled in weatherization programs. The parties proposed that referral to weatherization programs be encouraged, but not required.<sup>38</sup> In previous cases and in this proceeding, evidence was presented that weatherization requirements can prevent otherwise eligible applicants from obtaining necessary assistance. For that reason, the Commission concurs with the parties that, while eligible applicants should be referred to weatherization programs, they should not be required to apply for or participate in weatherization programs.

5. Arrearages. The parties each have different eligibility requirements related to past due amounts. The Commission finds that this parameter should not be standardized, but instead should be a utility-specific determination because the underlying financial impact, such as writing off bad debt, could become an expense recovered in rates.

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<sup>36</sup> Delta's Response to Staff's Second Request, Item 15; Duke Kentucky's Response to Staff's Second Request, Item 10; Kentucky Power's Response to Staff's Second Request, Item 7.

<sup>37</sup> Duke Kentucky's Response to Staff's Second Request, Item 10.

<sup>38</sup> Common Tenets, unnumbered item 10.



6. To prevent foreclosing on other eligibility requirements that might have a utility-specific benefit, any other eligibility requirements proposed by a utility are subject to Commission review and approval.

#### Accessibility

One of the Commission's primary concerns is the inconsistent access to HEA programs as demonstrated by unequal number of HEA participants across a service territory. For example, Kentucky Power provided a county-by-county report of participant slots allocated, used, and unused that indicated that some counties used all available slots, while other counties used less than 25 percent of available slots.<sup>39</sup> In response to the uneven participation, Kentucky Power and CAK met to make modifications to increase the number of applications and ensure equal opportunity in all counties in Kentucky Power's service territory.<sup>40</sup> As a result of the modifications, Kentucky Power reported that 95 percent of participant slots available in each county in its service territory were filled.<sup>41</sup>

The parties proposed that HEA programs be promoted by all involved: the utilities, the administering agency, subcontracting agencies, and the Commission. The Commission finds that the utilities, administering agency, and subcontracting agencies should develop specific marketing concepts that will be filed with the Commission and are subject to Commission review and approval. As part of this effort, responsibilities shall be clearly delineated and to a degree sufficient enough for all involved, including the Commission, to determine responsibility and fault in failure of promotion. The

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<sup>39</sup> Kentucky Power Response to Staff's Second Request, Item 3, Attachment 1; Kentucky Power's Response to Staff's Third Request, Item 4.

<sup>40</sup> Kentucky Power's Response to Staff's Third Request, Item 4; CVT at 9:49:25.

<sup>41</sup> CVT at 9:49:25.

Commission will use its best efforts to promote HEA programs in support of the utilities, administering agency, and subcontracting agencies.

#### Timing of Implementation of Uniform Guidelines

The parties proposed that the uniform parameters for HEA programs be implemented in accordance with contractual terms of existing agreements and subject to requirements of any settlement agreements.<sup>42</sup> The Commission finds that delaying implementation of uniform HEA program parameters will frustrate the very purpose of this proceeding: to establish HEA program parameters that advance consistent, effective, and accountable HEA programs across the Commonwealth that are beneficial to and easily accessed by eligible low-income customers, and result in increased benefits to all ratepayers. Approving piecemeal implementation of the uniform parameters extends the ongoing unevenness and inequity in the existing HEA program structure into the future.

The Commission jurisdiction extends to the contract terms that pertain to rates and service. KRS 278.040(2) provides, in relevant part, that “[t]he jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and services of utilities[.]” As state courts have recognized, “[s]trictly speaking, the Commission ha[s] the right and duty to regulate rates and services, no matter what a contract provided.”<sup>43</sup> Here, the HEA surcharge and terms of service for HEA programs clearly fall within the Commission’s jurisdiction. The HEA surcharge is collected from ratepayers by the utilities, with bill credits applied to customers

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<sup>42</sup> Common Tenets, unnumbered item 13.

<sup>43</sup> *Bd. of Education v. Dohrman*, 620 S.W.2d 328, 329 (Ky. App. 1981) (rejecting the argument that rates charged to the Board by a sewer utility were not subject to modification by the Commission because the rates were established by a contract).

eligible under the HEA program terms of service, and payment made to HEA program administrators for service rendered in administering the HEA programs under the terms of service.

### SUMMARY OF FINDINGS

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. HEA programs should be administered by a single administering agency that provides back-office functions and subcontracts front-office functions to community-level nonprofit organizations, such as CAAs and Affordable Energy Corporation, which administers LG&E's HEA program.

2. Within 30 days of the date of this Order, CAK should file notice with the Commission stating whether it will serve as the single administering agency for HEA programs.

3. If CAK does not agree to serve as the single administering agency, the Commission will issue a request for proposal for a nonprofit with significant experience successfully administering HEA programs to serve as the administering agency.

4. The administering agency should enter into formal contracts with subcontracting agencies within 3 months after the administering agency has been selected. Within 15 days of execution by the administering agency and respective subcontractors, the contracts with each subcontracting agency should be filed with the Commission for the Commission's review and approval.

5. HEA administrative fees paid by utilities to the administering agency should be based on actual, verifiable costs of providing service and should be capped at 10 percent of the total HEA program funds expended.

6. HEA programs should be operated by a common information technology system.

7. The type of costs included in administrative fees is subject to contractual negotiations between the utilities and the administering agency, should be directly related to HEA program administration, and is subject to Commission review and approval.

8. Pursuant to KRS 278.255, an HEA program management audit shall be conducted every five years by a third party selected by the Commission pursuant to a request for proposal paid for by the utilities with an HEA program.

9. Beginning within 60 days of the date of this Order, all subcontracting agencies shall file monthly reports with the respective utilities on the 15<sup>th</sup> day of each month, containing the information set forth in Appendix A to this Order. After the HEA program administering agency has been selected and formal contracts with subcontracting agencies executed, the administering agency should file a monthly report, based upon data provided by subcontracting agencies, with the respective utilities on the 15<sup>th</sup> day of each month, containing the information set forth in Appendix A to this Order.

10. The administering agency and the utilities should jointly file with the Commission a report containing the utility-specific information set forth in Appendix B to this Order on an annual basis no later than July 15.

11. HEA programs should be funded by a \$0.30 per meter surcharge collected from residential customers pursuant to KRS 278.285(3).

12. Columbia, Delta, Duke Kentucky, and LG&E should implement a \$0.30-per-meter HEA surcharge on residential customers effective as of the date of this Order.

13. Utilities should file a description of current shareholder funding levels and any future plans to increase this amount within 30 days of the date of this Order. Utilities should include information regarding current and future shareholder funding levels when they file applications for Commission approval of HEA programs and with annual reports filed pursuant to finding paragraph 10.

14. HEA program benefits should be a utility-specific determination, made in consultation with the central administering agency or subcontracting agencies, and subject to Commission review and approval prior to implementation.

15. The income threshold for HEA program eligibility should be 200 percent of FPG. The utilities should implement the 200 percent income threshold as of the start of their respective HEA program years.

16. The utilities, in consultation with the administering agency, should develop prioritization criteria for eligible applicants to receive assistance from their HEA programs with the following:

a. The prioritization system should provide for eligible applicants to be placed on a waitlist, which will be dissolved at the end of each program year.

b. The prioritization methodology should not include a carryover or preference for past HEA program participants.

c. The prioritization methodology should be periodically reviewed and revised as necessary.

17. Eligible applicants for HEA programs must be active utility customers who have electric or natural gas as their primary heat source and should be responsible for home energy costs with the bill in their name or in a spouse's name.

18. HEA programs should not include a requirement that an applicant must apply for or be enrolled in weatherization programs.

19. Any requirements regarding limits on or forgiveness of arrearages is a utility-specific decision subject to Commission review and approval.

20. Any other eligibility requirements that a utility chooses to implement shall be made in consultation with the administering agency and is subject to Commission review and approval.

21. Utilities, the administering agency, and subcontracting agencies shall all have responsibility to develop and implement a marketing strategy for the respective HEA programs, subject to Commission review and approval.

IT IS THEREFORE ORDERED that:

1. Columbia, Delta, Duke Kentucky, Kentucky Power, LG&E, and KU shall comply with all matter set out in finding paragraphs 1 through 21 as if they were individually so ordered.

2. Within 20 days of the date of this Order, Columbia, Delta, Duke Kentucky, and LG&E shall file with the Commission, using the Commission's electronic Tariff Filing System, their respective revised tariff sheets setting out the rates approved in this Order and reflecting that they were approved pursuant to this Order.

3. Within 30 days of the date of this Order, CAK shall file notice whether it agrees to serve as administering agency.

4. This case shall remain open and on the Commission's docket until the administering agency has been selected.

5. Any documents filed pursuant to finding paragraphs 9 and 10 of this Order shall reference this case number and shall be filed in the post-case file.

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By the Commission

ENTERED  
MAY 04 2020 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director



## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00366 DATED MAY 04 2020

All subcontracting agencies shall file a monthly report (Monthly HEA Report) with the respective utilities on the 15<sup>th</sup> day of each month containing, for the previous month, the following information:

1. The total dollar amount of HEA funds expended.
2. The amount of HEA funds allocated for expenditure.
3. The amount of participants receiving benefits.
4. The amount of new enrollments in the program.
5. The amount of participants unenrolled from the program.
6. The amount of program applications.
7. The amount of applications denied and the reason for denial.
8. An itemized report of:
  - a. All administrative expenses incurred in relation to the HEA program.
  - b. All fees paid to subcontractors in relation to operation of the HEA program.
9. If the HEA program operates across multiple counties:
  - a. The amount of customers in each county.
  - b. The amount of participants in each county.
  - c. The amount of funds distributed in each county.
  - d. The amount of slots available for each county.

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00366 DATED MAY 04 2020

The administering agency and respective utility shall jointly file a report (HEA Report) no later than July 15<sup>th</sup> of each year, detailing the following utility-specific information:

1. Provided annually and separated by month:
  - a. Total funds collected from ratepayers via a meter-charge.
  - b. Donations collected from ratepayers for the HEA program.
  - c. The total amount of residential customers.
  - d. The amount of shareholder funds allocated for the program.
  - e. The amount of HEA funds distributed to participants.
  - f. The current balance of the HEA account.
  - g. The amount, if any, of "rolled-over" and unspent HEA funds.
2. The total number of slots, total and by county.
3. The total number of:
  - a. Program participants.
  - b. Program applicants.
  - c. Denied applicants.
4. Copies of each Monthly HEA Report.
5. Agendas of any meeting between the administrator and utility, including any discussed or proposed program changes.

6. The following information for all residential customers, annually and by month:
  - a. Average balance amount.
  - b. Average monthly bill amount.
  - c. Average monthly payment amount.
  - d. Average monthly usage (Gas and Electric separate, where applicable).
  - e. Termination notices issued.
  - f. Service terminations.
  - g. Amount of unique customers receiving a termination notice for non-payment (i.e., if a customer receives one or more termination notices, this customer would only be counted as one).
  - h. Amount of unique customers with service terminated for non-payment (i.e., if a customer has service terminated once, this customer would only be counted as one).
7. The information set forth in Item 6 for HEA program participants, annually and by month.
8. The average monthly benefit provided to participants through the program.
9. Copies of any outside independent audit conducted during the program year.
10. A brief description of the current shareholder funding levels and any future plans to increase the shareholder contribution amount.

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Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_12** Refer to Kentucky Power's Response to Staff's Second Request, Item 12(a), Attachment 1. Reconcile the amounts included in Attachment 1 with the pre- administrative amount for the HEART and THAW 2022/2023 program year amount of \$910,610.13.

**RESPONSE**

The two values will not reconcile. The amount utilized for funds to be distributed (provided to CAK for the upcoming program year) is based on projected collections of the REA surcharge, while the attachment provides actual funds collected by the REA surcharge.

Witness: Lerah M. Kahn

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_13** Refer to Kentucky Power's Response to Staff's Second Request, Item 14c.

a. Explain the degree to which any or all of the potential economic development projects depend on Kentucky Power extending incentives either through the economic development rider ariff or through a special contract containing rate discounts or other incentives.

b. Provide an update on Kentucky Power's efforts to address its current capacity deficit.

**RESPONSE**

a. All of the potential economic development projects provided in response to KPSC 2-14(c) are highly competitive and will depend on Kentucky Power extending incentives through Tariff E.D.R or a special contract.

b. Kentucky Power is not capacity deficient. The Company has secured capacity through bilateral contracts with third parties sufficient to serve all its customers. On September 22, 2023, Kentucky Power issued an All-Source RFP in alignment with the 3-year action plan outlined in the Company's 2022 IRP, Case No. 2023-00092.

Witness: Amanda Clark (part a)

Witness: Brian West

Witness: Alex Vaughan (part b)

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023  
Page 1 of 4

**DATA REQUEST**

**KPSC 3\_14** Refer to Phillips Direct Testimony, Figure EGP-1, page 6 and Kentucky Power's Response to Staff's Second Request, Item 2-1, KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1, DRR Projected Projects Tab.

a. Comparing the two documents, provide an update to Figure EGP-1 showing the categories and historical expenditures for each of the types of projects outlined in Attachment\_11\_PhillipsWP1 would be classified.

b. Refer to KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1, DRR Projected Projects Tab. Explain whether any of the projects listed in the table would require a certificate of public convenience and necessity (CPCN).

c. Refer to KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1, Projected Reliability – Graphs Tab. For each set of projections, explain how the projections were derived. Provide all calculations in Excel spreadsheet format, with all formulas, columns, and rows unprotected and fully accessible.

d. Explain whether the expenditures associated with the Pilot Program were included in the historical test year overall vegetation management budget for inclusion in base rates and that the proposed DRR expenditures represent additional expenditures.

**RESPONSE**

a. The only DRR Program that has been implemented in the past, and that therefore would have historical expenditures, is the Pilot Program for TOR Enhanced ROW Widening, which was first implemented in 2018. Please see KPCO\_R\_KPSC\_3\_14\_Attachment1 for those historical expenditures as requested. Please also refer to Company Witness Phillips's Testimony (pgs. 25, 26, and 30) for additional information on the TOR Enhanced ROW Widening Pilot Program and the proposed DRR program that would expand the Pilot Program.



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All of the other DRR programs are new programs targeted at specific issues that the Company has identified can improve reliability if implemented in a programmatic fashion. Some of the components of the proposed DRR programs have been implemented historically as part of the Company's general approach to reliability and maintaining the system, but the Company now proposes to implement these DRR programs in a more targeted fashion to address specific system reliability issues.

b. The Company provided the following information in response to KPSC 2-7:

Based on the Company's review of CPCN requirements and the nature of the proposed projects currently included in the DRR Work Plan, including the projected annual spend, the Company does not anticipate that the projects currently included in the DRR Work Plan would require a CPCN. However, the Company intends to review whether a CPCN would be required for each new project proposed in the DRR Work Plan in subsequent annual filings. If the Company determines that a CPCN would be required for a project, then the Company will file an application for a CPCN. Moreover, because the Company proposes to make an annual filing detailing the projects to be included in the DRR Work Plan, the Commission will have the opportunity to review the projects proposed in the DRR Work Plan well in advance of the project being started and provide any input with respect to CPCN requirements.

c. The Projected Reliability – Graphs Tab is based upon data and calculations set forth in the DRR 5 Year Cost vs Reliability tab and the DRR Projected Projects tab of KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1. The SAIDI reliability improvement is based on results observed in the TOR Enhanced ROW Widening Pilot Program, historical data, and previous knowledge and experience of project types completed that are similar in nature to the DRR components. As an example, the TOR Enhanced ROW Widening project is calculated on the DRR Projected Projects tab, then that total spend (\$60,000,000, tab "DRR Projected Projects," cell C3) transfers to the DRR 5 Year Cost versus Reliability tab (\$60,000,000, tab "DRR 56 Year Cost vs Reliability, cell AA5). On the DRR 5 Year Cost vs Reliability tab the SAIDI savings is calculated per year for a total 5-year DRR SAIDI minute savings of 30 minutes (tab DRR 5 Year Cost vs Reliability, cell AB5). Dividing the total spend of \$60,000,000 for TOR Enhanced ROW Widening by 30 minutes comes to \$2.0M per minute saved (DRR 5 Year Cost vs Reliability, cell AC5). Using the minutes saved each year for TOR Enhanced ROW Widening and the other four DRR Projects, the Company was able to calculate a Glidepath SAIDI per year that would result of the DRR Projects and also included a projected bandwidth of +/-5% of the calculated Glidepath SAIDI (tab Projected Reliability – Graphs, columns S-AF and Rows 1-79). Using the TOR Enhanced ROW

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Widening as an example, this same methodology was used for the other DRR programs contained in KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1.

d. Yes, certain capital expenditures are included in the current base case filing. The capital expenditures for the Pilot Program placed in-service since the Company's last base case are included in the computation of the proposed revenue requirement in the current base case filing. However, it is important to note the *total* anticipated capital expenditures for the Pilot Programs are not included for recovery in the proposed revenue requirement in the current base case filing. For example, as described in Company Witness Phillips' Direct Testimony, the Company seeks to place approximately \$12 million of distribution plant in-service annually through the DRR moving forward. If \$12 million worth of distribution plant were placed in service between the test year end in the Company's last base case (3/31/2020) and the test year end in the Company's current base case (3/31/2023), the Company's proposed base rates would be designed to recover roughly \$1.5 million annually. This amount represents an annual return on and of the \$12 million placed in-service since the Company's last base case. See below for an illustrative example.

		Illustrative Revenue Requirement Calculation
		Year 1
1	In-service (Acct 101)	\$ 12,000,000
2	Accumulated Depreciation (25 year life, 4%)	\$ 960,000
3 = 1-2	Net Plant	\$ 11,040,000
4	WACC	6.93%
5 = 3 * 4	Required Return	\$ 765,072
6	GRCF	1.34
7 = 5 * 6	Year 1 Revenue Requirement	\$ 1,025,118
8	Depreciation Expense	\$ 480,000
9 = 7 + 8	Total Annual Revenue Requirement	\$ 1,505,118

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If the Company then invested an *additional* \$12 million per year subsequent to the 3/31/2023 test year end in the Company's current case, the Company would not have sufficient recovery established in base rates to recover a return on and of that incremental capital investment. Prospective recovery would not begin until the Company files its next base rate proceeding.

However, if the DRR and the proposed DRR Programs are approved, the Company would be able to recover capital invested more concurrently and without the need to file more frequent rate cases. Specifically, if the DRR is approved, the capital investments for the Enhanced TOR Widening, going forward, will be included in the DRR revenue requirement until the amounts are subsequently rolled into base rates. Thus, the DRR is designed only to recover additional or incremental capital investments made that are not being recovered as part of the Company's approved base rates between rate cases as described in the testimony of Company Witnesses Brian West (pages 16-18) and Everett Phillips (page 4). Please also see the Company's responses to Staff 2-21, Staff 2-25, Staff 2-29, Staff 3-21 and AG-KIUC 2-17 for further information.

Witness: Everett G. Phillips

Witness: Katharine I. Walsh (subpart d)

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**DATA REQUEST**

**KPSC 3\_15** Refer to Kentucky Power's Response to Staff's Second Request, Item 18. Explain Kentucky Power's policy for determining whether an asset should be leased or purchased, such as whether the lease rate is more or less than the weighted average cost of capital (WACC).

**RESPONSE**

The Company has no formal policy on this issue. The Company's historic practice has been to lease certain of its utility equipment, such as vehicles, bucket trucks, trailers, mobile handling equipment, IT and telecom equipment. Lease rates provided under AEP's master lease agreements provide for implicit interest rates that have ranged from approximately 3.75% to more recent rates of 6.35%, depending on lease term and type of lease, equipment being leased and lessor. This method of financing provides a dollar for dollar pass through of costs to the customer, typically at a lower cost of funds, on average, than using the weighted average cost of capital, which includes an equity return component.

Witness: Brian K. West

Witness: Franz D. Messner

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**DATA REQUEST**

**KPSC 3\_16** Refer to Kentucky Power's Response to Staff's Second Request, Item 19. Explain how Kentucky Power calculated its number of customers per distribution line mile.

**RESPONSE**

To calculate the number of customers per distribution line mile, the Company utilized publicly available customer and distribution line mile data. Specifically, the number of customers was divided by the number of distribution line miles to obtain the number of customers per distribution line mile. Please see KPCO\_R\_KPSC\_3\_16\_Attachment1 for the specific publicly available customer and distribution line mile data, data source, and customers per distribution line mile calculations shown on page 16 of Company Witness Phillips's Direct Testimony.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_17** Refer to the Phillips Direct Testimony, pages 19–20 and to KPCO\_R\_KPSC\_2\_1\_Attachment11\_PhillipsWP1, DRR Projected Projects Tab. Explain whether any aspect of the Overhead Circuit and Underground Facilities Inspection and Maintenance Program, the Capacitor and Regulator Inspection and Maintenance Program, the Recloser Maintenance/Replacement Program, and the Overhead Conductor Program are included in the DRR. If so, provide a table showing the historical expenses for each program for the last five years and an estimate of the projected expenses for the next three years and how each of the programs fit into the DRR projected projects.

**RESPONSE**

The programs identified above (Overhead Circuit and Underground Facilities Inspection and Maintenance Program, the Capacitor and Regulator Inspection and Maintenance Program, the Recloser Maintenance/Replacement Program, and the Overhead Conductor Program) are separate and are not included in the DRR Work Plan. These programs were established in the past as part of the Company's general efforts to maintain the system and system reliability and would be separate from DRR Programs going forward. Thus, the Company is not able to provide the requested comparison because it would not be an apples-to-apples comparison. However, please see the Company's response to KPSC 3-21(b) for an explanation of how the DRR projects will differ from work that is already being performed.

The DRR Work Plan proposes a targeted, programmatic approach to work already being performed, which would enable the Company to complete incremental work on a faster timeline to address the major causes of outages as discussed in Company Witness Phillip's Direct Testimony (pages 14-18). The Company has identified the major causes of outages through an analysis of the system performance and identification of specific major causes of outages and will use the DRR's incremental funding to specifically target these issues and improve reliability more quickly. Absent the DRR, the Company would not be able to perform the DRR projects as described because the Company, in its current financial condition, would not be able to support carrying on its books in between rate cases the substantial amount of capital necessary to perform those projects.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_18** Refer to Kentucky Power's Response to Staff's Second Request, Item 21. Explain whether the Pilot Program coordinated with the ongoing line inspection and clearing program to identify danger trees outside the ROW in anticipation of being able to remove the trees when clearing crews reached the area.

**RESPONSE**

Yes, the Pilot Program coordinated with the ongoing line inspection and clearing program in some ways.

As an initial matter and for clarity, Kentucky Power provides a definition for "danger trees" and "hazard trees" for use in response to this data request.

According to the Tree Care Industry Association, the two definitions for dangerous trees associated with electric utility rights-of-way are:

- Danger tree: a tree on or off the right-of-way with the potential to contact electric supply lines.
- Hazard tree: a structurally unsound tree that could strike a target when it fails. As used here, the target of concern is electric supply lines.

For example, every 50 ft tree up slope of the right of way would meet the above definition of a "danger tree" and as a result, there are millions of trees in the service territory that would meet the technical definition of a danger tree. The Company is unable to remove all danger trees and therefore prioritizes the removal of hazard trees.

Kentucky Power inspects its systems in compliance with 807 KAR 5:006, Section 26 and its vegetation management practices and plan. As stated in the Company's response to KPSC 2-21, the historical approach to address danger trees outside the ROW was to first identify danger trees, and then identify which danger trees qualified as hazard trees during the inspection and clearing of vegetation (inside the ROW) as part of the Vegetation Management Program. Specifically, the focus was on determining which hazard trees the Company believed would fail before the next cycle.

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Line inspectors typically can identify danger trees by visually inspecting the trees to see if the potential for a tree to contact Company facilities is likely simply by estimating the distance from the line to the tree. However, determining whether a tree is a hazard tree usually requires the skills and expertise of an arborist to determine the health and structural soundness of the tree, and the likelihood of that tree failing and contacting a utility line. With respect to hazard trees, the Company informs its forestry staff of abnormal vegetation conditions encountered in the field, and evaluations by Certified Arborists are performed in connection with line inspections and the 5-year Vegetation Management Cycle as well as with the Pilot Program.

Witness: Everett G. Phillips



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**DATA REQUEST**

**KPSC 3\_19** Refer to Kentucky Power's Response to Staff's Second Request, Item 22.

- a. Since the entire distribution system is to be cleared every five years under the normal vegetation management program, explain whether an entire circuit is cleared before moving on to another circuit or whether portions of circuits are cleared only within a given year.
- b. Provide a further breakdown of the outage statistics that list outages due to danger trees outside the ROW, the date the circuit was cleared under the normal vegetation management program, the voltage of the circuit, and if the outage occurred in an urban setting or rural setting.
- c. Explain whether the outage statistics include trees outside the ROW outages that occurred within the Daniel Boone National Forest. If so, provide the number of outages caused by trees outside the ROW within the Daniel Boone National Forest annually since 2018.

**RESPONSE**

- a. As part of the Company's Vegetation Management Plan, each circuit that is started within the plan year will be cleared end to end before additional circuits are started. Depending on the start date for the work, the work being done may carry over to the following year before being completed.
- b. Please see attachment KPCO\_R\_KPSC\_3\_19\_Attachment1 for statistics on outages due to trees outside the ROW, the date the circuit was cleared under the normal vegetation management program, and the voltage of the circuit. The Company does not maintain its records in a manner that would permit it to reasonably determine whether outages occurred in an urban or rural setting. Moreover, due to the terrain and location of the Company's service territory, the entire service territory likely would be considered rural.
- c. The outage statistics include all TOR outages. Therefore, trees outside the ROW in the Daniel Boone National Forest are included in the overall analysis.

Please see KPCO\_R\_KPSC\_3\_19\_Attachment2 for the number of outages within the Daniel Boone National Forest, and customer minutes of interruption (CMI), since 2018. For those circuits that are partially within the boundaries of the National Forest.

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KPCO\_R\_KPSC\_3\_19\_Attachment2 may not be 100% accurate because at least some of the circuits for which outage data is reflected are only partially located within the Daniel Boone National Forest

Approximately 853 of the Company's 10,108 distribution primary and secondary miles (8.4%) are located within the Daniel Boone National Forest. Approximately 6.1% of the CMI for distribution TOR outages are within the boundaries of the Daniel Boone National Forest, based on the previously five years' historical data. When performing vegetation management within the Daniel Boone National Forest, the Company will collaborate with property owners and/or reach out to the Daniel Boone National Forest (forest rangers) for permission to do the vegetation management work in areas within the park boundaries.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_20** Refer to Kentucky Power's Response to Staff's Second Request, Item 27. State whether Kentucky Power considered or evaluated programs to be included in the second phase of the DRR. If so, provide a listing of all programs being considered or evaluated for inclusion in the second phase of the DRR.

**RESPONSE**

No, the Company has not yet considered or evaluated programs to be included in the next phase (next five-year period) of the DRR. Any future programs would be based on several factors including, but not limited to, continued funding of the DRR, success of the currently-proposed DRR programs, analysis and identification of specific outage causes that can be addressed on a larger scale, and Commission review and approval.

Extensive analysis and program development was undertaken to put together a suite of DRR programs that address the current major outage causes and that have been presented in this case. Please see the Company's response to KPSC 2-25 for further discussion of the DRR programs and the three-pronged approach to be undertaken.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_21** Refer also to the Phillips Direct Testimony, page 30.

- a. Explain how Kentucky Power currently budgets, plans for, and carries out each of the following programs: additional tie-lines, additional substation sources, Distribution Automation Circuit Reconfiguration (DACR), and recloser modernization. Include in the explanation whether a CPCN is required for any of those programs or components thereof.
- b. For each of the listed in 21(a), explain how the DRR will differ from what is already done.

**RESPONSE**

a. For the programs listed above, Kentucky Power budgets, plans and implements installation of the measures and equipment based on historical costs and failure rates of equipment. The Company evaluates whether a CPCN is required by KRS 278.020 on a case-by-case basis for all projects including distribution projects.

b. The major difference between the DRR and the Distribution Reliability Programs discussed on pages 19-29 of Company Witness Phillips's Direct Testimony, is that the DRR would allow the Company to perform incremental work to the Distribution Reliability Programs, but on an expedited basis, utilizing a targeted approach to improve reliability related to specific major outage causes. Absent the DRR program, the same general programs will be completed as the Company is able to perform them.

As an example, from 2020 through 2022, the Company averaged approximately \$866,000 per year in capital expenditures on distribution tie lines. In comparison, under the DRR, the Company would be able to average approximately \$2,116,000 per year in capital additions from 2024 through 2028. Upon approval of the DRR, the Company would continue to invest in tie lines as part of its Distribution Reliability Programs in addition to the approximately \$2,116,000 per year for the Additional Tie Line program as part of the DRR, resulting in increased reliability for customers on a more expedited basis.

In summary, the DRR accelerates the Company's ability to more timely perform and prioritize these reliability programs and represents an incremental amount above what the Company currently spends on its Distribution Reliability Programs. There would be no change to the Company's approach to analyze whether a CPCN would be required.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_22** Refer to Kentucky Power's Response to Staff's Second Request, Item 29.

- a. Explain whether the line or circuit voltages that are included in the proposed DRR program include circuits 69 kV and above in Kentucky Power's system.
- b. Explain whether the trees outside the ROW statistics include circuits or lines of 69 kV and above voltages. If not, explain the number of outages caused by trees outside the ROW for 69 kV and above voltages.

**RESPONSE**

a. About 99% of all TOR-related outages occur on the Company's distribution system rather than the transmission system. The Company did not include rights-of-way (ROW) widening for any transmission lines 69 kV or above in the TOR Enhanced ROW Widening program.

In the "Additional New Distribution Substation Sources" program, the Company will need to tap some transmission circuits 69 kV and above in order to provide a source to the distribution substation assets. Only the distribution asset expenditures will be recovered through the DRR.

b. Yes, the trees outside the ROW statistics include outages for 69 kV and above, but they account only for approximately 1% of SAIDI minutes. TOR-related outages occur much less frequently on transmission lines because transmission lines generally have wider standard ROW, automated switching, and less radially-fed circuits than distribution lines. Four of the five proposed DRR programs are aimed specifically at addressing these items: TOR – Enhanced ROW Widening, Additional Tie Lines, DACR/Recloser Modernization, and Additional New Distribution Substation Sources.

Witness: Everett G. Phillips

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**DATA REQUEST**

**KPSC 3\_23** Refer to Kentucky Power's responses to Staff's First Request, Item 31. Provide the current net book value (NBV) and market value of Kentucky Power's 50 percent undivided interest in Mitchell.

**RESPONSE**

Please see KPCO\_R\_KPSC\_3\_23\_Attachment1 for the net book value Kentucky Power's 50 percent undivided interest in Mitchell at 06/30/2023.

No such estimates or appraisals exists for the fair market value of Kentucky Power's 50 percent undivided interest in Mitchell.

Witness: Brian K. West

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**DATA REQUEST**

**KPSC 3\_24** Refer to Kentucky Power's Response to Staff's Second Request, Item 40a.

- a. For the peak and off-peak periods for the 36-month, 18-month and 6-month hedging periods, provide a detailed description of the forecast equations and the data used to forecasted MWh generation for the Big Sandy and Mitchell units.
- b. Explain whether the forward market price is available hourly 36 months out.

**RESPONSE**

a. KPCO\_R\_KPSC\_3\_24\_ConfidentialAttachment1 illustrates the calculation of peak and off-peak hedge positions for the month of December 2023. All months in the 36-month forecast horizon will be calculated similarly with appropriate values for each flow month. As mentioned in the prior response, the positions for all months in the 36-month forecast horizon are reviewed and updated regularly.

Line M of the exhibit indicates that the Company is short peak energy and off-peak energy for the month of December. The Company would analyze covering that shortfall with financial power hedges.

Lines H, I, and J of the exhibit display the forecasted generation for the Mitchell and Big Sandy units. This information is sourced from a generation forecast model that uses forward market prices and unit-specific generation parameters for each month, including heat rate, ramp rate, planned outage schedule, forced outage projection, expected fuel cost, and other dispatch costs such as fuel handling, chemical, and emission allowances.

b. No, it is not because the forward market is not traded hourly. Forward markets are traded either in on-peak, off-peak or around the clock strips.

Witness: Alex E. Vaughan

KPCO\_R\_KPSC\_3\_24\_PublicAttachment1 has been redacted in its entirety.



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**DATA REQUEST**

**KPSC 3\_25** Refer to Kentucky Power's Response to Staff's Second Request, Item 40b.

a. Explain the anticipated number of peak and off-peak hours for which Kentucky Power will purchase hedging contracts.

b. To the extent that Kentucky Power's regulated affiliates purchase forward hedging contracts, provide a list of the types of contracts being purchased.

**RESPONSE**

a. The number of peak and off-peak hours purchased for any forecast month will be determined by the calculations described in KPCO\_R\_KPSC\_3\_24\_ConfidentialAttachment1.

Generally, financial hedge purchases would be utilized during months when one or more Big Sandy or Mitchell units are in planned outages and forecasted load is projected to exceed the remaining forecasted generation. Additionally, in months when load is higher, the available generation from all units may not be sufficient to cover the load, indicating that financial hedge purchases may be necessary.

b. The types of financial transactions available for forward hedging can be broken down by product, hub, and strip as follows:

Product:	Off-peak Futures, Peak Futures or Around the Clock (ATC) Futures
Hub:	AEP Dayton (AD) Hub Day Ahead (DA) or PJM Western Hub DA
Strip:	Year, Quarter or Month

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_26** Refer to Kentucky Power's Response to Staff's Second Request, Item 40c.

- a. Explain whether Kentucky Power explored any other methods to balance out energy prices aside from the proposed hedging plan. If so, explain why those other options were rejected.
- b. Provide an estimate of AEP Service Corp.'s costs including the costs of purchasing and settling contracts and any other costs that would be allocated or charged to Kentucky Power.

**RESPONSE**

a. The Company considered the use of financial natural gas options and financial power options. After a review of the liquidity of these markets and the associated premiums relative to their efficacy for hedging the load, the Company decided not to use these instrument types at this time. If the market changes for these instruments, the Company may seek approval to use them in the future.

Additionally, the Company continues to evaluate all sources of long-term power supply, including solar, wind, storage, gas, and coal. Energy from these sources would be incorporated in the 36-month forecast when approved, which could reduce the need for financial power hedges in certain months depending on the balance of load and other resources.

b. No additional personnel will need to be hired to execute the hedging plan, and broker and transaction fees related to the hedging activity are expected to be de minimis. Costs allocated from AEPSC also are not expected to change as a result of implementing this program.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_27** Refer to Kentucky Power's Response to Staff's Second Request, Item 43a. If the proposed hedging plan is approved as proposed, explain whether the peaking unit equivalent (PUE) fuel adjustment charge (FAC) mechanism would be eliminated.

**RESPONSE**

The PUE FAC limitation would be eliminated for all hourly purchase volumes covered by a financial power hedge.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_28** Refer to Kentucky Power's Response to Staff's Second Request, Item 45.

- a. Confirm that Kentucky Power is no longer proposing that the 50 percent of the energy benefit being credited to low-income customers be recovered through Tariff PPA.

**RESPONSE**

Confirmed. The Company proposes to credit 50% of the energy benefit to low-income customers through a separate provision under Tariff R.S. (Kentucky Power Solar Credit) attached as KPCO\_R\_KPSC\_3\_29\_Attachment1. That amount would be removed from the FAC, which is where the energy benefit will manifest in rates once the facilities are operational.

Witness: Alex E. Vaughan

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**DATA REQUEST**

**KPSC 3\_29** Refer to Kentucky Power's Response to Staff's Second Request, Item 45. Provide a copy of the proposed compliance tariff filing for the low-income customer credit billing line item.

**RESPONSE**

Please see KPCO\_R\_KPSC\_3\_29\_Attachment1 for proposed language reflecting the low-income customer credit. Please see KPCO\_R\_KPSC\_3\_29\_Attachment2 which incorporates the low-income customer credit billing line item.

The tariff language in KPCO\_R\_KPSC\_3\_29\_Attachment2 proposes to credit customers over the course of January through March to better align with the Company's HEART (home energy assistance in reduced temperatures) program rather than one credit in January as described in Company Witness Vaughan's Direct Testimony.

Witness: Alex E. Vaughan

Witness: Lerah M. Kahn

KENTUCKY POWER COMPANY

P.S.C. KY. NO. 13 ORIGINAL SHEET NO. 5-1  
 CANCELLING P.S.C. KY. NO. 12 2<sup>ND</sup> REVISED SHEET NO. 5-1

**Tariff R.S.  
 (Residential Service)**

**Availability of Service**

Available for full domestic electric service through 1 (one) meter to individual residential customers including rural residential customers engaged principally in agricultural pursuits.

**Rate** (Tariff Codes 015, 017, 022)

Service Charge	\$20.00	per month
Energy Charge	12.947¢	per kWh

I  
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**Minimum Charge**

This tariff is subject to a minimum monthly charge equal to the Service Charge.

**Adjustment Clauses**

The bill amount computed at the charges specified above shall be increased or decreased in accordance with the following:

Residential Energy Assistance	Sheet No. 26
Demand-Side Management Adjustment Clause	Sheet No. 28
System Sales Clause	Sheet No. 29
Fuel Adjustment Clause	Sheet No. 30
Purchase Power Adjustment	Sheet No. 31
Environmental Surcharge	Sheet No. 32
Decommissioning Rider	Sheet No. 33
Distribution Reliability Rider	Sheet No. 34
Securitization Financing Rider	Sheet No. 35
Federal Tax Change	Sheet No. 36
City's Franchise Fee	Sheet No. 37
School Tax	Sheet No. 38

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**Volunteer Departments** (Tariff Code 024)

Volunteer Fire Departments may qualify pursuant to KRS 278.172 for this tariff but will be required to provide a completed Form 990 and update it annually.

**Kentucky Power Solar Credit**

The Kentucky Power Solar Credit is available only to residential customers participating in LIHEAP (Low Income Home Energy Assistance Program). This credit is funded solely by Kentucky Power's Solar Gardens distributed solar program. Total program funding per year is equal to 50% of the energy benefits produced by the Kentucky Power's Solar Gardens distributed solar program in the twelve months ending in October of each year. Total program funding will be split ratably between all eligible customers and credited to eligible customers' bills. The credit will be automatically reflected on eligible customers' electric bills in equal amounts over the course of January through March of each year. The credit amount will be updated annually and true-up annually to match the number of customers actually participating in the program at the time of the true-up. The monthly Fuel Adjustment Clause also will be adjusted to account for removal of 50% of the energy benefits produced by the Solar Gardens facilities and credited to eligible customers as detailed in this section.

N  
|

Credit Amount	\$X.XX	per month (January – March)
---------------	--------	-----------------------------

Continued on Sheet 5-2

T

DATE OF ISSUE: June 29, 2023  
 DATE EFFECTIVE: January 1, 2024  
 ISSUED BY: /s/ Brian K. West  
 TITLE: Vice President, Regulatory & Finance  
By Authority of an Order of the Public Service Commission  
In Case No.: 2023-00159 Dated XXXX XX, XXXX

KENTUCKY POWER COMPANY

P.S.C. KY. NO. 13 ORIGINAL SHEET NO. 5-2  
 CANCELLING P.S.C. KY. NO. 12 3<sup>rd</sup> REVISED SHEET NO. 5-2

**Tariff R.S. Continued  
 (Residential Service)**

T

**Optional Seasonal Provision** (*Tariff Code XXX*)

N

For residential customers desiring to take seasonal rate service. Service under this provision shall be for a minimum of 12 consecutive billing months.

Service Charge	\$20.00	per month
Energy Charge		
All kWh used during winter billing months (December-March)	11.947¢	per kWh
All kWh used during all other months (April-November)	13.762¢	per kWh

This provision is subject to the Service Charge, and the adjustment clauses as stated in the Adjustment Clause section.

**Storage Water Heating Provision**

This provision is withdrawn except for the present installations of current customers receiving service hereunder at premises served prior to April 1, 1997.

If the customer installs a Company approved storage water heating system which consumes electrical energy only during off-peak hours as specified by the Company and stores hot water for use during on-peak hours, the following shall apply:

*Tariff Code*

012	For Minimum Capacity of 80 gallons, the last 300 kWh of use in any month shall be billed at	8.603¢	per kWh
013	For Minimum Capacity of 100 gallons, the last 400 kWh of use in any month shall be billed at	8.603¢	per kWh
014	For Minimum Capacity of 120 gallons or greater, the last 500 kWh of use in any month shall be billed at	8.603¢	per kWh

I

These provisions, however, shall in no event apply to the first 200 KWH used in any month, which shall be billed in accordance with the "Monthly Rate" as set forth above.

For purpose of this provision, the on-peak billing period is defined as 7:00A.M. to 9:00P.M. for all weekdays, Monday through Friday. The off-peak billing period is defined as 9:00PM to 7:00AM for all weekdays and all hours of Saturday and Sunday.

The Company reserves the right to inspect at all reasonable times the storage water heating system and devices which qualify the residence for service under the storage water heater provision, and to ascertain by any reasonable means that the time-differentiated load characteristics of such devices meet the Company's specifications. If the Company finds that in its sole judgment the availability conditions of this provision are being violated, it may discontinue billing the Customer under this provision and commence billing under the standard monthly rate.

This provision is subject to the Service Charge, and the adjustment clauses as stated in the Adjustment Clauses section.

**Load Management Water-Heating Provision** (*Tariff Code 011*)

For residential customers who install a load management water-heating system which consumes electrical energy during off-peak hours specified by the Company and stores hot water for use during on-peak hours, of minimum capacity of 80 gallons, the last 250 kWh of use in any month shall be billed at 8.603¢ per kWh.

I

This provision, however, shall in no event apply to the first 200 kWh used in any month, which shall be billed in accordance with the "Monthly Rate" as set forth above.

For the purpose of this provision, the on-peak billing period is defined as 7:00 A.M. to 9:00 P.M. for all weekdays, Monday through Friday. The off-peak billing period is defined as 9:00 P.M. to 7:00 A.M. for all weekdays and all hours of Saturday and Sunday.

*Continued on Sheet 5-3*

T

DATE OF ISSUE: June 29, 2023  
 DATE EFFECTIVE: January 1, 2024  
 ISSUED BY: /s/ Brian K. West  
 TITLE: Vice President, Regulatory & Finance  
By Authority of an Order of the Public Service Commission  
In Case No.: 2023-00159 Dated XXXX XX, XXXX

KENTUCKY POWER COMPANY

P.S.C. KY. NO. 13 ORIGINAL SHEET NO. 5-3  
CANCELLING P.S.C. KY. NO. 12 2<sup>nd</sup> REVISED SHEET NO. 5-3

**Tariff R.S. Continued  
(Residential Service)**

T

**Load Management Water Heating Provision Continued**

T

The Company reserves the right to inspect at all reasonable times the load management water-heating system(s) and devices which qualify the residence for service under the Load Management Water-Heating Provision. If the Company finds that, in its sole judgment, the availability conditions of this provision are being violated; it may discontinue billing the Customer under this provision and commence billing under the standard monthly rate.

This provision is subject to the Service Charge, and the adjustment clauses as stated in the Adjustment Clauses section.

**Special Terms and Conditions**

This tariff is subject to the Company's Terms and Conditions of Service.

This service is available to rural domestic customers engaged principally in agricultural pursuits where service is taken through one meter for residential purposes as well as for the usual farm uses outside the home, but it is not extended to operations of a commercial nature or operations such as processing, preparing or distributing products not raised or produced on the farm, unless such operation is incidental to the usual residential and farm uses.

The Company shall have the option of reading meters monthly or bimonthly and rendering bills accordingly. When bills are rendered bimonthly, the minimum charge and the quantity of KWH in each block of the rates shall be multiplied by two.

Pursuant to 807 KAR 5:041, Section 11, paragraph (1), of Public Service Commission Regulations, the Company will make an extension of 1,000 feet or less to its existing distribution line without charge for a prospective permanent residential customer served under this R.S.Tariff. Pursuant to 807 KAR 5:041 Section 12 extensions of up to 150 feet for a mobile home are provided without charge.

This tariff is available for single-phase, residential service. Where the residential customer requests three-phase service, this tariff will apply if the residential customer pays to the Company the difference between constructing single-phase service and three-phase service. Where motors or heating equipment are used for commercial or industrial purposes, the applicable general service tariff will apply to such service.

Customers with PURPA Section 210 qualifying cogeneration and/or small power production facilities shall take service under Tariff COGEN/SPP I or by special agreement.

*Continued on Sheet 5-4*

T

DATE OF ISSUE: June 29, 2023  
DATE EFFECTIVE: January 1, 2024  
ISSUED BY: /s/ Brian K. West  
TITLE: Vice President, Regulatory & Finance  
By Authority of an Order of the Public Service Commission  
In Case No.: 2023-00159 Dated XXXX XX, XXXX



KENTUCKY POWER COMPANY

P.S.C. KY. NO. 13 ORIGINAL SHEET NO. 2-15  
 CANCELLING P.S.C. KY. NO. 12 ORIGINAL SHEET NO. 2-15

**Terms and Conditions of Service Continued**

T



**Service Address:**

KENTUCKY RESIDENTIAL  
 ADDRESS 123  
 ABC, KY XXXXX – XXXX

Account #XXX-XXX-XXX-X-X

**Line Item Charges:**

Previous Charges	
Total Amount Due At Last Billing	\$ XXX.XX
Payment 02/07/22 - Thank You	-XXX.XX
<b>Previous Balance Due</b>	<b>\$ X.XX</b>
Current KPCO Charges	
<b>Tariff XXX - Residential Service XX/XX/XX</b>	
Rate Billing	\$ XXXXX
Federal Tax Change @ X.XXXXX- Per kWh	-XXXX
Fuel Adj @ X.XXXXX Per kWh	XXXX
DSM Adj @ X.XXXXX Per kWh	XXXX
Residential Energy Assistance @ \$XXX	XXXX
Distribution Reliability Rider @ \$X.XX	XXX
Purchased Power Adj. \$X.XXXXX/kWh	XXXX
Renewable Power Option Rider	XXXX
KY Power Solar Credit @ \$X.XX	XXXX
Securitization Financing Rider X.XXXXX%	XXXX
Decommissioning Rider X.XXXXX%	XXXX
Environmental Adj. X.XXXXX%	XXXX
School Tax	XXXX
City's Franchise Fee	XXXX
State Sales Tax	XXXX
<b>Current Balance Due</b>	<b>\$ XXX.XX</b>
Homeserve Warranty Service	\$ XXX

**Meter Read Details:**

Meter #XXXXXXXXXX					
Previous	Type	Current	Type	Metered	Usage
XXXXX	Actual	XXXXX	Actual	XXX	XXX kWh
Service Period XX/XX – XX/XX				Multiplier 1	
Next scheduled read date should be between MM DD and MM DD.					

**Notes from KPCO:**

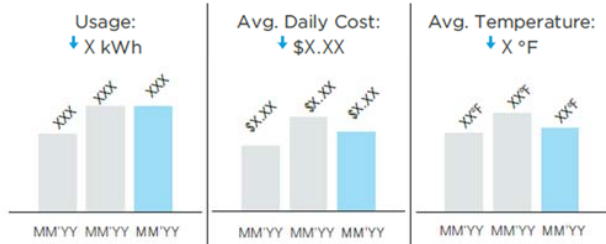
Kentucky Power provides online access to customer rate schedules at <https://kentuckypower.com/account/bills/rates/>. You can access a copy of your rates by clicking the "Kentucky Tariffs" link at that website. You can also view rates at our office, or request that a copy be sent to you via U.S. Postal Service or via email by calling customer service at 1-800-572-1113.

Homeserve USA is optional. Homeserve USA is not the same as KPCO and is not regulated by the KY Public Service Commission. A customer does not have to buy the Warranty Service in order to continue to receive quality regulated services from KPCO.

[www.kyelectricalprotectionplan.com](http://www.kyelectricalprotectionplan.com)

**Usage Details:**

↑↓ Values reflect changes between current month and previous month.



Total usage for the past 12 months: X,XXX kWh

Average (Avg.) monthly usage: XXX kWh

D  
N  
N  
N

Continued on Sheet 2-16

DATE OF ISSUE: June 29, 2023  
 DATE EFFECTIVE: January 1, 2024  
 ISSUED BY: /s/ Brian K. West  
 TITLE: Vice President, Regulatory & Finance  
By Authority of an Order of the Public Service Commission  
In Case No.: 2023-00159 Dated XXXX XX, XXXX

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_30** Refer to Kentucky Power's response to Staff's First Request, Item 47(b). The response was nonresponsive. Provide a robust explanation how Kentucky Power determined the reasoning on proposed 9.90 ROE. Provide any supporting calculations for the difference of a 9.90 ROE and Mr. McKenzie's 10.6 ROE.

**RESPONSE**

As noted in the Direct Testimony of Company Witness Wiseman, the Company is aware of the socioeconomic conditions facing its customers and sought ways, in its preparation of this case, to reduce the overall revenue requirement increase requested in this case. As part of its analysis, the Company evaluated the impact of proposing a lower ROE as compared to that recommended by Mr. McKenzie. 10 Basis Points (BPS) of ROE is worth approximately \$1 million of revenue requirement in the Company's as-filed case; therefore 70 BPS is worth approximately \$7 million in revenue requirement. The Company selected a proposed ROE of 9.9 based both on this impact and other specific risks faced by Kentucky Power, as detailed in Company Witness McKenzie's Direct Testimony. Please see KPCO\_R\_KPSC\_3\_30\_Attachment1 for the supporting BPS calculation.

Witness: Cynthia G. Wiseman

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_31** Refer to Kentucky Power's response to Staff's First Request, Item 50. Explain why Kentucky Power is proposing a higher ROE as compared to each of the other AEP operating companies.

**RESPONSE**

Historical allowed ROEs, such as those referenced in response to Staff's First Request, Item 50, do not provide a direct guide to a fair ROE for Kentucky Power under current capital market conditions. The data on which these historical allowed ROEs were based does not reflect investors' current requirements. As Mr. McKenzie discussed at pages 18-20 of his Direct Testimony, substantial evidence highlights a fundamental shift in investors' expectations and a material increase in the cost of capital. Significantly higher bond yields document a substantial increase in long-term capital costs. As a result, recent historical allowed ROEs significantly understate investors' current required returns. Coupled with the specific risks faced by Kentucky Power, this supports an ROE for the Company that exceeds current authorized ROEs for other AEP operating companies.

Witness: Adrien M. McKenzie

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_32** Refer to Kentucky Power's response to Staff's First Request, Item 54. Explain whether AEP has ever issued equity infusions to Kentucky Power and, if so, provide the amount and the issue date.

**RESPONSE**

Equity infusions of \$50 million and \$30 million were made in 2002 and 2009, respectively. The Company has not paid a dividend since its last base rate case to preserve the Company's equity to capitalization ratio. The nonpayment of a dividend and retention of equity that otherwise would be paid to the parent is comparable to an in direct equity infusion.

Witness: Franz D. Messner

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_33** Refer to Kentucky Power's Response to Staff's Second Request, Item 57(b). The response was not responsive. Provide a DCF calculation without excluding any values that are included in the model as requested.

**RESPONSE**

Please see KPCO\_R\_KPSC\_3\_33\_Attachment1.

Witness: Adrien M. McKenzie

	(a)	(a)	(a)	(a)
<b>Company</b>	<b>V Line</b>	<b>IBES</b>	<b>Zacks</b>	<b>br+sv Growth</b>
1 Avista Corp.	8.0%	9.7%	9.7%	8.8%
2 Black Hills Corp.	10.0%	9.4%	6.2%	10.2%
3 CenterPoint Energy	9.2%	1.6%	9.7%	7.6%
4 CMS Energy Corp.	9.7%	11.2%	11.3%	9.8%
5 Dominion Energy	9.0%	11.0%	19.8%	10.9%
6 DTE Energy Co.	8.0%	10.9%	9.5%	9.7%
7 Duke Energy Corp.	9.2%	9.5%	9.6%	7.8%
8 Edison International	20.4%	11.4%	7.3%	11.0%
9 Emera Inc.	12.6%	9.4%	n/a	9.6%
10 Entergy Corp.	4.6%	10.7%	10.1%	7.3%
11 Exelon Corp.	n/a	9.8%	10.1%	7.9%
12 Hawaiian Elec.	8.2%	5.0%	6.8%	8.3%
13 IDACORP, Inc.	7.5%	6.0%	6.0%	6.7%
14 NorthWestern Corp.	8.0%	9.0%	6.2%	8.1%
15 Otter Tail Corp.	7.0%	11.5%	n/a	7.2%
16 Pub Sv Enterprise Grp.	8.3%	6.2%	8.2%	8.7%
17 Sempra Energy	10.2%	7.4%	8.6%	7.9%
18 Southern Company	10.6%	11.4%	8.1%	10.9%
<b>Average</b>	<b>9.4%</b>	<b>9.0%</b>	<b>9.2%</b>	<b>8.8%</b>

(a) Sum of dividend yield (Exhibit AMM-5, p. 1) and respective growth rate (Exhibit AMM-5, p. 2).

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_34** Refer to Kentucky Power's Response to Staff's Second Request, Item 61. This response is not responsive. Provide an update to Exhibits AMM-7 and AMM-8 without eliminating any data points in the projected market growth estimation as requested.

**RESPONSE**

Please see KPCO\_R\_KPSC\_3\_34\_Attachment1.

Witness: Adrien M. McKenzie

	Company	(a)	(b)	(c)			(d)	(e)		(f)	CAPM Result
		Div Yield	Proj. Growth	Cost of Equity	Risk-Free Rate	Risk Premium	Beta	Unadjusted $K_e$	Market Cap	Size Adjustment	
1	Avista Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.90	11.7%	\$3,200	0.93%	12.7%
2	Black Hills Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.95	12.2%	\$4,600	0.58%	12.7%
3	CenterPoint Energy	2.1%	10.5%	12.6%	3.8%	8.8%	1.10	13.5%	\$17,900	0.45%	13.9%
4	CMS Energy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.80	10.8%	\$17,400	0.45%	11.3%
5	Dominion Energy	2.1%	10.5%	12.6%	3.8%	8.8%	0.80	10.8%	\$52,200	-0.26%	10.6%
6	DTE Energy Co.	2.1%	10.5%	12.6%	3.8%	8.8%	0.95	12.2%	\$22,900	0.45%	12.6%
7	Duke Energy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.85	11.3%	\$78,300	-0.26%	11.0%
8	Edison International	2.1%	10.5%	12.6%	3.8%	8.8%	0.95	12.2%	\$25,900	0.45%	12.6%
9	Emera Inc.	2.1%	10.5%	12.6%	3.8%	8.8%	0.70	10.0%	\$14,300	0.45%	10.4%
10	Entergy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.95	12.2%	\$23,000	0.45%	12.6%
11	Exelon Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	n/a	n/a	\$41,500	-0.26%	n/a
12	Hawaiian Elec.	2.1%	10.5%	12.6%	3.8%	8.8%	0.85	11.3%	\$4,600	0.58%	11.9%
13	IDACORP, Inc.	2.1%	10.5%	12.6%	3.8%	8.8%	0.80	10.8%	\$5,500	0.58%	11.4%
14	NorthWestern Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.90	11.7%	\$3,400	0.93%	12.7%
15	Otter Tail Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.90	11.7%	\$3,000	0.93%	12.7%
16	Pub Sv Enterprise Grp.	2.1%	10.5%	12.6%	3.8%	8.8%	0.90	11.7%	\$30,500	0.45%	12.2%
17	Sempra Energy	2.1%	10.5%	12.6%	3.8%	8.8%	0.95	12.2%	\$49,400	-0.26%	11.9%
18	Southern Company	2.1%	10.5%	12.6%	3.8%	8.8%	0.90	11.7%	\$71,300	-0.26%	11.5%
<b>Average (g)</b>								<b>11.6%</b>			<b>12.0%</b>

- (a) Weighted average for dividend-paying stocks in the S&P 500 based on data from www.valueline.com (retrieved Mar. 16, 2023)..
- (b) Average of weighted average earnings growth rates from IBES, Value Line, and Zacks for dividend-paying stocks in the S&P 500 based on data from Refinitiv, as provided by fidelity.com (retrieved Mar. 16, 2023), www.valueline.com (retrieved Mar. 16, 2023)., and www.zacks.com (retrieved Mar. 16, 2023).
- (c) Average yield on 30-year Treasury bonds for six-months ending Apr. 2023 based on data from Moody's Investors Service.
- (d) The Value Line Investment Survey, Summary & Index (Mar. 31, 2023).
- (e) The Value Line Investment Survey (Jan. 20, Feb. 10 and Mar. 10, 2023).
- (f) Kroll, 2023 Supplementary CRSP Decile Size Study Data Exhibits.
- (g) Excludes highlighted values.



	Company	(a)	(b)	(c)			(d)		(e)	(d)		(f)	(g)		ECAPM Result	
		Div Yield	Proj. Growth	Cost of Equity	Risk-Free Rate	Risk Premium	Unadjusted RP Weight	Beta	Adjusted RP Weight	Total RP	Unadjusted $K_e$	Market Cap	Size Adjustment			
1	Avista Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.90	75%	5.9%	8.1%	11.9%	\$3,200	0.93%	12.9%
2	Black Hills Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.95	75%	6.3%	8.5%	12.3%	\$4,600	0.58%	12.9%
3	CenterPoint Energy	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	1.10	75%	7.3%	9.5%	13.3%	\$17,900	0.45%	13.7%
4	CMS Energy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.80	75%	5.3%	7.5%	11.3%	\$17,400	0.45%	11.7%
5	Dominion Energy	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.80	75%	5.3%	7.5%	11.3%	\$52,200	-0.26%	11.0%
6	DTE Energy Co.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.95	75%	6.3%	8.5%	12.3%	\$22,900	0.45%	12.7%
7	Duke Energy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.85	75%	5.6%	7.8%	11.6%	\$78,300	-0.26%	11.4%
8	Edison International	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.95	75%	6.3%	8.5%	12.3%	\$25,900	0.45%	12.7%
9	Emera Inc.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.70	75%	4.6%	6.8%	10.6%	\$14,300	0.45%	11.1%
10	Entergy Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.95	75%	6.3%	8.5%	12.3%	\$23,000	0.45%	12.7%
11	Exelon Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	n/a	75%	n/a	n/a	n/a	\$41,500	-0.26%	n/a
12	Hawaiian Elec.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.85	75%	5.6%	7.8%	11.6%	\$4,600	0.58%	12.2%
13	IDACORP, Inc.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.80	75%	5.3%	7.5%	11.3%	\$5,500	0.58%	11.9%
14	NorthWestern Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.90	75%	5.9%	8.1%	11.9%	\$3,400	0.93%	12.9%
15	Otter Tail Corp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.90	75%	5.9%	8.1%	11.9%	\$3,000	0.93%	12.9%
16	Pub Sv Enterprise Grp.	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.90	75%	5.9%	8.1%	11.9%	\$30,500	0.45%	12.4%
17	Sempra Energy	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.95	75%	6.3%	8.5%	12.3%	\$49,400	-0.26%	12.0%
18	Southern Company	2.1%	10.5%	12.6%	3.8%	8.8%	25%	2.2%	0.90	75%	5.9%	8.1%	11.9%	\$71,300	-0.26%	11.7%
<b>Average (h)</b>												<b>11.9%</b>		<b>12.3%</b>		

- (a) Weighted average for dividend-paying stocks in the S&P 500 based on data from www.valueline.com (retrieved Mar. 16, 2023)..
- (b) Average of weighted average earnings growth rates from IBES, Value Line, and Zacks for dividend-paying stocks in the S&P 500 based on data from Refinitiv, as provided by fidelity.com (retrieved Mar. 16, 2023), www.valueline.com (retrieved Mar. 16, 2023)., and www.zacks.com (retrieved Mar. 16, 2023).
- (c) Average yield on 30-year Treasury bonds for six-months ending Apr. 2023 based on data from Moody's Investors Service.
- (d) Roger A. Morin, *New Regulatory Finance*, Pub. Util. Reports, Inc. (2006) at 190.
- (e) The Value Line Investment Survey, Summary & Index (Mar. 31, 2023).
- (f) The Value Line Investment Survey (Jan. 20, Feb. 10 and Mar. 10, 2023).
- (g) Kroll, 2023 Supplementary CRSP Decile Size Study Data Exhibits.
- (h) Excludes highlighted values.

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_35** Refer to Kentucky Power's Response to Staff's Second Request, Item 63b. This response is not responsive. Provide a cost breakdown for the \$113,624,552 in short- term debt.

**RESPONSE**

Please see KPCO\_R\_KPSC\_3\_35\_Attachment1, which contains the daily AEP Money Pool interest rate for the period of April 1, 2022 through March 31, 2023, a time during which the rate increased from 0.9935% to 5.3656%. These rates are determined by AEP's daily outstanding weighted average outstanding short-term debt.

Witness: Franz D. Messner

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_36** Refer to Kentucky Power's response to Staff's First Request, Item 64.

a. Explain when the short-term commercial paper would need to be rolled into long-term debt, if necessary.

b. Explain how long Kentucky Power has used its working capital to finance coal purchases. Include in the explanation whether this is an AEP process adopted by Kentucky Power or a Kentucky Power procedure.

**RESPONSE**

a. When the balance of short-term borrowings is expected to exceed the Company's FERC-authorized \$180 million short-term debt limit, the Company issues long-term debt to "term out" short-term debt by issuing long-term debt and repaying short-term borrowings.

b. Working capital is a standard accounting term used to describe the difference between a company's current assets and its current liabilities. Current assets can include cash, accounts receivable, coal inventory, and other assets that are expected to be liquidated or turned into cash in less than one year. Current liabilities can include accounts payable, wages, taxes payable, short-term debt and the current portion of long-term debt that's due within one year. The purchase of coal using short-term debt is standard; there is no discrepancy between this process being both a Kentucky Power process and a process consistent with other utilities in the AEP system. The amount of short-term debt at any given time is determined by many factors including level of capital investment, expenses, revenues, dividends, long-term debt issuances and maturities.

Witness: Franz D. Messner

Kentucky Power Company  
KPSC Case No. 2023-00159  
Commission Staff's Third Set of Data Requests  
Dated September 11, 2023

**DATA REQUEST**

**KPSC 3\_37** Refer to Kentucky Power's Response to Staff's Second Request, Item 74b.

- a. Explain the cost components that comprise Olive Hill's and Vanceburg's rates.
- b. Provide a copy of each wholesale contracts.
- c. Explain how the underlying costs that were deferred to the regulatory assets were allocated to and recovered from wholesale customers. For any costs that were not allocated to wholesale customers, explain why not.

**RESPONSE**

a. The components of Olive Hill's and Vanceburg's monthly bill are outlined in section 4.7 of KPCO\_R\_KPSC\_3\_37\_Attachment1 and KPCO\_R\_KPSC\_3\_37\_Attachment2.

b. Please see the response to part a.

c. The Tariff P.P.A. Under-Recovery Regulatory Asset, Rockport Deferral Regulatory Asset, and Storm Expense Deferral Regulatory Assets relate only to the Kentucky retail jurisdiction.

Until the wholesale contracts terminate in May 2025, a portion of Decommissioning Rider Regulatory Asset amortization has been assumed to be allocated to and recovered from wholesale customers. At the time of wholesale contract termination, the remaining balance relates only to the Kentucky retail jurisdiction.

Witness: Heather M. Whitney

Witness: Michael M. Spaeth

**Kentucky Power Company  
FERC Rate Schedule No. 52**

**Original Sheet No. 1**

**COST-BASED FORMULA RATE  
AGREEMENT FOR  
FULL REQUIREMENTS ELECTRIC SERVICE**

**DATED AS OF DECEMBER 21, 2005**

**BY AND BETWEEN**

**AMERICAN ELECTRIC POWER SERVICE CORPORATION, AS AGENT FOR  
KENTUCKY POWER COMPANY, AND  
THE CITY OF OLIVE HILL, KENTUCKY**

**Issued by: Timothy C. Mosher, President  
Kentucky Power Company**

**Issued on: December 22, 2005**

**Effective: January 1, 2006**

Kentucky Power Company  
FERC Rate Schedule No. 52

Original Sheet No. 2

**COST-BASED FORMULA RATE  
AGREEMENT FOR FULL REQUIREMENTS ELECTRIC SERVICE**

This AGREEMENT is dated as of December 21, 2005 ("Effective Date") and is by and between the American Electric Power Service Corporation ("AEPSC"), as agent for Kentucky Power Company (Kentucky Power Company hereinafter referred to as "Company"), and the City of Olive Hill, Kentucky ("Customer") (Company and Customer each individually referred to herein as a "Party," or collectively, the "Parties").

**RECITALS**

**WHEREAS**, Company is a corporation organized and existing under the laws of the State of Kentucky, with its principal place of business at 101 A Enterprise Drive, P.O. Box 5190, Frankfort, Kentucky 40602, and owns and operates facilities for the generation, transmission and distribution of electric power and energy in the State of Kentucky; and

**WHEREAS**, Customer is a municipal corporation chartered and existing under and by virtue of the laws of the State of Kentucky, with its principal place of business at 225 Roger Patton Drive, Olive Hill, Kentucky 41164-0460; and

**WHEREAS**, Customer requires Full Requirements Electric Service to meet Customer's Retail Load; and

**WHEREAS**, Company has proposed to supply Full Requirements Electric Service to Customer, subject to the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the Parties hereby agree that this Agreement, together with the Appendices attached hereto and Related Documents, sets forth the terms under which Company will supply Full Requirements Electric Service to Customer, during the Delivery Period; constitutes the entire agreement among the Parties relating to Full Requirements Electric Service at cost-based rates; and supersedes any other agreements, written or oral (including without limitation any preliminary term sheet), among the Parties concerning this subject matter.

**ARTICLE 1: DEFINITIONS**

The following words and terms shall be understood to have the following meanings when used in this Agreement or in any associated documents entered into in conjunction with this Agreement. This Agreement includes certain capitalized terms that are not explicitly defined herein. Such capitalized terms shall have the meanings specified in the "Related Documents," as the same are in effect from time to time, which meanings are incorporated herein by reference and made a part

Issued by: Timothy C. Mosher, President  
Kentucky Power Company

Issued on: December 22, 2005

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**Kentucky Power Company  
FERC Rate Schedule No. 52**

**Original Sheet No. 3**

hereof. In the event of any inconsistency between a definition contained herein and a definition contained in "Related Documents," the definition in this Agreement shall control for purposes of this Agreement. Certain other definitions as required appear in subsequent parts of this Agreement.

- 1.1 **AEP Operating Companies** means the electric utility subsidiaries of American Electric Power Company, Inc., consisting of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, Southwest Electric Power Company and Public Service Company of Oklahoma. "AEP Operating Companies" may include fewer than all of the listed companies, or may include AEPSC, where the context requires such interpretation.
- 1.2 **Affiliate** means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
- 1.3 **Agreement** means this Cost-Based Formula Rate Agreement for Full Requirements Electric Service, including the Appendices and Related Documents, as amended, modified or supplemented from time to time.
- 1.4 **Ancillary Services** means the following services related to the Full Requirements Electric Service to be supplied under the terms of this Agreement to the Delivery Points: those services set forth in the OATT schedules and any supplemental or revised tariffs or schedules adopted by the Transmission Provider, including, without limitation, Scheduling, System Control and Dispatch Service; Transmission Owners Scheduling, System Control and Dispatch Service; Reactive Supply and Voltage Control from Generation Sources Service; Regulation and Frequency Response Service; Energy Imbalance Service; Operating Reserve-Spinning Reserve Service; Operating Reserve-Supplemental Reserve Service; and Black Start Service (as each of those services is defined in the OATT).
- 1.5 **Billing Period** means the calendar month which shall be the standard period for all payments and metering measurements under this Agreement, unless otherwise specifically required by the Transmission Provider or the entity providing meter reading services.
- 1.6 **Business Day** means a day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the North American Electric Reliability Council; provided, that,

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with respect to any payment due hereunder, a "Business Day" means a day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in Columbus, Ohio are authorized by law to close; and, provided, further, that with respect to any notices for scheduling to be delivered pursuant to any Section hereof, a "Business Day" shall be a day other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the Transmission Provider.

- 1.7 **Calendar Year** means a twelve-consecutive-month period commencing at midnight on January 1 and ending at midnight on December 31.
- 1.8 **Claims** means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of this Agreement, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.
- 1.9 **Confidential Information** means such information as the Parties agree shall remain confidential. Notwithstanding the foregoing, the following shall not constitute Confidential Information:
- a. Information which was already in a Party's possession prior to its receipt from another Party and not subject to a requirement of confidentiality;
  - b. Information which is obtained from a third person who, insofar as is known to the Party, is not prohibited from transmitting the information to the Party by a contractual, legal or fiduciary obligation to the Party; and
  - c. Information which is or becomes publicly available through no fault of the Party.
- 1.10 **Contract Year** means a twelve-consecutive-month period beginning at midnight on June 1 and ending at midnight on May 31 of the subsequent Calendar Year.
- 1.11 **Credit Rating** means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations or its long-term revenue bonds (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt or its long-

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term revenue bonds, then the rating then assigned to such entity as an issuer rating by S&P and/or Moody's.

- 1.12 **Defaulting Party** means the Party who has caused an Event of Default.
- 1.13 **Delivery Period** means the period defined in Section 2.2 of this Agreement.
- 1.14 **Delivery Points** mean the point or points designated on Appendix A, to which Company will deliver and at which Customer will accept Firm Energy.
- 1.15 **Early Termination Date** is the date selected by the Non-Defaulting Party to terminate this Agreement.
- 1.16 **Eastern Prevailing Time** means the prevailing time in Columbus, Ohio.
- 1.17 **Energy** means three-phase, 60-cycle alternating current electric energy, expressed in KWhs.
- 1.18 **Event of Default** means those events by the Defaulting Party, as set forth in Article 7 of this Agreement, which give the Non-Defaulting Party the right to terminate this Agreement or exercise other remedies available under this Agreement or at law or in equity.
- 1.19 **FERC** means the Federal Energy Regulatory Commission.
- 1.20 **Firm Energy** means Energy that Company is required by this Agreement to sell and deliver and that Customer is required by this Agreement to purchase and receive, in each case without interruption except as provided in Section 8.2 hereof, unless relieved of their respective obligations without liability by Force Majeure, but in the case of Force Majeure only to the extent that, and for the period during which, either Party's performance is prevented by Force Majeure.
- 1.21 **Force Majeure** means an event or circumstance, subject to the limitations set forth in Section 8.4 hereof, that prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the date the Agreement was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided.
- 1.22 **Full Requirements Electric Service** means the supply of Firm Energy to be provided by Company to the Customer at the Delivery Points, as the same may fluctuate in real time to serve Customer's Retail Load, together with all

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associated generation-related services as more fully described in Article 3 and Appendix C of this Agreement.

- 1.23 **Generation Resource** means the generation assets owned by Company, the Company's share of any jointly-owned units, long-term capacity purchases by the Company, and all co-generators, qualifying facilities, and independent power producers generating plants not owned by the Company, but that produce electric power and sell it to the Company.
- 1.24 **Good Utility Practice** means any of the practices, methods, techniques and standards (including the practices, methods, techniques and standards approved by a significant portion of the electric power generation industry, the Transmission Provider and/or NERC) that, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made and having due regard for, among other things, contractual obligations, applicable laws and equipment manufacturer's recommendations, could have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather to be a range of possible practices, methods, techniques or standards.
- 1.25 **KW** means kilowatt.
- 1.26 **KWh** means kilowatt-hour.
- 1.27 **Letter(s) of Credit** means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form and from a bank acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.
- 1.28 **Load Serving Entity** means any entity (or the duly designated agent of such an entity) (i) serving end-users within the Transmission Provider's transmission service area, and (ii) that has been granted the authority or has an obligation pursuant to state or local law, regulation or franchise to sell electric energy to end-users located within the Transmission Provider's transmission service area.
- 1.29 **Losses** means any transmission loss, transformation loss, sub-transmission and/or distribution losses incurred in providing Full Requirements Electric Service hereunder; provided, however, that Losses shall only include losses incurred between the sources of Energy and the Delivery Points. In no case

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shall Losses include losses that may be incurred from the Delivery Points to the ultimate retail customers.

- 1.30 **Market Rules and Procedures** means the market rules, manuals and procedures adopted by the Transmission Provider, as may be amended from time to time, and as administered by the Transmission Provider to govern operations within the Transmission Provider's transmission service area.
- 1.31 **Monthly Charges** means the monthly charges set out in Article 4 of this Agreement.
- 1.32 **Moody's** means Moody's Investors Service, Inc. and its successors.
- 1.33 **MW** means Megawatt.
- 1.34 **MWh** means Megawatt-hour.
- 1.35 **NERC** means the North American Electric Reliability Council.
- 1.36 **Network Integration Transmission Service** or **NITS** means firm transmission service as set forth in the Transmission Provider's OATT that provides for delivery of Firm Energy to the Delivery Points.
- 1.37 **Non-Defaulting Party** means the Party that has not caused an Event of Default.
- 1.38 **Normal Load Growth** means the future load growth predicted by fitting a curve to the most recent ten years of historical annual peak demands. Such curve shall be selected to minimize the sum of the squared error terms and maximize the  $R^2$  statistics from the following possible curve types: (1) linear; (2) quadratic; or (3) logarithmic.
- 1.39 **OATT** means the Transmission Provider's Open Access Transmission Tariff on file at FERC.
- 1.40 **Performance Assurance** means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.
- 1.41 **PJM** means PJM Interconnection, LLC.
- 1.42 **Prime Rate** means the lesser of (i) the rate published from time to time in The Wall Street Journal, as the prime lending rate, or (ii) the maximum rate permitted by applicable law.
- 1.43 **Receiving Party** is defined in Article 6.

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- 1.44 **Related Documents** means, either collectively or individually, the Interconnection and Local Delivery Services Agreement, the PJM Open Access Transmission Tariff, the PJM Operating Agreement, the PJM Reliability Agreement, the PJM West Reliability Assurance Agreement, and any other applicable PJM Market Rules And Procedures.
- 1.45 **Retail Load** means Energy metered at the Delivery Points to meet the requirements of Customer's end use customers located within the service area that Customer has a statutory or other right to serve.
- 1.46 **Requesting Party** is defined in Article 6.
- 1.47 **S&P** means Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.).
- 1.48 **Term** is defined in Section 2.1 of this Agreement.
- 1.49 **Transmission Provider** means the entity or entities transmitting or transporting the Firm Energy, and responsible for providing Ancillary Services associated with the delivery of Full Requirements Electric Service, from the Generation Resources to the Delivery Points. The Transmission Provider as of the Effective Date of this Agreement is PJM.

## ARTICLE 2: TERM, SERVICE AND DELIVERY PROVISIONS

- 2.1 Term.** The Term of this Agreement shall begin as of the Effective Date and extend through and include the end of the Delivery Period. The applicable provisions of this Agreement shall continue in effect in accordance with Article 16.11, Survival, or by their own terms, and to the extent necessary to provide for final accounting, billing (including all true-ups hereunder), billing adjustments, resolution of any billing disputes, realization of any collateral or other security, set-off, final payments, or payments pertaining to liability and indemnification obligations arising from acts or events that occurred in connection with this Agreement during the Delivery Period.
- 2.2 Delivery Period.** The Delivery Period shall commence on **January 1, 2006**, and extend through **May 31, 2025**, from hours ending 0100 through 2400 Eastern Prevailing Time, unless an Early Termination Date becomes effective in accordance with the provisions hereof, in which event the Delivery Period shall end as of 2400 Eastern Prevailing Time on the Early Termination Date.
- 2.3 Planning.** The Parties understand and agree that, as a result of this Agreement, the Company will plan to provide Full Requirements Electric Service to Customer during the Delivery Period of this Agreement. In recognition of this fact, the Parties have entered

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into a long-term agreement, with a fixed termination date. Unless the Parties negotiate and enter into a new agreement for a delivery period beyond the end of the Term of this Agreement, the Company's obligation to serve Customer at cost-based rates under this Agreement, and the Customer's obligation to take service from the Company under this Agreement, shall terminate at the end of the Term provided for herein. In order for the Company to continue to plan to serve the Customer beyond that date, the Parties understand and agree that, absent a written mutual agreement to the contrary, the Parties will need to negotiate and execute a new agreement for a new delivery period extending beyond the last day of the Term of this Agreement, at least eight (8) years before the end of the Delivery Period.

- 2.4 Delivery Points.** The Delivery Points for the Full Requirements Electric Service to be provided hereunder are set forth on Appendix A. In coordination with the Transmission Provider, if necessary, and subject to the execution of any necessary agreements, the Parties may mutually agree to add or delete Delivery Points and to make other changes regarding Delivery Points. Whenever there is any change in Delivery Points, Appendix A hereto automatically shall be amended to reflect such change.

### **ARTICLE 3: SALE AND PURCHASE**

#### **3.1 Full Requirements Service.**

- (a) During the Delivery Period, Company shall sell and deliver and Customer shall exclusively receive and purchase Full Requirements Electric Service at the Delivery Points sufficient to serve Customer's Retail Load, except as otherwise provided herein. As a provider of Full Requirements Electric Service, Company is solely responsible for satisfying all requirements and paying all costs incurred or to be incurred to provide Full Requirements Electric Service, and Customer shall pay for such Full Requirements Electric Service as provided in Article 4 of this Agreement. Full Requirements Electric Service includes all generation-related services and schedules associated with Full Requirements Electric Service, as more fully identified in Appendix C of this Agreement.
- (b) Appendix C, delineating the respective cost responsibilities of Company and Customer for generation-related and transmission-related services and schedules, respectively, is based upon the current PJM Operating Agreement and PJM OATT, and reflects the Company's current accounting for generation-related services and schedules, which are collected through the cost-of-service formulas set forth in Appendix B hereto. As either (i) schedules and services are added, deleted or changed in those agreements and tariffs of the Transmission Provider or in other documents governing the provision of and charges for services required in connection with Full Requirements Electric Service, or (ii) the accounting for such charges is changed, the Parties shall negotiate in good faith to determine, consistent with the principles underlying

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Appendix C, which new or changed schedules and services are predominantly generation-related and therefore shall be included in Full Requirements Electric Service and which are predominantly transmission-related and therefore shall be the responsibility of Customer. Appendices B and C shall automatically be amended, in a prompt manner, to incorporate such changes as are mutually agreed to by the Parties. The Parties shall cooperate in good faith to ensure that, irrespective of changes in the mechanisms for recovery of costs by the Transmission Provider, and changes in accounting, the respective cost responsibilities of Company and Customer shall remain governed by this Agreement. In no event shall the costs of a particular service or schedule associated with Full Requirements Electric Service be recovered twice from Customer through its inclusion both in the costs used to derive the Full Requirements Electric Service unit rates pursuant to Appendix B and also in the costs in Appendix C for which Customer is responsible.

- (c) Company understands that the Customer's Retail Load may change from time to time. At no time during the Delivery Period shall Customer use either a) newly constructed or purchased generation resources, or b) new power purchase agreements, to reduce Customer's Retail Load. Company is responsible for Full Requirements Electric Service regardless of changes in Retail Load arising from daily fluctuations, increased or decreased usage, extreme weather and/or similar events; provided, however, that the Parties agree that this Agreement does not obligate the Company to sell to Customer, or the Customer to purchase from Company, at the rates set forth herein, Full Requirements Electric Service for any additions to Retail Load that exceed Normal Load Growth.
- (d) To the extent that Customer's Retail Load grows at a rate in excess of Normal Load Growth, Company and Customer agree to meet to discuss whether changes could be made to this Agreement to address how Customer's Retail Load that exceeds Normal Load Growth can be met under this Agreement; provided however, neither Party shall be required to accept a change with which it, in its sole judgment, disagrees. If the Parties do not agree how Customer's Retail Load that exceeds Normal Load Growth can be met under this Agreement, then Customer shall have the right to find alternate supplies to serve such excess Retail Load.

### **3.2 Transmission Service, Ancillary Services and Local Facilities Service.**

- (a) Company shall arrange for Network Integration Transmission Service (NITS) and Ancillary Services for Customer's Retail Load and shall be responsible during the Delivery Period for the provision of all such services. Customer shall be responsible for paying all NITS and any other related Transmission Provider charges (including but not limited to, administrative fees that the Company incurs but does not record on its books in generation-related accounts)

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as identified on Appendix C. During the Term of this Agreement, Customer agrees to reimburse the Company for all NITS and any other related Transmission Provider charges that the Company incurs on the Customer's behalf, as well as for all charges for Ancillary Services the Company incurs but does not record on its books in generation-related accounts.

- (b) Prior to the beginning of the Delivery Period, Customer agrees to execute an Interconnection and Local Delivery Service Agreement with the Company. During the Term of this Agreement, Customer further agrees to pay all charges related to the Interconnection and Local Delivery Service Agreement to Company, or to the Transmission Provider acting as a billing and collections agent for the AEP Operating Companies, if the Customer, Company and Transmission Provider so agree. The services provided under the Interconnection and Local Delivery Service Agreement are sometimes referred to in this Agreement as "Local Facilities Service."

### **3.3 Qualifying Facility Purchases.**

- (a) So long as Customer is receiving Full Requirements Electric Service from Company, Company shall be obligated to purchase the electrical output from any duly licensed and properly operating Qualifying Facility connected to Customer, but only so long as Company has such obligation pursuant to the Public Utility Regulatory Policies Act of 1978, as amended.
- (b) Company shall apply the Monthly Billing amounts set forth in Article 4 to the combined Full Requirements Electric Service supplied by Company and the amounts delivered by the Qualifying Facility to the Customer. If Customer pays the Qualifying Facility directly for such energy, Company shall provide a credit equal to Company's avoided cost rate at the rate that Company would have paid to the Qualifying Facility if Company had directly purchased the Qualifying Facility output.
- (c) Customer agrees that Customer will not, directly or indirectly, engage in any activity to encourage or promote the construction or installation of a Qualifying Facility, except as otherwise required by applicable law, and shall not itself install, purchase or operate a Qualifying Facility during the Term of this Agreement.
- (d) Customer shall notify Company of the proposed connection of any Qualifying Facility to any part of Customer's system served by Company. Notification shall be in writing as soon as practical, but at least ninety (90) days prior to the connection of the Qualifying Facility.

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**3.4 Retail Choice.**

- (a) The Parties expressly recognize that retail choice may occur in Customer's service area during the Term of this Agreement. In order to enable Customer to compete to retain existing customers, in the event retail choice is mandated in Customer's service area, by state or federal statutes, regulations, or regulatory agencies, or in the event other power suppliers plan to make a direct connection to one or more retail customers of Customer, the Parties agree as follows: If retail choice is available to a customer or an aggregated group of customers or a potential customer of Customer, Customer may negotiate a price with Company for the retention of such customer or group of customers, or to obtain new customers; provided, however, that if Customer and Company are unable to agree upon a price that retains or acquires such customer(s), then Customer may seek to obtain an alternate source of power supply, which Company shall have the right of last refusal to match within three (3) Business Days of being officially notified by Customer. Such alternate source of power can only be made available to that specific customer or aggregated groups of customers for the defined period of the contract for alternate power supply and shall not be made available to other Retail Load of Customer or to displace other purchases.
- (b) "Mandated by state or federal statutes or regulations or regulatory agencies" includes the following scenarios: (i) state or federal statutes or regulations or regulatory agencies provide for retail choice by Customer's Retail Load as part of a larger retail choice program (in either a pilot program or permanent program), or (ii) Customer is exempt from such state or federal statutes or regulations, but retail customers of Customer, by vote or other legally enforceable right, require that Customer offer them the same provisions and rights contained in a statewide retail choice program.

- 3.5 Renewable Portfolio Standards.** During the Term of this Agreement, if the Company is required, as a result of federal or state laws, rules or regulations, to meet the requirements of any renewable portfolio standards, the Company agrees to meet those requirements with regard to Customer's Retail Load. In no event shall the Company be obligated to meet any renewable portfolio standards imposed upon or enacted by Customer that are more stringent than those standards that the Company is required to meet.

**ARTICLE 4: MONTHLY RATES AND BILLING**

- 4.1 General Principles Regarding Monthly Charges for Full Requirements Electric Service.** The Monthly Charges for Full Requirements Electric Service supplied to Customer by Company hereunder during the Delivery Period of this Agreement shall include a Generation Demand Charge, a Generation Energy Charge (collectively, the "Generation Demand and Generation Energy Charges"), and a Generation Fuel Charge,

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all calculated in accordance with the terms of this Article and subject to all other terms and conditions contained in this Agreement. For each Calendar Year, the Generation Demand and Generation Energy Charges for which Customer is ultimately responsible shall be determined using data from Company's FERC Form 1 for that Calendar Year and the Return on Common Equity from December of the preceding Calendar Year as specified in Section 4.5(b). Because of the time lag in availability of the FERC Form 1 data, Generation Demand and Generation Energy Charges will initially be assessed based on estimated monthly rates, and a "true-up" will subsequently be conducted for each Calendar Year, as provided in Section 4.3 hereof. The Generation Energy Charge shall exclude fuel-related costs. All fuel-related costs shall be recovered through the Generation Fuel Charge, which shall be "trued up" to more current actual fuel-related costs by means of the Fuel Adjustment Charge set forth in Section 4.4 hereof. The monthly rates used to calculate the Generation Demand Charge, Generation Energy Charge and Generation Fuel Charge for Full Requirements Electric Service shall be determined pursuant to the cost-of-service formulas set forth in Appendix B hereto. These formulas will be used for both estimated and actual ("trued-up") rates and charges.

#### **4.2 Estimated Generation Demand and Generation Energy Charges.**

- (a) Estimated monthly rates shall be developed for each Contract Year. The estimated monthly rates used to calculate the Generation Demand Charge, Generation Energy Charge and Generation Fuel Charge shall be determined annually by the Company, pursuant to Appendix B, prior to the 31<sup>st</sup> day of May; be provided to the Customer, for its review by June 1; and be made effective as of June 1 (*i.e.*, at the commencement of each Contract Year). The estimated monthly rates in effect during each Contract Year shall be based upon the cost incurred in providing Full Requirements Electric Service for the most recent Calendar Year for which FERC Form 1 data is available.

For example, in Calendar Year 2007, for the first five months the estimated monthly rates used to bill Customer will be based upon Calendar Year 2005 FERC Form 1 data (and will be the same as the estimated monthly rates used in the latter portion of Calendar Year 2006); beginning on June 1, 2007, the estimated monthly rates will be based upon Calendar Year 2006 FERC Form 1 data (and will remain in effect for the remainder of the 2007-2008 Contract Year); and all charges based on these estimated rates for Calendar Year 2007 will be subject to "true-up" of the Generation Demand Rate and Generation Energy Rate in 2008, pursuant to Section 4.3.

- (b) The Parties agree that, based upon Company's FERC Form 1 data for 2004, the cost-of-service formulas set forth in Appendix B produce the following monthly Generation Demand Rate, Generation Energy Rate, and Generation Fuel Rate,

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which shall be charged to Customer by Company for the first partial Contract Year (*i.e.*, from January 1, 2006 through May 31, 2006), pursuant to this Agreement:

Generation Demand Rate	\$7.92/kilowatt
Generation Energy Rate	\$0.0036373/kilowatt-hour
Generation Fuel Rate	\$0.0145875/kilowatt-hour

The foregoing estimated monthly Generation Demand Rate and Generation Energy Rate and the Generation Demand and Generation Energy Charges they produce shall be adjusted as part of the “true-up” of Calendar Year 2006 Generation Demand and Generation Energy Charges pursuant to Section 4.3. The foregoing monthly Generation Fuel Rate shall not be adjusted as part of the “true-up” process, because the Fuel Adjustment Charge will recover actual fuel-related costs on a more current basis as provided in Section 4.4.

**4.3 True-Up of Generation Demand and Generation Energy Charges.** Because the Generation Demand and Generation Energy Charges initially collected during a Calendar Year will be the product of estimated rates based on data from previous Calendar Years, the Generation Demand and Generation Energy Charges shall be adjusted (or “trued-up”) based upon (i) FERC Form 1 cost data from that Calendar Year and (ii) the Return on Common Equity calculated using data from December of the previous Calendar Year as specified in Section 4.5(b). The true-up for Generation Demand and Generation Energy Charges shall be conducted by Company prior to May 31<sup>st</sup> of each Calendar Year once the FERC Form 1 data for the prior Calendar Year is available, and shall be accomplished by recalculating the sums due to Company from Customer for service provided during the prior Calendar Year. The difference between the sum of the Monthly Charges originally billed to Customer for service provided during the Calendar Year, based on the estimated monthly rates, and the sum of the Monthly Charges for which Customer is ultimately responsible shall be billed to Customer or credited to Customer, as appropriate, in three (3) equal amounts during the months of July, August and September of the year immediately following the Calendar Year for which the “true-up” is calculated, unless otherwise agreed by the Parties. The amount to be billed or credited for any such over-collections or under-collections will include interest at the Prime Rate, charged or applied from the date of original payment to the date when the over-collections or under-collections are paid or credited, but excluding the date paid or credited.

For example, the “true-up” of Generation Demand and Generation Energy Charges initially collected for service provided during Calendar Year 2007 shall be conducted by Company by May 31, 2008. The “trued-up” charges shall be calculated using (i) 2007 FERC Form 1 cost data and (ii) the Return on Common Equity calculated using data from December 2006. The difference between the sum of the Monthly Charges originally billed to Customer for service provided during 2007 (based on two different

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sets of estimated rates for portions of two Contract Years) and the sum of the “trued-up” Monthly Charges for Calendar Year 2007 will be billed to Customer or credited to Customer, as appropriate and with interest, in the invoices rendered in July, August and September 2008, unless otherwise agreed by the Parties. A timeline showing the timing for the calculation of estimated bills, true-ups and billings, using the first few years of the Delivery Period for illustrative purposes, is set forth on Appendix D.

**4.4 Fuel Adjustment Charge.** Customer shall pay Company a monthly Fuel Adjustment Charge determined pursuant to the cost-of-service formulas set forth in Appendix B hereto. The base cost of fuel, expressed in dollars per KWh, to be used in the Fuel Adjustment Charge shall equal the then-applicable Generation Fuel Rate. Customer shall be billed a Fuel Adjustment Charge each month for the energy delivered in the preceding month based upon estimated fuel charges in excess of the Generation Fuel Rate or, if applicable, shall be credited for the amount by which the estimated fuel charges are lower than the Generation Fuel Rate. Any differences between the estimated fuel charges and the fuel charges based on actual fuel costs shall be billed or credited to Customer on the first bill rendered after such actual fuel costs have been determined. Company shall use reasonable diligence when estimating monthly fuel charges so as to avoid any significant difference between estimated and actual monthly fuel charges to Customer.

**4.5 Cost-of-Service Formulas.** The cost-of-service formulas set forth in Appendix B were designed, by mutual agreement, primarily to use the Company’s FERC Form 1 costs. The Parties also agreed to the Appendix B treatment of costs that either are not reflected in the Company’s FERC Form 1 costs, or that the Parties agreed were not representative of the Company’s costs. The Parties agree that the specific elements of the cost-of-service formulas set forth below are an integrated and integral part of this Agreement:

- (a) For purposes of calculating the Company’s rate base used in Appendix B, the Parties agree that the Company will include one hundred percent (100%) of its expenditures for Pollution Control Facilities and Fuel Conversion Facilities (as defined in Section 35.25 of the FERC’s Regulations) recorded on the Company’s books and records as construction work in progress (“CWIP”), and fifty percent (50%) of its expenditures for all other CWIP.
- (b) The Return on Common Equity, which will be used to compute the composite cost of capital used in Appendix B, shall be determined annually by taking the average of the daily Moody’s Long-Term Baa Corporate Bond Index for the month of December and adding 585 basis points (5.85 percentage points). For estimated Monthly Charges, the composite cost of capital and estimated Monthly Charges shall be developed using the Appendix B formulas and data from the FERC Form 1 for the Calendar Year that ends with the same month of December as was used to determine the Return on Common Equity. (For example, by June 1, 2008, the composite cost of capital shall be determined using the Return on Common Equity from December, 2007 and other capital cost data from the FERC Form 1 for Calendar Year 2007. The resulting composite cost of capital shall be

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used in the Appendix B formulas together with other FERC Form 1 data for Calendar Year 2007 to determine the estimated Generation Demand and Generation Energy Charges and the Generation Fuel Rate for the Contract Year beginning June 1, 2008). For true-ups of the Generation Demand and Generation Energy Charges, the FERC Form 1 data for the Calendar Year being trued up shall be used in conjunction with the Return on Common Equity from December of the prior Calendar Year. (For example, once 2008 FERC Form 1 data are available in 2009, such data shall be used to compute the 2008 composite cost of capital using the Return on Common Equity from December, 2007. That composite cost of capital will be used with other 2008 FERC Form 1 data to determine the trued-up Generation Demand and Generation Energy Charges for Calendar Year 2008.) So long as the Return on Common Equity computed pursuant to this Section 4.5(b) is neither lower than 9.0% nor higher than 18.0%, the Parties agree that the Return on Common Equity used to compute the composite cost of capital in Appendix B shall not be subject to change under Sections 205 or 206 of the Federal Power Act ("FPA"), absent the mutual written consent of the Parties. In the event that the Return on Common Equity produced as a result of the calculation provided for herein is either below 9.0% or above 18.0%, either Party may seek FERC review of the Return on Common Equity value under the "just and reasonable" standard of Sections 205 and 206 of the FPA.

- (c) The Company's share of net revenue from deliveries to non-associated companies by the AEP Operating Companies ("System Sales") shall be shared twenty-five percent (25%) by Customer and seventy-five percent (75%) by Company, as shown on Appendix B. For purposes of this Section 4.5(c), "net revenue" refers to the revenue in excess of the full cost of making such System Sales.

#### **4.6 Billing Demand and Billing Energy.**

- (a) The monthly Billing Demand shall be the single highest 60-minute kW demand measured during the Billing Period.
- (b) The monthly Billing Energy shall be the total kWhs of Firm Energy measured during the Billing Period.

**4.7 Determination of Monthly Bill.** The Monthly Bill shall set forth charges for Full Requirements Electric Service, charges for Local Facilities Service, charges to reimburse costs incurred by the Company on behalf of the Customer in connection with Full Requirements Electric Service, and other charges associated with Full Requirements Electric Service. The Monthly Bill shall be the total of the following:

1. The product of the Generation Demand Rate and the Billing Demand; plus
2. The product of the Generation Energy Rate and the Billing Energy; plus

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3. The product of the Generation Fuel Rate and the Billing Energy; plus
4. The product of the Fuel Adjustment Charge and the Billing Energy; plus
5. All applicable charges in accordance with the Interconnection and Local Delivery Service Agreement, to the extent not billed directly to the Customer by the Transmission Provider or otherwise; plus
6. All amounts due to Company for reimbursement of charges incurred by Company as the NITS customer for delivery of Full Requirements Electric Service in accordance with the OATT or related agreements for transmission-related schedules or services for which Customer is responsible pursuant to Section 3.2(a) and Appendix C hereto, to the extent that such charges are not included in Items 1 through 5 above; plus
7. Any applicable taxes, fees and assessments attributable to Full Requirements Electric Service not included in any of the other elements of the Monthly Bill.

**4.8 Payment Date.** Customer shall pay Company any amounts due and payable hereunder on or before the later of the fifteenth (15<sup>th</sup>) day of each month, or the tenth (10<sup>th</sup>) day after receipt of invoice or, if such due date is not a Business Day, then on the next Business Day. If an invoice is received on a day that is not a Business Day, it shall be deemed to have been received on the next following Business Day. All invoices shall be paid by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the Company. If all or any part of any amount due and payable pursuant to this Agreement shall remain unpaid thereafter, interest shall thereafter accrue and be payable to Company on such unpaid amount at a rate per annum equal to the Prime Rate plus 2% per annum.

**4.9 Payment Netting.** Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to this Agreement through netting, in which case all amounts owed by each Party to the other Party under this Agreement, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it. All amounts netted pursuant to Article Four shall not take into account or include any Performance Assurance or guaranty, which may be in effect to secure a Party's performance under this Agreement. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly Billing Period, that Party shall pay such sum in full when due.

**4.10 Billing Disputes.** If a Party, in good faith, disputes an invoice, the disputing Party shall immediately notify the other Party of the basis for the dispute and pay the undisputed portion of such invoice no later than the due date; provided, however, with respect to any amounts the Company passes to the Customer from the Transmission Provider pursuant

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to Item 6 of Section 4.7 above, the full amount of the disputed bill shall be paid when due and any billing dispute shall be handled in accordance with the procedures set forth in the OATT. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with any accrued interest from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned by the receiving Party or deducted from subsequent payments at the option of the overpaying Party, in either case with interest accrued at the Prime Rate until the date paid or deducted, from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

### **ARTICLE 5: Transmission Provider Implementation**

#### **5.1 Implementation.**

- (a) Company and Customer shall enter into, and file with the Transmission Provider and other applicable entities, all documents necessary for the Company to fulfill its obligation to provide Full Requirements Electric Service.
- (b) The Parties recognize and agree that Company is the Customer's Load Serving Entity. The Parties further recognize and agree that the Full Requirements Electric Service to be provided hereunder is a load obligation of the Company and that the Company assumes such load obligation as its own firm power commitment and shall retain all advantages accruing from meeting the load.
- (c) Each Party shall provide the other Party access to information the other Party reasonably requests to facilitate the administration of this Agreement.

### **ARTICLE 6: CREDITWORTHINESS**

- 6.1 Financial Information.** If requested by a Party ("Party X"), the other Party ("Party Y") shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year with respect to Party Y, and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of the quarterly report containing unaudited consolidated financial statements for such fiscal quarter with respect to Party Y. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party Y diligently pursues the preparation, certification and delivery of the statements.

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**6.2 Performance Assurance.**

- (a) If at any time either Party has reasonable grounds to believe that the other Party's creditworthiness or performance under this Agreement has become unsatisfactory, the Party (the "Requesting Party") may provide the other Party (the "Receiving Party") with written notice requesting Performance Assurance in an amount determined by Receiving Party in a commercially reasonable manner.
- (b) Upon receipt of such notice the Receiving Party shall have ten (10) Business Days to remedy the situation by providing such Performance Assurance to the Requesting Party.
- (c) In the event that the Receiving Party fails to provide such Performance Assurance or other credit assurance acceptable to the Requesting Party within ten (10) Business Days of receipt of notice, then an Event of Default under Article 7 shall be deemed to have occurred.

**6.3 Grant of Security Interest/Remedies.**

- (a) To secure its obligations under this Agreement, and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting from said Performance Assurance or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting there from or from the liquidation thereof.
- (b) Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Affected Party may do any one or more of the following:
  - 1. exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect;
  - 2. exercise its rights of setoff against any and all property of the Affected Party in the possession of the Non-Affected Party or its agent;
  - 3. draw on any outstanding Letter of Credit issued for its benefit; and

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4. liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Affected Party, including any equity or right of purchase or redemption by the Affected Party.

(c) The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

**6.4 Interest Rate on Cash Amounts Held as Collateral.** For Performance Assurance in the form of cash that is held by a Party pursuant to this Article Six, the interest rate will be the Federal Funds Rate minus 0.25% as from time to time in effect. "Federal Funds Rate" means the rate, for the relevant determination date opposite the caption "Federal Funds (Effective)", as set forth in the weekly statistical release designated as H.15 (519), published by the Board of Governors of the Federal Reserve System. Such interest shall be calculated commencing on the date Performance Assurance in the form of cash is received by a Party but excluding the earlier of: (i) the date Performance Assurance in the form of cash is returned to a Party; or (ii) the date Performance Assurance in the form of cash is applied to a Pledgor's obligations pursuant to Section 6.3.

**6.5 Transfer of Interest Amount.** The Pledgor shall invoice the Secured Party monthly setting forth the calculation of the interest amount due, and the Secured Party shall make payment thereof by the later of (i) the third Business Day of the first month after the last month to which such invoice relates; or (ii) the third Business Day after the day on which such invoice is received.

## ARTICLE 7: DEFAULT AND REMEDIES

**7.1 Events of Default.** Any one or more of the following shall constitute an "Event of Default" hereunder with respect to either Party (the "Defaulting Party"):

- (a) The failure to make, when due, any payment required pursuant to this Agreement (other than payments disputed under Article 4) if such failure is not remedied within three (3) Business Days after written notice;
- (b) Any representation or warranty made by a Party herein is false or misleading in any material respect when made or when deemed made or repeated, if such failure is not remedied within thirty (30) Business Days after written notice;
- (c) The failure by either Party to provide Performance Assurance as required under Article 6;

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- (d) The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default as specified above, and except to the extent such Party's obligations to deliver or receive Firm Energy are modified by the provisions of Article 8), if such failure is not remedied within fifteen (15) Business Days after written notice;
- (e) Such Party: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (v) is generally unable to pay its debts as they fall due;
- (f) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party; or
- (g) Such Party experiences the occurrence and continuation of a default, event of default or other similar condition or event in respect of such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than U.S. Dollars \$100,000,000 for Company and U.S. Dollars \$100,000 for the Customer, which results in such indebtedness becoming immediately due and payable.

**7.2 Declaration of an Early Termination.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date"); (ii) withhold any payments due to the Defaulting Party under this Agreement; and (iii) suspend performance.

**7.3 Suspension of Performance.** Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Article 9 been given;

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- (b) to exercise any remedy available at law, subject to the limitations set forth in Section 10.1 hereof, including the right to seek to recover direct damages before a court of competent jurisdiction, and, if the Defaulting Party is the Customer, Company's right to seek to recover its Stranded Costs in accordance with Section 35.26 of the FERC's Regulations; and
- (c) to exercise any remedy available in equity.

**7.4 Obligations At Expiration or Termination.** Upon the termination or expiration of this Agreement, in addition to such rights and obligations enumerated elsewhere in this Agreement, the grant of any and all right and interest to Company to supply the Full Requirements Electric Service shall cease. Customer and Company shall cooperate, in advance to the extent possible, to make all necessary filings with the Transmission Provider and to perform all other acts necessary to transfer all such rights and interests back to Customer.

## **ARTICLE 8: CURTAILMENT, TEMPORARY INTERRUPTIONS, FORCE MAJEURE AND TRANSMISSION CURTAILMENT**

**8.1 Curtailment.** If there is a shortage of Energy requiring the curtailment of the Company's Firm Energy deliveries, then upon being notified by the Transmission Provider or the Company, Customer will institute procedures which will cause a corresponding curtailment of the use of Energy by the load served under this Agreement. It is the express intention of this provision that any curtailment of Energy shall fall equitably upon all loads served by the Company. If upon notification of a requirement to curtail, Customer fails to institute such procedures, Company shall be entitled to limit deliveries of Firm Energy to Customer in order to effectuate reductions in Energy deliveries, in the smallest amount that is operationally practical, equivalent to or greater than the reduction which would have been effected had Customer fulfilled its curtailment obligation hereunder during the period any shortage exists, and, in such event, Company shall not incur any liability to Customer in connection with any such action so taken by Company.

**8.2 Temporary Interruptions.** Company will use reasonable diligence in furnishing Firm Energy to Customer, but Company does not guarantee that the supply of Firm Energy furnished to Customer will be uninterrupted, or that voltage and frequency will be at all times constant. Temporary interruption of Firm Energy deliveries hereunder shall not constitute a breach of the obligations of Company under this Agreement, and Company shall not, in any cases where it has used reasonable diligence, be liable to Customer for damages resulting from any such temporary interruptions of service.

**8.3 Force Majeure.** To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as

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practicable, then the Claiming Party shall be excused from the performance of its obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

**8.4 Force Majeure Exceptions.** Force Majeure shall not be based on (i) the loss of any load by Customer; (ii) Customer's inability economically to use or resell the Full Requirements Electric Service contracted for hereunder; (iii) the loss or failure of Company's Generation Resources; or (iv) Company's ability to resell the Full Requirements Electric Service at a price greater than the pricing set forth herein.

**8.5 Transmission Curtailment.** The Parties understand and agree that Company may raise a claim of Force Majeure, on its and/or Customer's behalf, based in whole or in part on curtailment by the Transmission Provider, but only to the extent that such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff, because the Company will arrange for firm transmission with the Transmission Provider for the Full Requirements Electric Service to be provided hereunder.

**ARTICLE 9: NOTICES, REPRESENTATIVES OF THE PARTIES**

**9.1 Notices.** Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. Such notice shall be sent by facsimile, courier, personally delivered or mailed, postage prepaid, to the representative of the other Party designated in this Article 9. Any such notice, demand, or request shall be deemed to be given (i) when received by facsimile; (ii) when actually received if delivered by courier, overnight mail or personal delivery; or (iii) three (3) days after deposit in the United States mail, if sent by first class mail.

(a) Notices and other communications by Company to Customer shall be addressed to:

City Clerk  
City of Olive Hill, Kentucky  
225 Roger Patton Drive  
Olive Hill, KY 41164-0460  
Phone: 606-286-2192  
Facsimile: 606-286-8538

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With a copy to:

Mayor  
City of Olive Hill, Kentucky  
225 Roger Patton Drive  
Olive Hill, KY 41164-0460  
Phone: 606-286-5532  
Facsimile: 606-286-8538

- (b) Notices and other communications by Customer to Company shall be addressed to:

President  
Kentucky Power Company  
101 Enterprise Drive  
Frankfort, Kentucky 40601  
Phone: 502-696-7007  
Facsimile: 502-696-7006

with copies to:

Credit Risk Management  
American Electric Power Service Corporation  
155 W. Nationwide Blvd., Suite 400  
Columbus, OH 43215  
Phone: (614) 583-6728  
Facsimile: (614) 583-1604

and

Vice President – Energy Marketing  
American Electric Power Service Corporation  
155 W. Nationwide Blvd., Suite 500  
Columbus, OH 43215  
Phone: (614) 583-6408  
Facsimile: (614) 583-1626

- (c) Any Party may change its representative by written notice to the other Parties.

**9.2. Authority of Representative.** The Parties' representatives designated in Section 9.1 shall have full authority to act for their respective principals in all technical matters relating to the performance of this Agreement. The Parties' representatives shall not, however, have the authority to amend, modify or waive any provision of this Agreement

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unless they are authorized officers of their respective entities and such amendment, modification or waiver is made pursuant to Section 16.6.

## **ARTICLE 10: LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES**

### **10.1 Limitation on Consequential, Incidental and Indirect Damages.**

- (a) TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER CUSTOMER NOR COMPANY, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, NOR EMPLOYEES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE MEMBERS, PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. THE PROVISIONS OF THIS SECTION 10.1 SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

### **10.2 Indemnification.**

- (a) Each Party shall indemnify, defend and hold harmless each other Party from and against any Claims arising from or out of any event, circumstance, act or incident occurring or existing during the period when control and title to Full Requirements Electric Service is vested in such Party as provided in Section 10.3 of this Agreement.

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- (b) Each Party shall indemnify and hold harmless the other Party from and against any and all legal and other expenses, Claims, costs, losses, suits or judgments for damages to any person or destruction of any property arising in any manner directly or indirectly by reason of the acts of such Party's authorized representatives while on the premises of the other Party under any rights of access provided herein.
- (c) Customer shall indemnify and hold harmless the Company from and against any and all legal and other expenses, Claims, costs, losses, suits or judgments for damages to any individual, firm or corporation constituting any part of Customer's load arising in any manner directly or indirectly by reason of a failure, interruption or curtailment in Company's supply of Full Requirements Electric Service.
- (d) Company assumes no responsibility of any kind with respect to the construction, maintenance, or operation of the system or other property owned or used by Customer; and Customer agrees to protect indemnify and save harmless Company from any and all Claims, demands, or actions for injuries to person or property by any person, firm or corporation in any way resulting from, growing out of, or arising in or in connection with (a) the construction, maintenance or operation of Customer's system or other property; or (b) the use of, or contact with, Energy delivered hereunder after it is delivered to Customer and while it is flowing through the lines of Customer, or is being distributed by Customer, or is being used by Retail Load.
- (e) If a Party intends to seek indemnification under this Section 10.2 from the other Party with respect to any Claim, the Party seeking indemnification shall give such other Party notice of such Claim within fifteen (15) days of the commencement of, or actual knowledge of, such Claim. Such Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such Claim. The Party seeking indemnification shall not compromise or settle any such Claim without the prior consent of the other Party, which consent shall not be unreasonably withheld.

**10.3 Title: Risk of Loss.** Title to and risk of loss related to the Full Requirements Electric Service to be provided hereunder shall transfer from Company to Customer at the Delivery Points. Company warrants that it will deliver Full Requirements Electric Service to Customer free and clear of all Claims or any interest therein or thereto by any person arising prior to the Delivery Points.

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**ARTICLE 11: REPRESENTATIONS AND WARRANTIES**

**11.1 Company and Customer representations and warranties.** Company and Customer represent and warrant to the other that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) It has, or will upon execution of this Agreement promptly seek, all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, including, but not limited to, any organizational documents, charters, by-laws, indentures, mortgages or any other contracts or documents to which it is a party, or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
- (e) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming bankrupt; and
- (f) There is not pending or, to its knowledge, threatened against it any legal proceedings that could materially and/or adversely affect its ability to perform its obligations under this Agreement.

**11.2 Customer representations and warranties.** Customer represents and warrants to Company that:

- (a) With respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of its status as a municipality under Federal or state law or similar grounds with respect to itself or its revenues or assets from (i) suit, (ii) jurisdiction of court (including a court located outside the jurisdiction of its organization), (iii) relief by way of injunction, order for specific performance or recovery of property, (iv) attachment of assets, or (v) execution or enforcement of any judgment; provided, however, that nothing in this Section 11.2(a) is intended to cause a waiver of individual or personal immunity (whether it be absolute or qualified immunity), granted by law, to the

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officers, administrators, board members, council members, employees or agents of the Customer; and

- (b) Customer shall provide and maintain suitable protective devices on its equipment to prevent any loss, injury or damage that reasonably might be foreseen to result from single phasing conditions or any other fluctuations or irregularity in the supply of Energy. Company shall not be liable for any loss, injury or damage resulting from a single phasing condition or any other fluctuation or irregularity in the supply of Energy which could have been prevented by Customer's use of such protective devices; and
- (c) To the extent that retail customers that are not part of the service area that Customer has a statutory or other right to serve, as it exists as of the Effective Date hereof, now have or obtain in the future, during the Term of this Agreement, the ability to choose generation electric suppliers, Customer agrees that it will not seek to provide any type of electric service to such retail customers under this Agreement without the express consent of Company; and
- (d) Customer shall not take any actions inconsistent with this Agreement to change Customer's Retail Load due to prevailing electric market prices.

#### **ARTICLE 12: ASSIGNMENT**

- 12.1 General Prohibition Against Assignments.** Except as provided in Section 12.2 below, no Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld.
- 12.2 Exceptions to Prohibition Against Assignments.** A Party may, without the other Party's prior written consent, (and without relieving itself from liability hereunder) (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; or (ii) transfer or assign this agreement to any person or entity succeeding by merger or by acquisition to all or substantially all of the assets of the assigning Party, where such person's or entity's creditworthiness is equal to or higher than that of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.

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## ARTICLE 13: CONFIDENTIALITY

### 13.1 Treatment of Confidential Information.

- (a) To the extent permitted by law, all Confidential Information shall be held and treated by the Parties and their agents in confidence, used solely in connection with this Agreement, and shall not, except as hereinafter provided, be disclosed without the other Party's prior written consent.
- (b) Notwithstanding the foregoing, Confidential Information may be disclosed (i) to a third party for the purpose of effectuating the supply, transmission and/or distribution of Full Requirements Electric Service to be delivered pursuant to this Agreement; (ii) to regulatory authorities of competent jurisdiction, or as otherwise required by applicable law, regulation or order, including Kentucky statutes regarding open records and open meetings; (iii) as part of any required, periodic filing or disclosure with or to any regulatory authority of competent jurisdiction; and (iv) to third parties in connection with merger, acquisition/disposition and financing transactions provided that any such third party shall have signed a confidentiality agreement with the Disclosing Party containing customary terms and conditions that protect against the disclosure of the Confidential Information and that strictly limit the recipient's use of such information only for the purpose of the subject transaction and that provide for remedies for non-compliance.
- (c) In the event that a Party ("Disclosing Party") is requested or required to disclose any Confidential Information pursuant to subsection (b) of this Article, the Disclosing Party shall provide the other Party with prompt written notice of any such request or requirement, so that the other Party may seek an appropriate protective order, other confidentiality arrangement or waive compliance with the provisions of this Agreement. If, failing the entry of a protective order, other confidentiality arrangement or the receipt of a waiver hereunder, the Disclosing Party, in the opinion of counsel, is compelled to disclose Confidential Information, the Disclosing Party may disclose that portion of the Confidential Information which the Disclosing Party's counsel advises that the Disclosing Party is compelled to disclose.
- (d) The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. In addition to the foregoing, the Disclosing Party shall indemnify, defend and hold harmless the other Party from and against any Claims, threatened or filed, and any losses, damages, expenses, attorneys' fees or court costs incurred by such Party in connection with or arising directly or indirectly from or out of the Disclosing Party's disclosure of the Confidential Information to third parties except as permitted above.

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- (e) Notwithstanding the above provisions, Company shall be permitted to communicate to the Transmission Provider any necessary information, including Confidential Information, with regard to implementation of this Agreement, and will make all reasonable efforts to ensure that Confidential Information remains confidential.

#### **ARTICLE 14: REGULATORY AUTHORITIES**

##### **14.1 Effect of Regulation.**

- (a) Each Party shall perform its obligations hereunder in accordance with applicable law, rules and regulations. Nothing contained herein shall be construed to constitute consent or acquiescence by either Party to any action of the other Party which violates the laws of the United States as those provisions may be amended, supplemented or superseded, or which violates any other law or regulation, or any order, judgment or decree of any court or governmental authority of competent jurisdiction.
- (b) The Parties hereto recognize that this Agreement is subject to the jurisdiction of the FERC, and that the Company will file this Agreement with the FERC. Should the FERC not accept this Agreement for filing, without change or condition, this Agreement shall not become effective, unless the Parties agree otherwise in writing, it being the intent of the Parties that the FERC's acceptance of this Agreement, without change or condition, is a prerequisite to the validity of this Agreement. In the event that this Agreement is not accepted for filing, without change or condition, the Parties agree to negotiate in good faith to reach an agreement that provides for a similar balancing of interests as is reflected in this Agreement.
- (c) The Parties agree to use their best efforts to seek and obtain the prompt approval of this Agreement by the FERC.
- (d) The Parties recognize the Company's obligation, under FERC's Order 888, to unbundle the costs of providing service to Customer under this Agreement. It is the Parties intent that the unbundling of the costs of generation, NITS, Ancillary Services and Local Delivery Services, to be charged to Customer by Company under Article 4 of this Agreement, satisfies the FERC's requirements, even though the costs of certain Ancillary Services are included as generation-related costs under the formula rate mechanism in Appendix B. Company agrees to provide Customer with a breakdown of costs that would be charged to Customer under the OATT, assuming the Customer were paying a market-based generation price, as opposed to a cost-based formula rate, within thirty (30) days of Customer's request.

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**ARTICLE 15: DISPUTE RESOLUTION AND STANDARD  
OF REVIEW FOR PROPOSED CHANGES**

**15.1 Resolution by Officers of the Parties.** In the event of any dispute among the Parties arising out of or relating to this Agreement, the Parties shall refer the matter to their duly authorized officers for resolution. Should such officers fail to resolve the dispute within ten (10) days after such referral, the Parties agree that any such dispute may be resolved pursuant to Section 15.2.

**15.2 Procedures for Resolution of Disputes.**

- (a) Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Section only, collectively the "Disputes"), even though some or all of such Disputes allegedly are extra contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under state or federal law, whether provided by statute or the common law, for damages or any other relief, may, upon mutual agreement of the parties, be resolved by binding arbitration. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Upon agreement to arbitrate, any award made hereunder shall be binding upon the Parties, their successors and assigns, and any trustee or receiver of either Party.

**15.3 Standard of Review.**

- (a) Notwithstanding the provisions of Sections 15.1 and 15.2 hereof, and subject to the exceptions set out in Section 15.3(b), the Parties agree that the provisions of this Agreement, including without limitation the rates and charges and conditions of service contained herein, are subject to change by the FERC, and that the Company and Customer shall be entitled, at any time and from time to time, to apply for or to take other action to request such a change under Sections 205 or 206 of the Federal Power Act (FPA), respectively, and pursuant to the rules and regulations promulgated thereunder (Sections 205 or 206).
- (b) The Parties expressly agree that the following provisions of this Agreement are not subject to change under Sections 205 or 206, absent the mutual written consent of the Parties:

1. the Term and expiration date of this Agreement;

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2. the Parties' agreement that Customer is not entitled to cost-based rates, after the expiration of this Agreement, solely because of this Agreement;
3. the cessation of the Company's obligation to plan to meet Retail Load, after the end of the Term of this Agreement, absent an agreement of the Parties that extends beyond the end of the Delivery Period covered by this Agreement;
4. the continuation of a formula rate, designed to permit the Company to recover the costs it incurs to provide Full Requirements Electric Service to the Customer, throughout the Term of this Agreement;
5. the cost-of-service provisions contained in parts (a) through (c) of Section 4.5 of this Agreement;
6. the credit provisions of Article 6;
7. the Customer's agreement that, so long as Customer's Monthly Bill is calculated in accordance with this Agreement, the Customer shall not allege that any of the rates charged hereunder result in price discrimination or anticompetitive effects; and
8. the standard of review provisions in this Section 15.3(b).

It is the intent of this Section and the Parties that, to the maximum extent permitted by law, the provisions of this Agreement that are enumerated in this Section 15.3 (b) shall not be subject to change under Sections 205 and 206, and that absent the written agreement of the Parties to change any of the above enumerated provisions, the standard of review for changes to any of those enumerated provisions proposed by a Party, a non-party, or the FERC, acting *sua sponte*, shall be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the *Mobile-Sierra Doctrine*).

## ARTICLE 16: GENERAL PROVISIONS

- 16.1 Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties hereto, and nothing herein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party hereto.

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- 16.2 No Dedication of Facilities.** Any undertakings or commitments by one Party to the other under this Agreement shall not constitute the dedication of generation facilities or the transmission system or any portion thereof of either Party to the other Party.
- 16.3 Waivers.** The failure of a Party to insist in any instance upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a general waiver of any such provision or the relinquishment of any such right, except to the extent such waiver is in writing and signed by an authorized representative of such Party.
- 16.4 Interpretation.** The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Commonwealth of Kentucky, without giving effect to its conflict of laws provisions.
- 16.5 Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby; and the Parties hereby agree to effect such modifications to this Agreement as shall be reasonably necessary in order to give effect to the original intention of the Parties.
- 16.6 Modification.** No modification to this Agreement will be binding on any Party unless it is in writing and signed by the Parties.
- 16.7 Counterparts.** This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.
- 16.8 Headings.** Article and Section headings used throughout this Agreement are for the convenience of the Parties only and are not to be construed as part of this Agreement.
- 16.9 Audit.** Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party invoices evidencing the quantities of Full Requirements Electric Service. If any such examination reveals any inaccuracy in any invoice, the necessary adjustments to such invoice and the payments thereof will be made promptly and shall bear interest calculated at the Prime Rate plus two percent (2%) from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless

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objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

- 16.10 Records.** The Parties shall keep (or as necessary cause to be kept by their respective agents) for a period of at least three (3) years such records as may be needed to afford a clear history of the Full Requirements Service supplied pursuant to this Agreement. For any matters in dispute, the Parties shall keep the records related to such matters until the dispute is ended.
- 16.11 Survival.** The provisions of Articles 10, 13 and 15, and Sections 16.9 and 16.10 hereof, and any other Section of this Agreement that specifies by its terms that it survives termination, shall survive the termination or expiration of this Agreement.

#### **ARTICLE 17: RULES OF CONSTRUCTION**

- 17.1 Terms used in this Agreement but not listed in this Article, or defined herein or in Article 1, shall have meanings as commonly used in the English language and, where applicable, in Good Utility Practice.
- 17.2 Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.
- 17.3 The masculine shall include the feminine and neuter.
- 17.4 The words "include", "includes" and "including" are deemed to be followed by the words "without limitation."
- 17.5 References to contracts, agreements and other documents and instruments shall be references to the same as amended, supplemented or otherwise modified from time to time.
- 17.6 The Appendices attached hereto are incorporated in and are intended to be a part of this Agreement; provided, that in the event of a conflict between the terms of any Appendices and the terms of this Agreement, the terms of this Agreement shall take precedence.
- 17.7 References to laws and to terms defined in, and other provisions of, laws shall be references to the same (or a successor to the same) as amended, supplemented or otherwise modified from time to time.

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**Kentucky Power Company  
FERC Rate Schedule No. 52**

**Original Sheet No. 35**

- 17.8 References to a person, entity, or governmental authority shall include its successors and permitted assigns, and any entity succeeding to the functions and capacities of that person, entity or governmental authority.
- 17.9 References to "Articles," "Sections," or "Appendices" shall be to articles, sections, or appendices of this Agreement.
- 17.10 Unless the context plainly indicates otherwise, words importing the singular number shall be deemed to include the plural number (and vice versa); terms such as "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Agreement rather than any particular part of the same.
- 17.11 This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

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**FERC Rate Schedule No. 52**

**Original Sheet No. 36**

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to execute this Agreement on their behalf as of the date first above written.

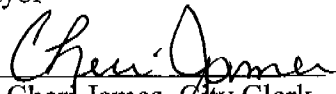
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The City of Olive Hill, Kentucky

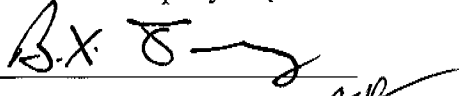
By: 

Name: Danny Sparks

Title: Mayor

ATTEST:   
Cheri James, City Clerk

American Electric Power Service Corporation,  
as agent for  
Kentucky Power Company

By: 

Name: Brian X. Tierney

Title: Senior Vice President  
Commercial Operations

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**Kentucky Power Company  
FERC Rate Schedule No. 52**

**APPENDIX A**

CITY OF OLIVE HILL, KENTUCKY  
DELIVERY POINTS  
AS OF DECEMBER 15, 2005

<u>DESCRIPTION</u>	<u>DELIVERY VOLTAGE</u>
Olive Hill Station 4kV	Primary
Olive Hill Station 12kV	Primary

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**Kentucky Power Company**  
**FERC Rate Schedule No. 52**

**Cost-of-Service Formulas**

A-1

DETERMINATION OF DEMAND-RELATED COSTS AND  
 DEMAND CHARGE

TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	<u>Demand Related</u>	<u>Reference</u>
1. Return on Investment	\$	P.A-5, L.18, Col (2)
2. Operation & Maintenance Expense	\$	P.A-14, L.8, Col (2)
3. Depreciation Expense	\$	P.A-15, L.14, Col (2)
4. Taxes Other Than Income Taxes	\$	P.A-16, L.7, Col (2)
5. Income Tax	\$	P.A-17, L.5, Col (2)
6. <u>Subtotal</u>	<u>\$</u>	Lines 1 through 5
7. Less: Off-System Sales for Resale Expenses	\$	P. A-4, L.3, Col (2)
8. Less: Customer Share of Off-System Sales Margin	\$	P. A-4, L.4, Col (2)
9. Adjustment of Other Income and Deductions	\$	Note A
10. <u>Annual Production Fixed Cost</u>	<u>\$</u>	L.6 - L.7 - L.8 + L.9
11. Monthly Peak Megawatts	#	FERC-1, p.401b
12. Demand Charge	\$ /kW	L.10 / L.11 / 1,000
13. Loss Adjusted Monthly Demand at Peak	# kW	Note B
14. <u>Annual Demand Revenue Requirement</u>	<u>\$</u>	L.10 / L.11 / 1,000
15. Loss Adjusted Monthly Demand	# kW	Note B
16. <u>Demand Charge @ Generation</u>	<u>\$ /kW</u>	L. 14 / L. 15
17. Primary Loss Factor	#	Note C
18. <b>Primary Voltage Demand Charge</b>	\$ /kW	L. 16 X L. 17

Note A: To be determined by accounting department.

Note B: Total customer demands adjusted for losses to generation.

Note C: Losses pursuant to OATT.

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**Kentucky Power Company  
FERC Rate Schedule No. 52**

**Cost-of-Service Formulas**

A-2  
DETERMINATION OF ENERGY RELATED COSTS AND  
ENERGY CHARGE  
TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	<u>Energy Related</u>	<u>Reference</u>
1. Total Fuel	\$	P.A-14, L.16, Col (4)
2. Purchased Power (555)	\$	P.A-14, L.1, Col (4)
3. Other Production Expense	\$	P.A-14, L.4, Col (3)
4. <u>Total Production Cost</u>	<u>\$</u>	Lines 1, 2 & 3
5. Less: Off-System Sales for Resale Expenses	\$	P. A-4, L.3, Col (3)
6. Less: Customer Share of Off-System Sales Margin	\$	P. A-4, L.4, Col (3)
7. <u>Subtotal</u>	<u>\$</u>	L.4 - L.5 - L.6
8. Administrative & General Expense	\$	P.A-10, L.17, Col (5)
9. Return on Investment	\$	P.A-5, L.18, Col (3)
10. Depreciation Expense	\$	P.A-15, L.14, Col (3)
11. Income Tax	\$	P.A-17, L.5, Col (3)
12. <u>Annual Production Variable Costs</u>	<u>\$</u>	Lines 7 thru 11
13. Production Fuel Costs	\$	P.A-14, L.20, Col (4)
14. <u>Non-Fuel Costs</u>	<u>\$</u>	L.12 - L.13
15. Net mWh Generated and Purchased, less mWh Sold	#	FERC-1, p.401b
16. Energy Charge	\$ /kWh	L.14 / L.15 / 1,000
17. Fuel Charge	\$ /kWh	L.13 / L.15 / 1,000
18. Primary Loss Factor	#	P.A-1, L. 17
19. <b>Primary Voltage Energy Charge</b>	\$ /kWh	L. 16 X L. 18
20. <b>Primary Voltage Fuel Charge</b>	\$ /kWh	L. 17 X L. 18

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**  
A-3  
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Original Sheet No. 40

	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1. Off-System Sales Revenues	Note A	\$	\$	\$
2. Less: Margins from Off-System Sales	Note B	\$	\$	\$
3. Off-System Sales Expenses	L.1 - L.2	\$	\$	\$
4. Customer Share of Margins	% of L. 2	\$	\$	\$

Note A: Revenues associated with off-system sales as reported in Account 447  
 (FERC-1, Page 311, column H, excluding RQ )

Note B: From Accounting.

	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1.	<b><u>ELECTRIC PLANT</u></b>			
2.	Gross Plant in Service	P.A-6, L.7, Col.(2)	\$	\$
3.	Less: Accumulated Depreciation	P.A-6, L.17, Col.(2)	\$	\$
4.	Less: Accumulated Deferred Taxes	P.A-6, L.18, Col.(2)	\$	\$
5.	Net Plant in Service	L.2 - (L.3 + L.4)	\$	\$
6.	Plant Held for Future Use	FERC-1, P.200, L.10	\$	\$
7.	Construction Work In Progress	Note A	\$	\$
8.	Subtotal - Electric Plant	L.5+L.6+L.7	\$	\$
9.	<b><u>WORKING CAPITAL</u></b>			
10.	Materials & Supplies			
11.	Fuel	P.A-9, L.2	\$	\$
12.	Nonfuel	P.A-9, L.6	\$	\$
13.	Total M & S	L.11 + L.12	\$	\$
14.	Prepayments	Note B	\$	\$
15.	Cash Requirements	P.A-8, L.8	\$	\$
16.	Total Investment	L.8+L.13+L.14+L.15	\$	\$
17.	Composite Cost of Capital	P.A-11, L.4, Col (4)	%	%
18.	Return on Investment	L.16 x L.17	\$	\$

Note A: Production amount only. To be determined by KPCO accounting department

Note B: Classified and functionalized using Gross Plant % from P.A-6, L.8  
 Total Company Account 165 \$ FERC-1, P.110, L.46

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**

A-6  
 PRODUCTION-RELATED ELECTRIC PLANT IN SERVICE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	System Amount (1)	PRODUCTION		
			Amount (2)	Demand (3)	Energy (4)
1.	GROSS PLANT IN SERVICE				
2.	Plant in Service	Note A	\$	\$	\$
3.	Less: ARO-related Plant		\$	\$	\$
4.	Restated Plant in Service	L.2 - L.3	\$	\$	\$
5.	Generator Step-Ups Included in Accts. 352 & 353 above		\$	\$	\$
6.	General & Intangible Plant	P. A-7, L.19	\$	\$	\$
7.	Total	L.4 + L.5 + L.6	\$	\$	\$
8.	Percentage of Total		%	%	%
9.	ACCUMULATED PROVISION FOR DEPRECIATION				
10.	Plant in Service	Note C	\$	\$	\$
11.	Less: ARO-related Depreciation		\$	\$	\$
12.	Adjustment to Depreciation Rate	Note D	\$	\$	\$
13.	Generator Step-Ups Included in Accts. 352 & 353 above		\$	\$	\$
14.	Adjustment to Depreciation Rate	Note D	\$	\$	\$
15.	General & Intangible Plant	Note B	\$	\$	\$
16.	Adjustment to Depreciation Rate	Note B, D	\$	\$	\$
17.	Total	L.10 - L.11 + L.12 + L.13 + L.14 + L.15 + L.16	\$	\$	\$
18.	ACCUM DEFERRED TAXES	Note E	\$	\$	\$

Note A: Gross Plant in Service is the average of beginning and ending year balances (FERC-1, P. 206 & 207)

Note B: % from P.A-7, L.17

Note C: Accumulated Depreciation is the average of beginning and ending year balances (FERC-1, P.219)

Note D: From Accounting.

Note E: FERC-1, P. 111 and 113 (Accounts 281-283 & 190);  
 Excludes directly-assignable amount from accounting of  
 Allocated on Gross Plant % From L.8 above

A-7  
 PRODUCTION-RELATED GENERAL PLANT ALLOCATION  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

General Plant Accounts 101 and 106

	Total System (1)	Allocation Factor (2)	Related to Production (1) x (2) (3)	Demand (4)	Energy (5)
1. GENERAL PLANT					
2. 389 Land	\$				
3. 390 Structures	\$				
4. 391 Office Equipment	\$				
5. 392 Transportation Equipment	\$				
6. 393 Stores Equipment	\$				
7. 394 Tools, Shop & Garage Equipment	\$				
8. 395 Lab Equipment	\$				
9. 396 Power Operated Equipment	\$				
10. 397 Communications Equipment	\$				
11. 398 Miscellaneous Equipment	\$				
12. Subtotal	\$	Note A	\$	\$	\$
13. PERCENT of Subtotal	%		%	%	%
14. Other Tangible Property (Excluding 399.1)					
15. 399.0 Other Tangible Property	\$		\$	\$	\$
16. TOTAL GENERAL PLANT (Excl. 399.1)	\$	FERC-1, P.206	\$	\$	\$
17. PERCENT of Total	%		%	%	%
18. Intangible Plant	\$	FERC-1, P.204	\$	\$	\$
19. General and Intangible Plant	\$		\$	\$	\$

Note A: Allocation factors based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses

	KPCO	AEPSC Note B	Total
a. Total wages and salaries in electric O&M excluding A&C FERC-1, P. 354, Column (b), L.25-L.24.	\$	\$	\$
b. Production wages and salaries in electric O&M FERC-1, P.354, Col (b), L.18.	\$	\$	\$
c. Ratio (b/a)			%
Classification factors based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses			
a. Production wages and salaries in electric O&M			\$
b. Production demand-related wages and salaries	\$	\$	\$
c. Ratio (b/a)			%

Note B: From Accounting.



**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**

A-8  
 PRODUCTION-RELATED CASH REQUIREMENT  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1. Fuel Expense	P. A-14, L.16	\$	\$	\$
2. Fuel Cash Requirements	45/360 x L.1	\$	\$	\$
3. Purchased Power	P. A-14, L.1	\$	\$	\$
4. Purchased Power Cash Requirements	45/360 x L.3	\$	\$	\$
5. Total O&M, Excluding Fuel	P. A-14, L.8	\$	\$	\$
6. Other O&M Expense	L. 5 - L.3	\$	\$	\$
7. Other O&M Cash Requirements	45/360 x L.6	\$	\$	\$
8. Total Cash Requirements	L.2 + L.4 + L.7	\$	\$	\$

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**

A-9  
 PRODUCTION-RELATED MATERIALS & SUPPLIES  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	Total System (1)	Allocation Factor (2)	Related to Production (1) x (2) (3)	Demand (4)	Energy (5)
1. Material & Supplies						
2. Fuel (Note A)	FERC-1, P.110	\$		\$	\$	\$
3. Non-Fuel						
4. Account 158 - Allowances	FERC-1, P.110	\$	%	\$	\$	\$
5. Other - Non-Fuel	Note B	\$	%	\$	\$	\$
6. Total Non-Fuel	L. 4 + L. 5	\$		\$	\$	\$
7. Total Material & Supplies	L. 2 + L. 6	\$		\$	\$	\$

Note A: Accounts 120, 151, 152

Note B: Accounts 154 through 157 and 163 (FERC Form 1, P. 110) Functionalized on Gross Plant from P. A-6, L. 4

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**

A-10  
 PRODUCTION-RELATED ADMINISTRATIVE & GENERAL EXPENSE ALLOCATION  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Account	Reference	System Amount (1)	Allocation Factor % (2)	PRODUCTION		
					Amount (3)	Demand (4)	Energy (5)
1.	ADMINISTRATIVE & GENERAL EXPENSE						
2.	RELATED TO WAGES AND SALARIES						
3.	A&G Salaries	920 FERC-1, P.322	\$				
4.	Office Supplies	921 FERC-1, P.322	\$				
5.	Adm. Expense Transfer - Cr.	922 FERC-1, P.322	\$				
6.	Outside Services	923 FERC-1, P.323	\$				
7.	Injuries & Damages	925 FERC-1, P.323	\$				
8.	Employee Pensions & Benefits	926 FERC-1, P.323	\$				
9.	Franchise Requirements	927 FERC-1, P.323	\$				
10.	Duplicate Charges - Cr.	929 FERC-1, P.323	\$				
11.	Miscellaneous General Expenses	930 FERC-1, P.323	\$				
12.	Rents	931 FERC-1, P.323	\$				
13.	Subtotal	Ls. 3 thru 12	\$	Note A	\$	\$	\$
14.	Property Insurance	924 FERC-1, P.323	\$	Note B	\$	\$	\$
15.	Regulatory Comm. Expenses	928 FERC-1, P.351	\$	Note C	\$	\$	\$
16.	Maintenance of General Plant	935 FERC-1, P.323	\$	Note D	\$	\$	\$
17.	Total	Ls. 13 thru 16	\$		\$	\$	\$

Note A: Allocation factor based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses - See Page A-7  
 Note B: From Accounting.  
 Note C: FERC-1, P.351, Excluding FERC Annual Assessment  
 Note D: Allocated on Gross Plant % from P.A-7, L.17

**Cost-of-Service Formulas**

A-11  
 COMPOSITE COST OF CAPITAL  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Total Company Average Capitalization		Cost of Capital %	Composite Cost of Capital (2 x 3) %
		\$	%		
		(1)	(2)		
1.	Long Term Debt	Note A	\$	%	%
2.	Preferred Stock	Note B	\$	%	%
3.	Common Stock	Note C	\$	%	%
4.	Total		\$	%	%

Note A: Line 1, Columns (1) and (3) from Page A-12.

Note B: Line 2, Columns (1) and (3) from Page A-13.

Note C: Line 3, Column (1) from FERC-1, P.112, Total Proprietary Capital of:	\$
Less: Preferred Stock, P.A-13, L.1(b)	\$
Less: Premium on Preferred Stock, P.A-13, L.1(c)	\$
Common Stock	\$

**Cost-of-Service Formulas**

A-12  
 AVERAGE LONG TERM DEBT  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

		Average Debt Balance (1)	Interest Booked (2)
1	Total (FERC-1, P. 112 & P. 117 - Account 427)	\$	\$
2	Preferred Stock With Mandatory Redemption (FERC-1, P. 257.2)	\$	\$
3	Account 224 - Pre-83 SNF Disposal Costs (FERC-1, P. 257)	\$	
4	Amortization of Debt Discount and Expense (FERC-1, P. 117, Accounts 428 - 429.1)		\$
5	Total (L.1 - L.2 - L. 3 + L. 4)	\$	\$
6	Embedded Costs = L.5, Col. (2)/Col. (1)		%

**Cost-of-Service Formulas**

A-13  
 AVERAGE PREFERRED STOCK  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Amount
1. (a) Preferred Stock Dividends	FERC-1, P.118, L.29 (Account 437) & FERC-1, P. 257.2	\$
(b) Preferred Stock Issued	FERC-1, P.112, L.3	\$
(c) Premium on Preferred Stock	FERC-1, P.112, L.6 (Account 2070003)	\$
(d) Preferred Stock with Mandatory Redemption	FERC-1, P.257.2	\$
(e) Total Preferred Stock	L.1 (b) + L.1 (c) + L.1(d)	\$
2. Average Cost Rate	L.1 (a)/L.1 (e)	%

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**

**Cost-of-Service Formulas**

A-14  
 PRODUCTION O & M EXPENSE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Account No.	Total Company (1)	(Demand) Fixed (2)	Energy	
				Non-Fuel Variable (3)	Fuel (4)
1. Purchased Power (FERC Form-1, P.327)	555	\$	\$	\$	\$
2. System Control of Load Dispatching (FERC Form-1, P.321)	556	\$	\$	\$	\$
3. Other Production Expenses (FERC Form-1, P.321)	557	\$	\$	\$	\$
4. Other Production Expenses	Note A	\$	\$	\$	\$
5. Total Production Expense Excluding Fuel Used In Electric Generation above		\$	\$	\$	\$
6. A & G Expense P.A-10, L.17		\$	\$	\$	\$
7. Generator Step Up related O&M	Note B	\$	\$	\$	\$
8. Total O & M Excluding Fuel		\$	\$	\$	\$
9. Fuel - Account 501 (FERC Form-1, P.320)	501	\$			\$
10. Less: Fuel Handling		\$			\$
11. Less: Sale of Fly Ash (Revenue & Expense)		\$			\$
12. Plus: Account 518	518	\$			\$
13. Plus: Account 547	547	\$			\$
14. Less: Pre 4/7/83 Spent Nuclear Fuel	Note C	\$			\$
15. Plus: Pre 4/7/83 Spent Nuclear Fuel - Study		\$			\$
16. Total Fuel		\$	\$	\$	\$
17. Total - Production O&M	L.5 + L.16	\$	\$	\$	\$
18. Less: Off-System Sales Revenues (P.A-4, L.1)					\$
19. Plus: Company Share of Margins (P.A-4, L.2 - L.4)					\$
20. Total Fuel Costs					\$
21. Plus: Gains/(Losses) on Disp. of Allowances	A-14(a)	\$			
22. Plus: Nuclear Decomm Expense - ARO	A-14(a)	\$			
23. Less: Nuclear Decommissioning Adjustment	A-14(a)	\$			
24. Less: Spent Nuclear Fuel Adjustment	L.15 - L.14	\$			
25. Check Total - Perbooks Production O&M	P.321	\$			

Note A: Classified into Fixed and Variable Components in accordance with P.A-14(a)

Note B: FERC-1, P.321, (Accounts 562, 569 & 570) allocated on Gross Plant ratio - GSU to total.

Note C: Accounts 5180004 & 5180005

**Cost-of-Service Formulas**

**APPENDIX B**

A-14(a)

CLASSIFICATION OF FIXED AND VARIABLE PRODUCTION EXPENSES  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

Line No.	Description	FERC Account No.	Demand Related	Energy Related
1	Operation supervision and engineering	500	\$	-
2	Fuel	501	-	xx
3	Fuel Handling	5010003	-	\$
4	Sale of Fly Ash (Revenue & Expense)	5010012	-	\$
5	Steam expenses	502	\$	-
6	Steam from other sources	503	-	\$
7	Steam transferred-Cr.	504	-	\$
8	Electric expenses	505	\$	-
9	Miscellaneous steam power expenses	506	\$	-
10	Rents	507	\$	-
11	Allowances	509	-	\$
12	Less: Gains from Disposition of Allowances	411.8	-	\$
13	Plus: Losses from Disposition of Allowances	411.9	-	\$
14	Maintenance supervision and engineering	510	-	\$
15	Maintenance of structures	511	\$	-
16	Maintenance of boiler plant	512	-	\$
17	Maintenance of electric plant	513	-	\$
18	Maintenance of miscellaneous steam plant	514	\$	-
19	Total steam power generation expenses		\$	\$
20	Operation supervision and engineering	517	\$	-
21	Coolants and Water	519	\$	-
22	Steam expenses	520	\$	-
23	Steam from other sources	521	\$	-
24	Steam transferred-Cr.	522	\$	-
25	Electric expenses	523	\$	-
26	Miscellaneous nuclear power expenses	524	\$	-
27	Less: Nuclear Decomm Expense - ARO	524.0009	\$	-
28	Rents	525	\$	-
29	Total nuclear power generation operation expenses		\$	\$
30	Maintenance supervision and engineering	528	-	\$
31	Maintenance of structures	529	\$	-
32	Maintenance of reactor plant equipment	530	-	\$
33	Maintenance of electric plant	531	-	\$
34	Maintenance of miscellaneous nuclear plant	532	-	\$
35	Total nuclear power generation maintenance expenses		\$	\$
36	Less: Nuclear Decommissioning	524.0008	\$	-
37	Plus: Nuclear Decommissioning (Stipulated / IURC Approved Amount)		\$	-
38	Operation supervision and engineering	535	\$	-
39	Water for power	536	\$	-
40	Hydraulic expenses	537	\$	-
41	Electric expenses	538	\$	-
42	Misc. hydraulic power generation expenses	539	\$	-
43	Rents	540	\$	-
44	Maintenance supervision and engineering	541	\$	-
45	Maintenance of structures	542	\$	-
46	Maintenance of reservoirs, dams and waterways	543	\$	-
47	Maintenance of electric plant	544	-	\$
48	Maintenance of miscellaneous hydraulic plant	545	\$	-
49	Total hydraulic power generation expenses		\$	\$
50	Operation supervision and engineering	546	\$	-
51	Fuel	547	-	xx
52	Generation expenses	548	\$	-
53	Miscellaneous other power generation expenses	549	\$	-
54	Rents	550	\$	-
55	Maintenance supervision and engineering	551	\$	-
56	Maintenance of structures	552	\$	-
57	Maintenance of generation and electric plant	553	\$	-
58	Maintenance of misc. other power generation plan	554	\$	-
59	Total other power generation expenses		\$	\$
60	Purchased power	555	xx	xx
61	System control and load dispatching	556	xx	-
62	Other expenses	557	xx	-
63	<b>TOTAL OTHER PRODUCTION EXPENSES</b>		\$	\$



**Cost-of-Service Formulas**

**APPENDIX B**

A-15  
 PRODUCTION-RELATED DEPRECIATION EXPENSE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

			Production Related (1)	Demand (2)	Energy (3)
1.	Steam Production Plant	Note A	\$	\$	\$
2.	Nuclear Production Plant	Note A	\$	\$	\$
3.	Hydro Production Plant Conventional	Note A	\$	\$	\$
4.	Pump Storage	Note A	\$	\$	\$
5.	Other Production	Note A	\$	\$	\$
6.	Production Subtotal		\$	\$	\$
7.	Less: ARO-Related Depreciation (403.1)	Note A	\$	\$	\$
8.	Plus: Non-Nuclear Depr. & Accretion	Note B	\$	\$	\$
9.	Adjustment to Depreciation Rate	Note B	\$	\$	\$
10.	Production-Related Gen. & Int. Plant	Note C	\$	\$	\$
11.	Adjustment to Depreciation Rate	Note B, C	\$	\$	\$
12.	GSU-related Depreciation Expense	Note B	\$	\$	\$
13.	Adjustment to Depreciation Rate	Note B	\$	\$	\$
14.	Total Production		\$	\$	\$

Note A: Lines 1 through 5 are Depreciation Expense reported on page 336 of the FERC Form No. 1 for Accounts 403, 404 and 405 (excluding 403.1)

Note B: From Accounting.

Note C:	General and Intangible Plant Depreciation Expense	\$	FERC-1, p. 336, Col. (f)
	Production-Related %	%	Page A-7, L.17, Col.(3)
	Gen Plant Depr. Exp. - Prod. Related	\$	
	Adjustment to General Plant Depreciation Expense	\$	
	Production-Related %	%	Page A-7, L.17, Col.(3)
	Gen Plant Depr. Exp. - Prod. Related	\$	

	REFERENCE	SYSTEM AMOUNT (1)	%	PRODUCTION AMOUNT (2)
TAXES RELATED TO PRODUCTION WAGES AND SALARIES				
1.	State Unemployment	Note A	\$	
2.	Federal Social Security & Unemployment	Note A	\$	
3.	Total Taxes Related to Wages & Salaries		\$	Note B
4.	Real and Personal Property Tax	Note A	\$	
5.	Franchise Tax	Note A	\$	
6.	Total Taxes Related to Production Plant		\$	Note C
7.	Total Taxes Other Than Income Taxes	L. 3 + L. 6	\$	\$
8.	Misc. & State Commission Assessments		\$	
9.	Check Total - Taxes Other	FERC-1 P.114	\$	

Note A: Taxes other than Income Taxes will be those reported in FERC-1 pages 262 & 263 as listed above.

Note B: Allocation factor based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses - See Page A-7 %

Note C: Allocation factor based on gross plant in service - See Page A-6 %

**Cost-of-Service Formulas**

A-17  
 PRODUCTION-RELATED INCOME TAX  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Amount (1)	Demand (2)	Energy (3)
1. Return on Investment	P. A-5, L.18	\$	\$	\$
2. Interest	P. A-5, L.16 x P. A-11, L.1, Col(4)	\$	\$	\$
3. Balance for Equity Earnings	L.1 - L.2	\$	\$	\$
4. Combined Income Tax Factor	P. A-18, L.17		#	#
5. Income Tax	L.4 x L.3	\$	\$	\$

**Kentucky Power Company**  
**FERC Rate Schedule No. 52**  
**Cost-of-Service Formulas**

A-18  
 COMPUTATION OF EFFECTIVE INCOME TAX RATE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	REFERENCE	AMOUNT
1. Net Income before Extraordinary	FERC-1, P. 117, L. 67	\$
2. Less: Allowance for Funds Used During Construction (AFUDC)	FERC-1, P. 117, Acct 419.1	\$
3. Adjusted Net Income	Line 1 - Line 2	\$
Income Taxes:		
4. Federal	FERC-1.P. 114, Acct 409.1	\$
5. Other	FERC-1.P. 114, Acct 409.1	\$
6. Provision for Deferred Inc. Taxes	FERC-1.P. 114, Acct 410.1	\$
7. Provision for Def. Inc. Taxes-Cr.	FERC-1.P. 114, Acct 411.1	\$
8. Investment Tax Cr. Adjustment Net	FERC-1.P. 114, Acct 411.4	\$
Taxes Applicable to Other Income and Deductions		
9. Income Taxes - Federal	FERC-1 P.117, Acct 409.2	\$
10. Income Taxes - Other	FERC-1 P.117, Acct 409.2	\$
11. Provision for Deferred Inc. Taxes	FERC-1 P.117, Acct 410.2	\$
12. Provision for Deferred Inc. Taxes - credit	FERC-1 P.117, Acct 411.2	\$
13. Investment Tax Credit Adj. - Net	FERC-1 P.117, Acct 411.5	\$
14. Total Income Taxes	Lines 4 thru 13	\$
15. Pretax Earnings Base	Line 3 + Line 14	\$
16. Effective Income Tax Rate	Line 14 / Line 15	%
17. Combined Tax Factor	Line 16 / (100 - Line 16)	#

**Assignment of PJM Charges and Credits  
 for Full Requirements Electric Service**

**Appendix C**

**PJM Operating Agreement**

<b>Schedules</b>	<b>Description</b>	<b>KPCO</b>	<b>Olive Hill</b>
1-3.2.1 & 3.3.1	Spot Market Energy, including day-ahead and balancing charges, credits and reconciliations	<b>x</b>	
1-3.2.4, 3.4.1 & 5.2	Transmission Congestion, including day-ahead and balancing charges, credits and reconciliations	<b>x</b>	
1-3.2.5 & 3.4.2	Transmission Losses, including day-ahead and balancing charges, credits and reconciliations	<b>x</b>	
1-3.2.2, 3.2.2A, 3.3.2 & 3.3.2A	Regulation charges, credits and reconciliations	<b>x</b>	
1-3.2.3A & 3.3.5	Spinning Reserves charges, credits and reconciliations	<b>x</b>	
1-3.2.3 & 3.3.3	Operating Reserves, including day-ahead, balancing and synchronous condensing charges, credits and reconciliations	<b>x</b>	
	Synchronous Condensing - included under Operating Reserves, above	<b>x</b>	
1-3.2.3B	Reactive Services charges, credits and reconciliations	<b>x</b>	
11-6.7	Capacity Credit Market charges, credits and reconciliations	<b>x</b>	
1-7.3.8	FTR Auction charges, credits and reconciliations	<b>x</b>	
1-7.4	Auction Revenue Rights credits	<b>x</b>	
1-3.2.6, 3.3.4, 3.5.1 & 4.3	Emergency Energy charges, credits and reconciliations	<b>x</b>	
1-3.6	Meter Correction	<b>x</b>	

**Assignment of PJM Charges and Credits  
 for Full Requirements Electric Service**

**Appendix C**

**PJM OATT**

<b>Schedules</b>	<b>Description</b>	<b>KPCO</b>	<b>Olive Hill</b>
1 & 9	Scheduling, System Control & Dispatch Services <i>PJM</i> charges and reconciliation for control area administration, FTR administration, market support, regulation and frequency response administration, capacity and resource obligation administration, and FERC annual charge recovery	<b>x</b>	
1A	Scheduling, System Control & Dispatch Services Transmission Owner charges, credits and reconciliations		<b>x</b>
2	Reactive Supply & Voltage Control from Generation Sources charges, credits and reconciliations	<b>x</b>	
3	Regulation and Frequency Response - billed under PJM Operating Agreement, above	<b>x</b>	
4	Energy Imbalance - billed under PJM Operating Agreement, above	<b>x</b>	
5	Operating Reserve - Spinning Reserve Service - billed under PJM Operating Agreement, above	<b>x</b>	
6	Operating Reserve - Supplemental Reserve Service - billed under PJM Operating Agreement, above	<b>x</b>	
6A	Black Start Service charges and credits	<b>x</b>	
7	NITS Service charges and credits, including Contract Demand Reservation Service		<b>x</b>
7 & 8	Firm and Non-Firm Point-to-Point Transmission Service		<b>x</b>
13	Expansion Cost Recovery charges and credits	<b>x</b>	
Attachment R	PJM/MISO and Intra-PJM SECA charges		<b>x</b>
Attachment X	PJM/MISO and Intra-PJM SECA credits	<b>x</b>	
ILD SA	Other Supporting Facilities		<b>x</b>
	AEP Inadvertent	<b>x</b>	
	Energy Imbalance	<b>x</b>	

KENTUCKY POWER COMPANY  
 FORMULA RATE BILLING TIMELINE  
 Bill For Month Of

Description	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-May 2007	June-Dec 2007
<b>Generation Demand &amp; Energy Charges</b>														
<b>Initial Bill Basis</b>	2004 Form 1, Dec. '04 ROE	Same	Same	Same	Same	2005 Form 1, Dec.'05 ROE	Same	Same	Same	Same	Same	Same	Same	2006 Form 1 Dec.'06 ROE
<b>True-Up Basis</b>	2006 Form 1, Dec. '05 ROE	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	2007 Form 1, Dec. '06 ROE	Same
<b>True-Up Calculated</b>	May-07	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	May-08	Same
<b>True-Up Charged / Credited on Invoices Mailed in</b>	Jul, Aug & Sep '07	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Jul, Aug & Sep '08	Same
<b>Generation Fuel Charge</b>														
<b>Initial Bill Basis</b>	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06		
<b>True-Up Basis</b>	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06		
<b>True-Up Calculated</b>	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-07		
<b>True-Up Charged / Credited on Invoices Mailed in</b>	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-07	Feb-07	Mar-07		

**COST-BASED FORMULA RATE  
AGREEMENT FOR  
FULL REQUIREMENTS ELECTRIC SERVICE**

**DATED AS OF DECEMBER 14, 2005**

**BY AND BETWEEN**

**AMERICAN ELECTRIC POWER SERVICE CORPORATION, AS AGENT FOR**

**KENTUCKY POWER COMPANY,**

**THE CITY OF VANCEBURG, KENTUCKY, AND**

**THE ELECTRIC PLANT BOARD OF**

**THE CITY OF VANCEBURG, KENTUCKY**

Issued by: Timothy C. Mosher, President  
Kentucky Power Company

Issued on: December 15, 2005

Effective: January 1, 2006



Kentucky Power Company  
FERC Rate Schedule No. 51

Original Sheet No. 2      Item No. 37  
Attachment 2  
Page 2 of 60

**COST-BASED FORMULA RATE**  
**AGREEMENT FOR FULL REQUIREMENTS ELECTRIC SERVICE**

This AGREEMENT is dated as of December 14, 2005 ("Effective Date") and is by and between the American Electric Power Service Corporation ("AEPSC"), as agent for Kentucky Power Company (Kentucky Power Company hereinafter referred to as "Company"), the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky, (the City and Electric Plant Board are hereinafter collectively referred to as "Customer") (Company and Customer each individually referred to herein as a "Party," or collectively, the "Parties").

**RECITALS**

**WHEREAS**, Company is a corporation organized and existing under the laws of the State of Kentucky, with its principal place of business at 101 A Enterprise Drive, P.O. Box 5190, Frankfort, Kentucky 40602, and owns and operates facilities for the generation, transmission and distribution of electric power and energy in the State of Kentucky; and

**WHEREAS**, the City of Vanceburg, Kentucky, is a municipal corporation chartered and existing under and by virtue of the laws of the State of Kentucky, with its principal place of business at 615 Second Street, Vanceburg, Kentucky 41179; and

**WHEREAS**, the Electric Plant Board of the City of Vanceburg, Kentucky, is a public utility organized and existing under and by virtue of the laws of the State of Kentucky, with its principal place of business at 611 Front Street, Vanceburg, KY 41179; and

**WHEREAS**, Customer requires Full Requirements Electric Service to meet Customer's Retail Load; and

**WHEREAS**, Company has proposed to supply Full Requirements Electric Service to Customer, subject to the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the Parties hereby agree that this Agreement, together with the Appendices attached hereto and Related Documents, sets forth the terms under which Company will supply Full Requirements Electric Service to Customer, during the Delivery Period; constitutes the entire agreement among the Parties relating to Full Requirements Electric Service at cost-based rates; and supersedes any other agreements, written or oral (including without limitation any preliminary term sheet), among the Parties concerning this subject matter.

Issued by: Timothy C. Mosher, President  
Kentucky Power Company

Issued on: December 15, 2005

Effective: January 1, 2006

## ARTICLE 1: DEFINITIONS

The following words and terms shall be understood to have the following meanings when used in this Agreement or in any associated documents entered into in conjunction with this Agreement.

This Agreement includes certain capitalized terms that are not explicitly defined herein. Such capitalized terms shall have the meanings specified in the "Related Documents," as the same are in effect from time to time, which meanings are incorporated herein by reference and made a part hereof. In the event of any inconsistency between a definition contained herein and a definition contained in "Related Documents," the definition in this Agreement shall control for purposes of this Agreement. Certain other definitions as required appear in subsequent parts of this Agreement.

- 1.1 **AEP Operating Companies** means the electric utility subsidiaries of American Electric Power Company, Inc., consisting of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, Southwest Electric Power Company and Public Service Company of Oklahoma. "AEP Operating Companies" may include fewer than all of the listed companies, or may include AEPSC, where the context requires such interpretation.
- 1.2 **Affiliate** means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
- 1.3 **Agreement** means this Cost-Based Formula Rate Agreement for Full Requirements Electric Service, including the Appendices and Related Documents, as amended, modified or supplemented from time to time.
- 1.4 **Ancillary Services** means the following services related to the Full Requirements Electric Service to be supplied under the terms of this Agreement to the Delivery Points: those services set forth in the OATT schedules and any supplemental or revised tariffs or schedules adopted by the Transmission Provider, including, without limitation, Scheduling, System Control and Dispatch Service; Transmission Owners Scheduling, System Control and Dispatch Service; Reactive Supply and Voltage Control from Generation Sources Service; Regulation and Frequency Response Service; Energy Imbalance Service; Operating Reserve-Spinning Reserve Service; Operating Reserve-Supplemental Reserve Service; and Black Start Service (as each of those services is defined in the OATT).

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- 1.5 **Billing Period** means the calendar month which shall be the standard period for all payments and metering measurements under this Agreement, unless otherwise specifically required by the Transmission Provider or the entity providing meter reading services.
- 1.6 **Business Day** means a day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the North American Electric Reliability Council; provided, that, with respect to any payment due hereunder, a "Business Day" means a day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in Columbus, Ohio are authorized by law to close; and, provided, further, that with respect to any notices for scheduling to be delivered pursuant to any Section hereof, a "Business Day" shall be a day other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the Transmission Provider.
- 1.7 **Calendar Year** means a twelve-consecutive-month period commencing at midnight on January 1 and ending at midnight on December 31.
- 1.8 **Claims** means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of this Agreement, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.
- 1.9 **Confidential Information** means such information as the Parties agree shall remain confidential. Notwithstanding the foregoing, the following shall not constitute Confidential Information:
- a. Information which was already in a Party's possession prior to its receipt from another Party and not subject to a requirement of confidentiality;
  - b. Information which is obtained from a third person who, insofar as is known to the Party, is not prohibited from transmitting the information to the Party by a contractual, legal or fiduciary obligation to the Party; and
  - c. Information which is or becomes publicly available through no fault of the Party.

- 1.10      **Contract Year** means a twelve-consecutive-month period beginning at midnight on June 1 and ending at midnight on May 31 of the subsequent Calendar Year.
- 1.11      **Credit Rating** means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations or its long-term revenue bonds (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt or its long-term revenue bonds, then the rating then assigned to such entity as an issuer rating by S&P and/or Moody's.
- 1.12      **Defaulting Party** means the Party who has caused an Event of Default.
- 1.13      **Delivery Period** means the period defined in Section 2.2 of this Agreement.
- 1.14      **Delivery Points** mean the point or points designated on Appendix A, to which Company will deliver and at which Customer will accept Firm Energy.
- 1.15      **Early Termination Date** is the date selected by the Non-Defaulting Party to terminate this Agreement.
- 1.16      **Eastern Prevailing Time** means the prevailing time in Columbus, Ohio.
- 1.17      **Energy** means three-phase, 60-cycle alternating current electric energy, expressed in KWhs.
- 1.18      **Event of Default** means those events by the Defaulting Party, as set forth in Article 7 of this Agreement, which give the Non-Defaulting Party the right to terminate this Agreement or exercise other remedies available under this Agreement or at law or in equity.
- 1.19      **FERC** means the Federal Energy Regulatory Commission.
- 1.20      **Firm Energy** means Energy that Company is required by this Agreement to sell and deliver and that Customer is required by this Agreement to purchase and receive, in each case without interruption except as provided in Section 8.2 hereof, unless relieved of their respective obligations without liability by Force Majeure, but in the case of Force Majeure only to the extent that, and for the period during which, either Party's performance is prevented by Force Majeure.
- 1.21      **Force Majeure** means an event or circumstance, subject to the limitations set forth in Section 8.4 hereof, that prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the date the Agreement was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and

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which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided.

- 1.22 **Full Requirements Electric Service** means the supply of Firm Energy to be provided by Company to the Customer at the Delivery Points, as the same may fluctuate in real time to serve Customer's Retail Load, together with all associated generation-related services as more fully described in Article 3 and Appendix C of this Agreement.
- 1.23 **Generation Resource** means the generation assets owned by Company, the Company's share of any jointly-owned units, long-term capacity purchases by the Company, and all co-generators, qualifying facilities, and independent power producers generating plants not owned by the Company, but that produce electric power and sell it to the Company.
- 1.24 **Good Utility Practice** means any of the practices, methods, techniques and standards (including the practices, methods, techniques and standards approved by a significant portion of the electric power generation industry, the Transmission Provider and/or NERC) that, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made and having due regard for, among other things, contractual obligations, applicable laws and equipment manufacturer's recommendations, could have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather to be a range of possible practices, methods, techniques or standards.
- 1.25 **KW** means kilowatt.
- 1.26 **KWh** means kilowatt-hour.
- 1.27 **Letter(s) of Credit** means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form and from a bank acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.
- 1.28 **Load Serving Entity** means any entity (or the duly designated agent of such an entity) (i) serving end-users within the Transmission Provider's transmission service area, and (ii) that has been granted the authority or has an obligation pursuant to state or local law, regulation or franchise to sell electric energy to end-users located within the Transmission Provider's transmission service area.

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- 1.29 **Losses** means any transmission loss, transformation loss, sub-transmission and/or distribution losses incurred in providing Full Requirements Electric Service hereunder; provided, however, that Losses shall only include losses incurred between the sources of Energy and the Delivery Points. In no case shall Losses include losses that may be incurred from the Delivery Points to the ultimate retail customers.
- 1.30 **Market Rules and Procedures** means the market rules, manuals and procedures adopted by the Transmission Provider, as may be amended from time to time, and as administered by the Transmission Provider to govern operations within the Transmission Provider's transmission service area.
- 1.31 **Monthly Charges** means the monthly charges set out in Article 4 of this Agreement.
- 1.32 **Moody's** means Moody's Investors Service, Inc. and its successors.
- 1.33 **MW** means Megawatt.
- 1.34 **MWh** means Megawatt-hour.
- 1.35 **NERC** means the North American Electric Reliability Council.
- 1.36 **Network Integration Transmission Service** or **NITS** means firm transmission service as set forth in the Transmission Provider's OATT that provides for delivery of Firm Energy to the Delivery Points.
- 1.37 **Non-Defaulting Party** means the Party that has not caused an Event of Default.
- 1.38 **Normal Load Growth** means the future load growth predicted by fitting a curve to the most recent ten years of historical annual peak demands. Such curve shall be selected to minimize the sum of the squared error terms and maximize the  $R^2$  statistics from the following possible curve types: (1) linear; (2) quadratic; or (3) logarithmic.
- 1.39 **OATT** means the Transmission Provider's Open Access Transmission Tariff on file at FERC.
- 1.40 **Performance Assurance** means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.
- 1.41 **PJM** means PJM Interconnection, LLC.

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- 1.42      **Prime Rate** means the lesser of (i) the rate published from time to time in The Wall Street Journal, as the prime lending rate, or (ii) the maximum rate permitted by applicable law.
- 1.43      **Receiving Party** is defined in Article 6.
- 1.44      **Related Documents** means, either collectively or individually, the Interconnection and Local Delivery Services Agreement, the PJM Open Access Transmission Tariff, the PJM Operating Agreement, the PJM Reliability Agreement, the PJM West Reliability Assurance Agreement, and any other applicable PJM Market Rules And Procedures.
- 1.45      **Retail Load** means Energy metered at the Delivery Points to meet the requirements of Customer's end use customers located within the service area that Customer has a statutory or other right to serve.
- 1.46      **Requesting Party** is defined in Article 6.
- 1.47      **S&P** means Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.).
- 1.48      **Term** is defined in Section 2.1 of this Agreement.
- 1.49      **Transmission Provider** means the entity or entities transmitting or transporting the Firm Energy, and responsible for providing Ancillary Services associated with the delivery of Full Requirements Electric Service, from the Generation Resources to the Delivery Points. The Transmission Provider as of the Effective Date of this Agreement is PJM.

## ARTICLE 2: TERM, SERVICE AND DELIVERY PROVISIONS

- 2.1      **Term.** The Term of this Agreement shall begin as of the Effective Date and extend through and include the end of the Delivery Period. The applicable provisions of this Agreement shall continue in effect in accordance with Article 16.11, Survival, or by their own terms, and to the extent necessary to provide for final accounting, billing (including all true-ups hereunder), billing adjustments, resolution of any billing disputes, realization of any collateral or other security, set-off, final payments, or payments pertaining to liability and indemnification obligations arising from acts or events that occurred in connection with this Agreement during the Delivery Period.
- 2.2      **Delivery Period.** The Delivery Period shall commence on **January 1, 2006**, and extend through **May 31, 2025**, from hours ending 0100 through 2400 Eastern Prevailing Time, unless an Early Termination Date becomes effective in accordance with the provisions hereof, in which

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event the Delivery Period shall end as of 2400 Eastern Prevailing Time on the Early Termination Date.

- 2.3 Planning.** The Parties understand and agree that, as a result of this Agreement, the Company will plan to provide Full Requirements Electric Service to Customer during the Delivery Period of this Agreement. In recognition of this fact, the Parties have entered into a long-term agreement, with a fixed termination date. Unless the Parties negotiate and enter into a new agreement for a delivery period beyond the end of the Term of this Agreement, the Company's obligation to serve Customer at cost-based rates under this Agreement, and the Customer's obligation to take service from the Company under this Agreement, shall terminate at the end of the Term provided for herein. In order for the Company to continue to plan to serve the Customer beyond that date, the Parties understand and agree that, absent a written mutual agreement to the contrary, the Parties will need to negotiate and execute a new agreement for a new delivery period extending beyond the last day of the Term of this Agreement, at least eight (8) years before the end of the Delivery Period.
- 2.4 Delivery Points.** The Delivery Points for the Full Requirements Electric Service to be provided hereunder are set forth on Appendix A. In coordination with the Transmission Provider, if necessary, and subject to the execution of any necessary agreements, the Parties may mutually agree to add or delete Delivery Points and to make other changes regarding Delivery Points. Whenever there is any change in Delivery Points, Appendix A hereto automatically shall be amended to reflect such change.

### ARTICLE 3: SALE AND PURCHASE

#### 3.1 Full Requirements Service.

- (a) During the Delivery Period, Company shall sell and deliver and Customer shall exclusively receive and purchase Full Requirements Electric Service at the Delivery Points sufficient to serve Customer's Retail Load, except as otherwise provided herein. As a provider of Full Requirements Electric Service, Company is solely responsible for satisfying all requirements and paying all costs incurred or to be incurred to provide Full Requirements Electric Service, and Customer shall pay for such Full Requirements Electric Service as provided in Article 4 of this Agreement. Full Requirements Electric Service includes all generation-related services and schedules associated with Full Requirements Electric Service, as more fully identified in Appendix C of this Agreement.
- (b) Appendix C, delineating the respective cost responsibilities of Company and Customer for generation-related and transmission-related services and schedules, respectively, is based upon the current PJM Operating Agreement and PJM OATT, and reflects the Company's current accounting for generation-

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related services and schedules, which are collected through the cost-of-service formulas set forth in Appendix B hereto. As either (i) schedules and services are added, deleted or changed in those agreements and tariffs of the Transmission Provider or in other documents governing the provision of and charges for services required in connection with Full Requirements Electric Service, or (ii) the accounting for such charges is changed, the Parties shall negotiate in good faith to determine, consistent with the principles underlying Appendix C, which new or changed schedules and services are predominantly generation-related and therefore shall be included in Full Requirements Electric Service and which are predominantly transmission-related and therefore shall be the responsibility of Customer. Appendices B and C shall automatically be amended, in a prompt manner, to incorporate such changes as are mutually agreed to by the Parties. The Parties shall cooperate in good faith to ensure that, irrespective of changes in the mechanisms for recovery of costs by the Transmission Provider, and changes in accounting, the respective cost responsibilities of Company and Customer shall remain governed by this Agreement. In no event shall the costs of a particular service or schedule associated with Full Requirements Electric Service be recovered twice from Customer through its inclusion both in the costs used to derive the Full Requirements Electric Service unit rates pursuant to Appendix B and also in the costs in Appendix C for which Customer is responsible.

- (c) Company understands that the Customer's Retail Load may change from time to time. At no time during the Delivery Period shall Customer use either a) newly constructed or purchased generation resources, or b) new power purchase agreements, to reduce Customer's Retail Load. Company is responsible for Full Requirements Electric Service regardless of changes in Retail Load arising from daily fluctuations, increased or decreased usage, extreme weather and/or similar events; provided, however, that the Parties agree that this Agreement does not obligate the Company to sell to Customer, or the Customer to purchase from Company, at the rates set forth herein, Full Requirements Electric Service for any additions to Retail Load that exceed Normal Load Growth.
- (d) To the extent that Customer's Retail Load grows at a rate in excess of Normal Load Growth, Company and Customer agree to meet to discuss whether changes could be made to this Agreement to address how Customer's Retail Load that exceeds Normal Load Growth can be met under this Agreement; provided however, neither Party shall be required to accept a change with which it, in its sole judgment, disagrees. If the Parties do not agree how Customer's Retail Load that exceeds Normal Load Growth can be met under this Agreement, then Customer shall have the right to find alternate supplies to serve such excess Retail Load.

### **3.2 Transmission Service, Ancillary Services and Local Facilities Service.**

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- (a) Company shall arrange for Network Integration Transmission Service (NITS) and Ancillary Services for Customer's Retail Load and shall be responsible during the Delivery Period for the provision of all such services. Customer shall be responsible for paying all NITS and any other related Transmission Provider charges (including but not limited to, administrative fees that the Company incurs but does not record on its books in generation-related accounts) as identified on Appendix C. During the Term of this Agreement, Customer agrees to reimburse the Company for all NITS and any other related Transmission Provider charges that the Company incurs on the Customer's behalf, as well as for all charges for Ancillary Services the Company incurs but does not record on its books in generation-related accounts.
- (b) Prior to the beginning of the Delivery Period, Customer agrees to execute an Interconnection and Local Delivery Service Agreement with the Company. During the Term of this Agreement, Customer further agrees to pay all charges related to the Interconnection and Local Delivery Service Agreement to Company, or to the Transmission Provider acting as a billing and collections agent for the AEP Operating Companies, if the Customer, Company and Transmission Provider so agree. The services provided under the Interconnection and Local Delivery Service Agreement are sometimes referred to in this Agreement as "Local Facilities Service."

### **3.3 Qualifying Facility Purchases.**

- (a) So long as Customer is receiving Full Requirements Electric Service from Company, Company shall be obligated to purchase the electrical output from any duly licensed and properly operating Qualifying Facility connected to Customer, but only so long as Company has such obligation pursuant to the Public Utility Regulatory Policies Act of 1978, as amended.
- (b) Company shall apply the Monthly Billing amounts set forth in Article 4 to the combined Full Requirements Electric Service supplied by Company and the amounts delivered by the Qualifying Facility to the Customer. If Customer pays the Qualifying Facility directly for such energy, Company shall provide a credit equal to Company's avoided cost rate at the rate that Company would have paid to the Qualifying Facility if Company had directly purchased the Qualifying Facility output.
- (c) Customer agrees that Customer will not, directly or indirectly, engage in any activity to encourage or promote the construction or installation of a Qualifying Facility, except as otherwise required by applicable law, and shall not itself install, purchase or operate a Qualifying Facility during the Term of this Agreement.

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- (d) Customer shall notify Company of the proposed connection of any Qualifying Facility to any part of Customer's system served by Company. Notification shall be in writing as soon as practical, but at least ninety (90) days prior to the connection of the Qualifying Facility.

### 3.4 **Retail Choice.**

- (a) The Parties expressly recognize that retail choice may occur in Customer's service area during the Term of this Agreement. In order to enable Customer to compete to retain existing customers, in the event retail choice is mandated in Customer's service area, by state or federal statutes, regulations, or regulatory agencies, or in the event other power suppliers plan to make a direct connection to one or more retail customers of Customer, the Parties agree as follows: If retail choice is available to a customer or an aggregated group of customers or a potential customer of Customer, Customer may negotiate a price with Company for the retention of such customer or group of customers, or to obtain new customers; provided, however, that if Customer and Company are unable to agree upon a price that retains or acquires such customer(s), then Customer may seek to obtain an alternate source of power supply, which Company shall have the right of last refusal to match within three (3) Business Days of being officially notified by Customer. Such alternate source of power can only be made available to that specific customer or aggregated groups of customers for the defined period of the contract for alternate power supply and shall not be made available to other Retail Load of Customer or to displace other purchases.
- (b) "Mandated by state or federal statutes or regulations or regulatory agencies" includes the following scenarios: (i) state or federal statutes or regulations or regulatory agencies provide for retail choice by Customer's Retail Load as part of a larger retail choice program (in either a pilot program or permanent program), or (ii) Customer is exempt from such state or federal statutes or regulations, but retail customers of Customer, by vote or other legally enforceable right, require that Customer offer them the same provisions and rights contained in a statewide retail choice program.

- ### 3.5 **Renewable Portfolio Standards.** During the Term of this Agreement, if the Company is required, as a result of federal or state laws, rules or regulations, to meet the requirements of any renewable portfolio standards, the Company agrees to meet those requirements with regard to Customer's Retail Load. In no event shall the Company be obligated to meet any renewable portfolio standards imposed upon or enacted by Customer that are more stringent than those standards that the Company is required to meet.

## ARTICLE 4: MONTHLY RATES AND BILLING

**4.1 General Principles Regarding Monthly Charges for Full Requirements Electric Service.** The Monthly Charges for Full Requirements Electric Service supplied to Customer by Company hereunder during the Delivery Period of this Agreement shall include a Generation Demand Charge, a Generation Energy Charge (collectively, the “Generation Demand and Generation Energy Charges”), and a Generation Fuel Charge, all calculated in accordance with the terms of this Article and subject to all other terms and conditions contained in this Agreement. For each Calendar Year, the Generation Demand and Generation Energy Charges for which Customer is ultimately responsible shall be determined using data from Company’s FERC Form 1 for that Calendar Year and the Return on Common Equity from December of the preceding Calendar Year as specified in Section 4.5(b). Because of the time lag in availability of the FERC Form 1 data, Generation Demand and Generation Energy Charges will initially be assessed based on estimated monthly rates, and a “true-up” will subsequently be conducted for each Calendar Year, as provided in Section 4.3 hereof. The Generation Energy Charge shall exclude fuel-related costs. All fuel-related costs shall be recovered through the Generation Fuel Charge, which shall be “trued up” to more current actual fuel-related costs by means of the Fuel Adjustment Charge set forth in Section 4.4 hereof. The monthly rates used to calculate the Generation Demand Charge, Generation Energy Charge and Generation Fuel Charge for Full Requirements Electric Service shall be determined pursuant to the cost-of-service formulas set forth in Appendix B hereto. These formulas will be used for both estimated and actual (“trued-up”) rates and charges.

**4.2 Estimated Generation Demand and Generation Energy Charges.**

- (a) Estimated monthly rates shall be developed for each Contract Year. The estimated monthly rates used to calculate the Generation Demand Charge, Generation Energy Charge and Generation Fuel Charge shall be determined annually by the Company, pursuant to Appendix B, prior to the 31<sup>st</sup> day of May; be provided to the Customer, for its review by June 1; and be made effective as of June 1 (*i.e.*, at the commencement of each Contract Year). The estimated monthly rates in effect during each Contract Year shall be based upon the cost incurred in providing Full Requirements Electric Service for the most recent Calendar Year for which FERC Form 1 data is available.

For example, in Calendar Year 2007, for the first five months the estimated monthly rates used to bill Customer will be based upon Calendar Year 2005 FERC Form 1 data (and will be the same as the estimated monthly rates used in the latter portion of Calendar Year 2006); beginning on June 1, 2007, the estimated monthly rates will be based upon Calendar Year 2006 FERC Form 1 data (and will remain in effect for the remainder of the 2007-2008 Contract Year);

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and all charges based on these estimated rates for Calendar Year 2007 will be subject to "true-up" of the Generation Demand Rate and Generation Energy Rate in 2008, pursuant to Section 4.3.

- (b) The Parties agree that, based upon Company's FERC Form 1 data for 2004, the cost-of-service formulas set forth in Appendix B produce the following monthly Generation Demand Rate, Generation Energy Rate, and Generation Fuel Rate, which shall be charged to Customer by Company for the first partial Contract Year (*i.e.*, from January 1, 2006 through May 31, 2006), pursuant to this Agreement:

Generation Demand Rate	\$7.73/kilowatt
Generation Energy Rate	\$0.0035501/kilowatt-hour
Generation Fuel Rate	\$0.0142378/kilowatt-hour

The foregoing estimated monthly Generation Demand Rate and Generation Energy Rate and the Generation Demand and Generation Energy Charges they produce shall be adjusted as part of the "true-up" of Calendar Year 2006 Generation Demand and Generation Energy Charges pursuant to Section 4.3. The foregoing monthly Generation Fuel Rate shall not be adjusted as part of the "true-up" process, because the Fuel Adjustment Charge will recover actual fuel-related costs on a more current basis as provided in Section 4.4.

- 4.3 True-Up of Generation Demand and Generation Energy Charges.** Because the Generation Demand and Generation Energy Charges initially collected during a Calendar Year will be the product of estimated rates based on data from previous Calendar Years, the Generation Demand and Generation Energy Charges shall be adjusted (or "trued-up") based upon (i) FERC Form 1 cost data from that Calendar Year and (ii) the Return on Common Equity calculated using data from December of the previous Calendar Year as specified in Section 4.5(b). The true-up for Generation Demand and Generation Energy Charges shall be conducted by Company prior to May 31<sup>st</sup> of each Calendar Year once the FERC Form 1 data for the prior Calendar Year is available, and shall be accomplished by recalculating the sums due to Company from Customer for service provided during the prior Calendar Year. The difference between the sum of the Monthly Charges originally billed to Customer for service provided during the Calendar Year, based on the estimated monthly rates, and the sum of the Monthly Charges for which Customer is ultimately responsible shall be billed to Customer or credited to Customer, as appropriate, in three (3) equal amounts during the months of July, August and September of the year immediately following the Calendar Year for which the "true-up" is calculated, unless otherwise agreed by the Parties. The amount to be billed or credited for any such over-collections or under-collections will include interest at the Prime Rate, charged or applied from the date of original payment to the date when the over-

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collections or under-collections are paid or credited, but excluding the date paid or credited.

For example, the “true-up” of Generation Demand and Generation Energy Charges initially collected for service provided during Calendar Year 2007 shall be conducted by Company by May 31, 2008. The “trued-up” charges shall be calculated using (i) 2007 FERC Form 1 cost data and (ii) the Return on Common Equity calculated using data from December 2006. The difference between the sum of the Monthly Charges originally billed to Customer for service provided during 2007 (based on two different sets of estimated rates for portions of two Contract Years) and the sum of the “trued-up” Monthly Charges for Calendar Year 2007 will be billed to Customer or credited to Customer, as appropriate and with interest, in the invoices rendered in July, August and September 2008, unless otherwise agreed by the Parties. A timeline showing the timing for the calculation of estimated bills, true-ups and billings, using the first few years of the Delivery Period for illustrative purposes, is set forth on Appendix D.

**4.4 Fuel Adjustment Charge.** Customer shall pay Company a monthly Fuel Adjustment Charge determined pursuant to the cost-of-service formulas set forth in Appendix B hereto. The base cost of fuel, expressed in dollars per KWh, to be used in the Fuel Adjustment Charge shall equal the then-applicable Generation Fuel Rate. Customer shall be billed a Fuel Adjustment Charge each month for the energy delivered in the preceding month based upon estimated fuel charges in excess of the Generation Fuel Rate or, if applicable, shall be credited for the amount by which the estimated fuel charges are lower than the Generation Fuel Rate. Any differences between the estimated fuel charges and the fuel charges based on actual fuel costs shall be billed or credited to Customer on the first bill rendered after such actual fuel costs have been determined. Company shall use reasonable diligence when estimating monthly fuel charges so as to avoid any significant difference between estimated and actual monthly fuel charges to Customer.

**4.5 Cost-of-Service Formulas.** The cost-of-service formulas set forth in Appendix B were designed, by mutual agreement, primarily to use the Company’s FERC Form 1 costs. The Parties also agreed to the Appendix B treatment of costs that either are not reflected in the Company’s FERC Form 1 costs, or that the Parties agreed were not representative of the Company’s costs. The Parties agree that the specific elements of the cost-of-service formulas set forth below are an integrated and integral part of this Agreement:

- (a) For purposes of calculating the Company’s rate base used in Appendix B, the Parties agree that the Company will include one hundred percent (100%) of its expenditures for Pollution Control Facilities and Fuel Conversion Facilities (as defined in Section 35.25 of the FERC’s Regulations) recorded on the Company’s books and records as construction work in progress (“CWIP”), and fifty percent (50%) of its expenditures for all other CWIP.

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- (b) The Return on Common Equity, which will be used to compute the composite cost of capital used in Appendix B, shall be determined annually by taking the average of the daily Moody's Long-Term Baa Corporate Bond Index for the month of December and adding 585 basis points (5.85 percentage points). For estimated Monthly Charges, the composite cost of capital and estimated Monthly Charges shall be developed using the Appendix B formulas and data from the FERC Form 1 for the Calendar Year that ends with the same month of December as was used to determine the Return on Common Equity. (For example, by June 1, 2008, the composite cost of capital shall be determined using the Return on Common Equity from December, 2007 and other capital cost data from the FERC Form 1 for Calendar Year 2007. The resulting composite cost of capital shall be used in the Appendix B formulas together with other FERC Form 1 data for Calendar Year 2007 to determine the estimated Generation Demand and Generation Energy Charges and the Generation Fuel Rate for the Contract Year beginning June 1, 2008). For true-ups of the Generation Demand and Generation Energy Charges, the FERC Form 1 data for the Calendar Year being trued up shall be used in conjunction with the Return on Common Equity from December of the prior Calendar Year. (For example, once 2008 FERC Form 1 data are available in 2009, such data shall be used to compute the 2008 composite cost of capital using the Return on Common Equity from December, 2007. That composite cost of capital will be used with other 2008 FERC Form 1 data to determine the trued-up Generation Demand and Generation Energy Charges for Calendar Year 2008.) So long as the Return on Common Equity computed pursuant to this Section 4.5(b) is neither lower than 9.0% nor higher than 18.0%, the Parties agree that the Return on Common Equity used to compute the composite cost of capital in Appendix B shall not be subject to change under Sections 205 or 206 of the Federal Power Act ("FPA"), absent the mutual written consent of the Parties. In the event that the Return on Common Equity produced as a result of the calculation provided for herein is either below 9.0% or above 18.0%, either Party may seek FERC review of the Return on Common Equity value under the "just and reasonable" standard of Sections 205 and 206 of the FPA.
- (c) The Company's share of net revenue from deliveries to non-associated companies by the AEP Operating Companies ("System Sales") shall be shared twenty-five percent (25%) by Customer and seventy-five percent (75%) by Company, as shown on Appendix B. For purposes of this Section 4.5(c), "net revenue" refers to the revenue in excess of the full cost of making such System Sales.

#### **4.6 Billing Demand and Billing Energy.**

- (a) The monthly Billing Demand shall be the single highest 60-minute kW demand measured during the Billing Period.

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- (b) The monthly Billing Energy shall be the total kWhs of Firm Energy measured during the Billing Period.

**4.7 Determination of Monthly Bill.** The Monthly Bill shall set forth charges for Full Requirements Electric Service, charges for Local Facilities Service, charges to reimburse costs incurred by the Company on behalf of the Customer in connection with Full Requirements Electric Service, and other charges associated with Full Requirements Electric Service. The Monthly Bill shall be the total of the following:

1. The product of the Generation Demand Rate and the Billing Demand; plus
2. The product of the Generation Energy Rate and the Billing Energy; plus
3. The product of the Generation Fuel Rate and the Billing Energy; plus
4. The product of the Fuel Adjustment Charge and the Billing Energy; plus
5. All applicable charges in accordance with the Interconnection and Local Delivery Service Agreement, to the extent not billed directly to the Customer by the Transmission Provider or otherwise; plus
6. All amounts due to Company for reimbursement of charges incurred by Company as the NITS customer for delivery of Full Requirements Electric Service in accordance with the OATT or related agreements for transmission-related schedules or services for which Customer is responsible pursuant to Section 3.2(a) and Appendix C hereto, to the extent that such charges are not included in Items 1 through 5 above; plus
7. Any applicable taxes, fees and assessments attributable to Full Requirements Electric Service not included in any of the other elements of the Monthly Bill.

**4.8 Payment Date.** Customer shall pay Company any amounts due and payable hereunder on or before the later of the fifteenth (15th) day of each month, or the tenth (10<sup>th</sup>) day after receipt of invoice or, if such due date is not a Business Day, then on the next Business Day. If an invoice is received on a day that is not a Business Day, it shall be deemed to have been received on the next following Business Day. All invoices shall be paid by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the Company. If all or any part of any amount due and payable pursuant to this Agreement shall remain unpaid thereafter, interest shall thereafter accrue and be payable to Company on such unpaid amount at a rate per annum equal to the Prime Rate plus 2% per annum.

**4.9 Payment Netting.** Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to this

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Agreement through netting, in which case all amounts owed by each Party to the other Party under this Agreement, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it. All amounts netted pursuant to Article Four shall not take into account or include any Performance Assurance or guaranty, which may be in effect to secure a Party's performance under this Agreement. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly Billing Period, that Party shall pay such sum in full when due.

- 4.10 Billing Disputes.** If a Party, in good faith, disputes an invoice, the disputing Party shall immediately notify the other Party of the basis for the dispute and pay the undisputed portion of such invoice no later than the due date; provided, however, with respect to any amounts the Company passes to the Customer from the Transmission Provider pursuant to Item 6 of Section 4.7 above, the full amount of the disputed bill shall be paid when due and any billing dispute shall be handled in accordance with the procedures set forth in the OATT. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with any accrued interest from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned by the receiving Party or deducted from subsequent payments at the option of the overpaying Party, in either case with interest accrued at the Prime Rate until the date paid or deducted, from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

## ARTICLE 5: Transmission Provider Implementation

### 5.1 Implementation.

- (a) Company and Customer shall enter into, and file with the Transmission Provider and other applicable entities, all documents necessary for the Company to fulfill its obligation to provide Full Requirements Service.
- (b) The Parties recognize and agree that Company is the Customer's Load Serving Entity. The Parties further recognize and agree that the Full Requirements Electric Service to be provided hereunder is a load obligation of the Company and that the Company assumes such load obligation as its own firm power commitment and shall retain all advantages accruing from meeting the load.
- (c) Each Party shall provide the other Party access to information the other Party reasonably requests to facilitate the administration of this Agreement.

## ARTICLE 6: CREDITWORTHINESS

6.1 **Financial Information.** If requested by a Party ("Party X"), the other Party ("Party Y") shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year with respect to Party Y, and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of the quarterly report containing unaudited consolidated financial statements for such fiscal quarter with respect to Party Y. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party Y diligently pursues the preparation, certification and delivery of the statements.

### 6.2 Performance Assurance.

- (a) If at any time either Party has reasonable grounds to believe that the other Party's creditworthiness or performance under this Agreement has become unsatisfactory, the Party (the "Requesting Party") may provide the other Party (the "Receiving Party") with written notice requesting Performance Assurance in an amount determined by Receiving Party in a commercially reasonable manner.

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- (b) Upon receipt of such notice the Receiving Party shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to the Requesting Party.
- (c) In the event that the Receiving Party fails to provide such Performance Assurance or other credit assurance acceptable to the Requesting Party within three (3) Business Days of receipt of notice, then an Event of Default under Article 7 shall be deemed to have occurred.

**6.3 Grant of Security Interest/Remedies.**

- (a) To secure its obligations under this Agreement, and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting from said Performance Assurance or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting there from or from the liquidation thereof.
- (b) Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Affected Party may do any one or more of the following:
  - 1. exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect;
  - 2. exercise its rights of setoff against any and all property of the Affected Party in the possession of the Non-Affected Party or its agent;
  - 3. draw on any outstanding Letter of Credit issued for its benefit; and
  - 4. liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Affected Party, including any equity or right of purchase or redemption by the Affected Party.
- (c) The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's

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obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

- 6.4 Interest Rate on Cash Amounts Held as Collateral.** For Performance Assurance in the form of cash that is held by a Party pursuant to this Article Six, the interest rate will be the Federal Funds Rate minus 0.25% as from time to time in effect. "Federal Funds Rate" means the rate, for the relevant determination date opposite the caption "Federal Funds (Effective)", as set forth in the weekly statistical release designated as H.15 (519), published by the Board of Governors of the Federal Reserve System. Such interest shall be calculated commencing on the date Performance Assurance in the form of cash is received by a Party but excluding the earlier of: (i) the date Performance Assurance in the form of cash is returned to a Party; or (ii) the date Performance Assurance in the form of cash is applied to a Pledgor's obligations pursuant to Section 6.3.
- 6.5 Transfer of Interest Amount.** The Pledgor shall invoice the Secured Party monthly setting forth the calculation of the interest amount due, and the Secured Party shall make payment thereof by the later of (i) the third Business Day of the first month after the last month to which such invoice relates; or (ii) the third Business Day after the day on which such invoice is received.

## ARTICLE 7: DEFAULT AND REMEDIES

- 7.1 Events of Default.** Any one or more of the following shall constitute an "Event of Default" hereunder with respect to either Party (the "Defaulting Party"):
- (a) The failure to make, when due, any payment required pursuant to this Agreement (other than payments disputed under Article 4) if such failure is not remedied within three (3) Business Days after written notice;
  - (b) Any representation or warranty made by a Party herein is false or misleading in any material respect when made or when deemed made or repeated, if such failure is not remedied within thirty (30) Business Days after written notice;
  - (c) The failure by either Party to provide Performance Assurance as required under Article 6;
  - (d) The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default as specified above, and except to the extent such Party's obligations to deliver or receive Firm Energy are modified by the provisions of Article 8), if such failure is not remedied within fifteen (15) Business Days after written notice;

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- (e) Such Party: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (v) is generally unable to pay its debts as they fall due;
- (f) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party; or
- (g) Such Party experiences the occurrence and continuation of a default, event of default or other similar condition or event in respect of such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than U.S. Dollars \$100,000,000 for Company, and in the case of Customer, not less than U.S. Dollars \$15,000 for the City of Vanceburg, Kentucky, and not less than U.S. Dollars \$300,000 for the Electric Plant Board of the City of Vanceburg, Kentucky, which results in such indebtedness becoming immediately due and payable.

**7.2 Declaration of an Early Termination.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date"); (ii) withhold any payments due to the Defaulting Party under this Agreement; and (iii) suspend performance.

**7.3 Suspension of Performance.** Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Article 9 been given;

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- (b) to exercise any remedy available at law, subject to the limitations set forth in Section 10.1 hereof, including the right to seek to recover direct damages before a court of competent jurisdiction, and, if the Defaulting Party is the Customer, Company's right to seek to recover its Stranded Costs in accordance with Section 35.26 of the FERC's Regulations; and
- (c) to exercise any remedy available in equity.

**7.4 Obligations At Expiration or Termination.** Upon the termination or expiration of this Agreement, in addition to such rights and obligations enumerated elsewhere in this Agreement, the grant of any and all right and interest to Company to supply the Full Requirements Electric Service shall cease. Customer and Company shall cooperate, in advance to the extent possible, to make all necessary filings with the Transmission Provider and to perform all other acts necessary to transfer all such rights and interests back to Customer.

## **ARTICLE 8: CURTAILMENT, TEMPORARY INTERRUPTIONS, FORCE MAJEURE AND TRANSMISSION CURTAILMENT**

- 8.1 Curtailment.** If there is a shortage of Energy requiring the curtailment of the Company's Firm Energy deliveries, then upon being notified by the Transmission Provider or the Company, Customer will institute procedures which will cause a corresponding curtailment of the use of Energy by the load served under this Agreement. It is the express intention of this provision that any curtailment of Energy shall fall equitably upon all loads served by the Company. If upon notification of a requirement to curtail, Customer fails to institute such procedures, Company shall be entitled to limit deliveries of Firm Energy to Customer in order to effectuate reductions in Energy deliveries, in the smallest amount that is operationally practical, equivalent to or greater than the reduction which would have been effected had Customer fulfilled its curtailment obligation hereunder during the period any shortage exists, and, in such event, Company shall not incur any liability to Customer in connection with any such action so taken by Company.
- 8.2 Temporary Interruptions.** Company will use reasonable diligence in furnishing Firm Energy to Customer, but Company does not guarantee that the supply of Firm Energy furnished to Customer will be uninterrupted, or that voltage and frequency will be at all times constant. Temporary interruption of Firm Energy deliveries hereunder shall not constitute a breach of the obligations of Company under this Agreement, and Company shall not, in any cases where it has used reasonable diligence, be liable to Customer for damages resulting from any such temporary interruptions of service.

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- 8.3 Force Majeure.** To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.
- 8.4 Force Majeure Exceptions.** Force Majeure shall not be based on (i) the loss of any load by Customer; (ii) Customer’s inability economically to use or resell the Full Requirements Electric Service contracted for hereunder; (iii) the loss or failure of Company’s Generation Resources; or (iv) Company’s ability to resell the Full Requirements Electric Service at a price greater than the pricing set forth herein.
- 8.5 Transmission Curtailment.** The Parties understand and agree that Company may raise a claim of Force Majeure, on its and/or Customer’s behalf, based in whole or in part on curtailment by the Transmission Provider, but only to the extent that such curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the Transmission Provider’s tariff, because the Company will arrange for firm transmission with the Transmission Provider for the Full Requirements Electric Service to be provided hereunder.

## ARTICLE 9: NOTICES, REPRESENTATIVES OF THE PARTIES

- 9.1 Notices.** Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. Such notice shall be sent by facsimile, courier, personally delivered or mailed, postage prepaid, to the representative of the other Party designated in this Article 9. Any such notice, demand, or request shall be deemed to be given (i) when received by facsimile; (ii) when actually received if delivered by courier, overnight mail or personal delivery; or (iii) three (3) days after deposit in the United States mail, if sent by first class mail.

- (a) Notices and other communications by Company to Customer shall be addressed to:

Superintendent  
Electric Plant Board  
City of Vanceburg, Kentucky  
611 Front Street  
Vanceburg, KY 41179  
Phone: 606-796-2641  
Facsimile: 606-796-6311

With a copy to:

Mayor  
City of Vanceburg  
615 Second Street  
Vanceburg, KY 41179  
Phone: 606-796-3044  
Facsimile: 606-796-6311

- (b) Notices and other communications by Customer to Company shall be addressed to:

President  
Kentucky Power Company  
101 Enterprise Drive  
Frankfort, Kentucky 40601  
Phone: 502-696-7007  
Facsimile: 502-696-7006

With copies to:

Credit Risk Management  
American Electric Power Service Corporation  
155 W. Nationwide Blvd., Suite 400  
Columbus, OH 43215  
Phone: (614) 583-6728  
Facsimile: (614) 583-1604

and



Vice President – Energy Marketing  
American Electric Power Service Corporation  
155 W. Nationwide Blvd., Suite 500  
Columbus, OH 43215  
Phone: (614) 583-6408  
Facsimile: (614) 583-1626

(c) Any Party may change its representative by written notice to the other Parties.

**9.2. Authority of Representative.** The Parties' representatives designated in Section 9.1 shall have full authority to act for their respective principals in all technical matters relating to the performance of this Agreement. The Parties' representatives shall not, however, have the authority to amend, modify or waive any provision of this Agreement unless they are authorized officers of their respective entities and such amendment, modification or waiver is made pursuant to Section 16.6.

## **ARTICLE 10: LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES**

### **10.1 Limitation on Consequential, Incidental and Indirect Damages.**

(a) TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER CUSTOMER NOR COMPANY, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, NOR EMPLOYEES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE MEMBERS, PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE

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SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. THE PROVISIONS OF THIS SECTION 10.1 SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

**10.2 Indemnification.**

- (a) Each Party shall indemnify, defend and hold harmless each other Party from and against any Claims arising from or out of any event, circumstance, act or incident occurring or existing during the period when control and title to Full Requirements Electric Service is vested in such Party as provided in Section 10.3 of this Agreement.
- (b) Each Party shall indemnify and hold harmless the other Party from and against any and all legal and other expenses, Claims, costs, losses, suits or judgments for damages to any person or destruction of any property arising in any manner directly or indirectly by reason of the acts of such Party's authorized representatives while on the premises of the other Party under any rights of access provided herein.
- (c) Customer shall indemnify and hold harmless the Company from and against any and all legal and other expenses, Claims, costs, losses, suits or judgments for damages to any individual, firm or corporation constituting any part of Customer's load arising in any manner directly or indirectly by reason of a failure, interruption or curtailment in Company's supply of Full Requirements Electric Service.
- (d) Company assumes no responsibility of any kind with respect to the construction, maintenance, or operation of the system or other property owned or used by Customer; and Customer agrees to protect indemnify and save harmless Company from any and all Claims, demands, or actions for injuries to person or property by any person, firm or corporation in any way resulting from, growing out of, or arising in or in connection with (a) the construction, maintenance or operation of Customer's system or other property; or (b) the use of, or contact with, Energy delivered hereunder after it is delivered to Customer and while it is flowing through the lines of Customer, or is being distributed by Customer, or is being used by Retail Load.
- (e) If a Party intends to seek indemnification under this Section 10.2 from the other Party with respect to any Claim, the Party seeking indemnification shall give such other Party notice of such Claim within fifteen (15) days of the commencement of, or actual knowledge of, such Claim. Such Party seeking indemnification shall have the right, at its sole cost and expense, to participate

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in the defense of any such Claim. The Party seeking indemnification shall not compromise or settle any such Claim without the prior consent of the other Party, which consent shall not be unreasonably withheld.

- 10.3 Title: Risk of Loss.** Title to and risk of loss related to the Full Requirements Electric Service to be provided hereunder shall transfer from Company to Customer at the Delivery Points. Company warrants that it will deliver Full Requirements Electric Service to Customer free and clear of all Claims or any interest therein or thereto by any person arising prior to the Delivery Points.

## **ARTICLE 11: REPRESENTATIONS AND WARRANTIES**

- 11.1 Company and Customer representations and warranties.** Company and Customer represent and warrant to the other that:
- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
  - (b) It has, or will upon execution of this Agreement promptly seek, all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
  - (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, including, but not limited to, any organizational documents, charters, by-laws, indentures, mortgages or any other contracts or documents to which it is a party, or any law, rule, regulation, order or the like applicable to it;
  - (d) This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
  - (e) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming bankrupt; and
  - (f) There is not pending or, to its knowledge, threatened against it any legal proceedings that could materially and/or adversely affect its ability to perform its obligations under this Agreement.

**11.2 Customer representations and warranties.** Customer represents and warrants to Company that:

- (a) With respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of its status as a municipality and/or electric plant board under Federal or state law or similar grounds with respect to itself or its revenues or assets from (i) suit, (ii) jurisdiction of court (including a court located outside the jurisdiction of its organization), (iii) relief by way of injunction, order for specific performance or recovery of property, (iv) attachment of assets, or (v) execution or enforcement of any judgment; provided, however, that nothing in this Section 11.2(a) is intended to cause a waiver of individual or personal immunity (whether it be absolute or qualified immunity), granted by law, to the officers, administrators, board members, council members, employees or agents of the Customer; and
- (b) Customer shall provide and maintain suitable protective devices on its equipment to prevent any loss, injury or damage that reasonably might be foreseen to result from single phasing conditions or any other fluctuations or irregularity in the supply of Energy. Company shall not be liable for any loss, injury or damage resulting from a single phasing condition or any other fluctuation or irregularity in the supply of Energy which could have been prevented by Customer's use of such protective devices; and
- (c) To the extent that retail customers that are not part of the service area that Customer has a statutory or other right to serve, as it exists as of the Effective Date hereof, now have or obtain in the future, during the Term of this Agreement, the ability to choose generation electric suppliers, Customer agrees that it will not seek to provide any type of electric service to such retail customers under this Agreement without the express consent of Company; and
- (d) Customer shall not take any actions inconsistent with this Agreement to change Customer's Retail Load due to prevailing electric market prices.

## ARTICLE 12: ASSIGNMENT

- 12.1 General Prohibition Against Assignments.** Except as provided in Section 12.2 below, no Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld.
- 12.2 Exceptions to Prohibition Against Assignments.** A Party may, without the other Party's prior written consent, (and without relieving itself from liability hereunder) (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; or (ii) transfer or assign this agreement to any person or entity succeeding by merger or by acquisition to all or substantially all of the assets of the assigning Party, where such person's or entity's creditworthiness is equal to or higher than that of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.

## ARTICLE 13: CONFIDENTIALITY

### 13.1 Treatment of Confidential Information.

- (a) To the extent permitted by law, all Confidential Information shall be held and treated by the Parties and their agents in confidence, used solely in connection with this Agreement, and shall not, except as hereinafter provided, be disclosed without the other Party's prior written consent.
- (b) Notwithstanding the foregoing, Confidential Information may be disclosed (i) to a third party for the purpose of effectuating the supply, transmission and/or distribution of Full Requirements Electric Service to be delivered pursuant to this Agreement; (ii) to regulatory authorities of competent jurisdiction, or as otherwise required by applicable law, regulation or order; (iii) as part of any required, periodic filing or disclosure with or to any regulatory authority of competent jurisdiction; and (iv) to third parties in connection with merger, acquisition/disposition and financing transactions provided that any such third party shall have signed a confidentiality agreement with the Disclosing Party containing customary terms and conditions that protect against the disclosure of the Confidential Information and that strictly limit the recipient's use of such information only for the purpose of the subject transaction and that provide for remedies for non-compliance.

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- (c) In the event that a Party (“Disclosing Party”) is requested or required to disclose any Confidential Information pursuant to subsection (b) of this Article, the Disclosing Party shall provide the other Party with prompt written notice of any such request or requirement, so that the other Party may seek an appropriate protective order, other confidentiality arrangement or waive compliance with the provisions of this Agreement. If, failing the entry of a protective order, other confidentiality arrangement or the receipt of a waiver hereunder, the Disclosing Party, in the opinion of counsel, is compelled to disclose Confidential Information, the Disclosing Party may disclose that portion of the Confidential Information which the Disclosing Party’s counsel advises that the Disclosing Party is compelled to disclose.
- (d) The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. In addition to the foregoing, the Disclosing Party shall indemnify, defend and hold harmless the other Party from and against any Claims, threatened or filed, and any losses, damages, expenses, attorneys’ fees or court costs incurred by such Party in connection with or arising directly or indirectly from or out of the Disclosing Party’s disclosure of the Confidential Information to third parties except as permitted above.
- (e) Notwithstanding the above provisions, Company shall be permitted to communicate to the Transmission Provider any necessary information, including Confidential Information, with regard to implementation of this Agreement, and will make all reasonable efforts to ensure that Confidential Information remains confidential.

## **ARTICLE 14: REGULATORY AUTHORITIES**

### **14.1 Effect of Regulation.**

- (a) Each Party shall perform its obligations hereunder in accordance with applicable law, rules and regulations. Nothing contained herein shall be construed to constitute consent or acquiescence by either Party to any action of the other Party which violates the laws of the United States as those provisions may be amended, supplemented or superseded, or which violates any other law or regulation, or any order, judgment or decree of any court or governmental authority of competent jurisdiction.
- (b) The Parties hereto recognize that this Agreement is subject to the jurisdiction of the FERC, and that the Company will file this Agreement with the FERC. Should the FERC not accept this Agreement for filing, without change or

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Kentucky Power Company

Issued on: December 15, 2005

Effective: January 1, 2006

condition, this Agreement shall not become effective, unless the Parties agree otherwise in writing, it being the intent of the Parties that the FERC's acceptance of this Agreement, without change or condition, is a prerequisite to the validity of this Agreement. In the event that this Agreement is not accepted for filing, without change or condition, the Parties agree to negotiate in good faith to reach an agreement that provides for a similar balancing of interests as is reflected in this Agreement.

- (c) The Parties agree to use their best efforts to seek and obtain the prompt approval of this Agreement by the FERC.
- (d) The Parties recognize the Company's obligation, under FERC's Order 888, to unbundle the costs of providing service to Customer under this Agreement. It is the Parties intent that the unbundling of the costs of generation, NITS, Ancillary Services and Local Delivery Services, to be charged to Customer by Company under Article 4 of this Agreement, satisfies the FERC's requirements, even though the costs of certain Ancillary Services are included as generation-related costs under the formula rate mechanism in Appendix B. Company agrees to provide Customer with a breakdown of costs that would be charged to Customer under the OATT, assuming the Customer were paying a market-based generation price, as opposed to a cost-based formula rate, within thirty (30) days of Customer's request.

## **ARTICLE 15: DISPUTE RESOLUTION AND STANDARD OF REVIEW FOR PROPOSED CHANGES**

**15.1 Resolution by Officers of the Parties.** In the event of any dispute among the Parties arising out of or relating to this Agreement, the Parties shall refer the matter to their duly authorized officers for resolution. Should such officers fail to resolve the dispute within ten (10) days after such referral, the Parties agree that any such dispute may be resolved pursuant to Section 15.2.

**15.2 Procedures for Resolution of Disputes.**

- (a) Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Section only, collectively the "Disputes"), even though some or all of such Disputes allegedly are extra contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under state or federal law, whether provided by statute or the

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common law, for damages or any other relief, may, upon mutual agreement of the parties, be resolved by binding arbitration. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Upon agreement to arbitrate, any award made hereunder shall be binding upon the Parties, their successors and assigns, and any trustee or receiver of either Party.

**15.3 Standard of Review.**

- (a) Notwithstanding the provisions of Sections 15.1 and 15.2 hereof, and subject to the exceptions set out in Section 15.3(b), the Parties agree that the provisions of this Agreement, including without limitation the rates and charges and conditions of service contained herein, are subject to change by the FERC, and that the Company and Customer shall be entitled, at any time and from time to time, to apply for or to take other action to request such a change under Sections 205 or 206 of the Federal Power Act (FPA), respectively, and pursuant to the rules and regulations promulgated thereunder (Sections 205 or 206).
- (b) The Parties expressly agree that the following provisions of this Agreement are not subject to change under Sections 205 or 206, absent the mutual written consent of the Parties:
1. the Term and expiration date of this Agreement;
  2. the Parties' agreement that Customer is not entitled to cost-based rates, after the expiration of this Agreement, solely because of this Agreement;
  3. the cessation of the Company's obligation to plan to meet Retail Load, after the end of the Term of this Agreement, absent an agreement of the Parties that extends beyond the end of the Delivery Period covered by this Agreement;
  4. the continuation of a formula rate, designed to permit the Company to recover the costs it incurs to provide Full Requirements Electric Service to the Customer, throughout the Term of this Agreement;
  5. the cost-of-service provisions contained in parts (a) through (c) of Section 4.5 of this Agreement;
  6. the credit provisions of Article 6;
  7. the Customer's agreement that, so long as Customer's Monthly Bill is calculated in accordance with this Agreement, the Customer shall not allege that any of the rates charged hereunder result in price discrimination or anticompetitive effects; and

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8. the standard of review provisions in this Section 15.3(b).

It is the intent of this Section and the Parties that, to the maximum extent permitted by law, the provisions of this Agreement that are enumerated in this Section 15.3 (b) shall not be subject to change under Sections 205 and 206, and that absent the written agreement of the Parties to change any of the above enumerated provisions, the standard of review for changes to any of those enumerated provisions proposed by a Party, a non-party, or the FERC, acting *sua sponte*, shall be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the *Mobile-Sierra Doctrine*).

## ARTICLE 16: GENERAL PROVISIONS

- 16.1 Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties hereto, and nothing herein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party hereto.
- 16.2 No Dedication of Facilities.** Any undertakings or commitments by one Party to the other under this Agreement shall not constitute the dedication of generation facilities or the transmission system or any portion thereof of either Party to the other Party.
- 16.3 Waivers.** The failure of a Party to insist in any instance upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a general waiver of any such provision or the relinquishment of any such right, except to the extent such waiver is in writing and signed by an authorized representative of such Party.
- 16.4 Interpretation.** The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Commonwealth of Kentucky, without giving effect to its conflict of laws provisions.
- 16.5 Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby; and the Parties hereby agree to effect such modifications to this Agreement as shall be reasonably necessary in order to give effect to the original intention of the Parties.

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- 16.6. Modification.** No modification to this Agreement will be binding on any Party unless it is in writing and signed by the Parties.
- 16.7 Counterparts.** This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.
- 16.8 Headings.** Article and Section headings used throughout this Agreement are for the convenience of the Parties only and are not to be construed as part of this Agreement.
- 16.9 Audit.** Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party invoices evidencing the quantities of Full Requirements Electric Service. If any such examination reveals any inaccuracy in any invoice, the necessary adjustments to such invoice and the payments thereof will be made promptly and shall bear interest calculated at the Prime Rate plus two percent (2%) from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.
- 16.10 Records.** The Parties shall keep (or as necessary cause to be kept by their respective agents) for a period of at least three (3) years such records as may be needed to afford a clear history of the Full Requirements Service supplied pursuant to this Agreement. For any matters in dispute, the Parties shall keep the records related to such matters until the dispute is ended.
- 16.11 Survival.** The provisions of Articles 10, 13 and 15, and Sections 16.9 and 16.10 hereof, and any other Section of this Agreement that specifies by its terms that it survives termination, shall survive the termination or expiration of this Agreement.

## ARTICLE 17: RULES OF CONSTRUCTION

- 17.1 Terms used in this Agreement but not listed in this Article, or defined herein or in Article 1, shall have meanings as commonly used in the English language and, where applicable, in Good Utility Practice.
- 17.2 Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.
- 17.3 The masculine shall include the feminine and neuter.
- 17.4 The words "include", "includes" and "including" are deemed to be followed by the words "without limitation."
- 17.5 References to contracts, agreements and other documents and instruments shall be references to the same as amended, supplemented or otherwise modified from time to time.
- 17.6 The Appendices attached hereto are incorporated in and are intended to be a part of this Agreement; provided, that in the event of a conflict between the terms of any Appendices and the terms of this Agreement, the terms of this Agreement shall take precedence.
- 17.7 References to laws and to terms defined in, and other provisions of, laws shall be references to the same (or a successor to the same) as amended, supplemented or otherwise modified from time to time.
- 17.8 References to a person, entity, or governmental authority shall include its successors and permitted assigns, and any entity succeeding to the functions and capacities of that person, entity or governmental authority.
- 17.9 References to "Articles," "Sections," or "Appendices" shall be to articles, sections, or appendices of this Agreement.
- 17.10 Unless the context plainly indicates otherwise, words importing the singular number shall be deemed to include the plural number (and vice versa); terms such as "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Agreement rather than any particular part of the same.
- 17.11 This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

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Kentucky Power Company  
Issued on: December 15, 2005

Effective: January 1, 2006

Kentucky Power Company  
FERC Rate Schedule No. 51

Original Sheet No. 37

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to execute this Agreement on their behalf as of the date first above written.

---

The City of Vanceburg, Kentucky

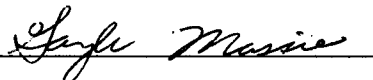
By: 

Name: William T. Cooper

Title: Mayor

ATTEST:   
City Clerk

The Electric Plant Board, City of Vanceburg, Kentucky


By: 

Name: Gayle Massie

Title: Chairperson

ATTEST:   
Secretary

American Electric Power Service Corporation,  
as agent for  
Kentucky Power Company

By: 

Name: Michael G. Morris

Title: Chief Executive Officer and President

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Kentucky Power Company

Issued on: December 15, 2005

Effective: January 1, 2006

**Kentucky Power Company  
FERC Rate Schedule No. 51**

**APPENDIX A**

CITY OF VANCEBURG, KENTUCKY  
DELIVERY POINTS  
AS OF DECEMBER 6, 2005

<u>DESCRIPTION</u>	<u>DELIVERY VOLTAGE</u>
South Portsmouth Station	Transmission

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Kentucky Power Company  
Issued on: December 15, 2005**

**Effective: January 1, 2006**

**Kentucky Power Company  
FERC Rate Schedule No. 51**

**Cost-of-Service Formulas**

A-1

**DETERMINATION OF DEMAND-RELATED COSTS AND  
DEMAND CHARGE**

TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	<u>Demand Related</u>	<u>Reference</u>
1. Return on Investment	\$	P.A-5, L.18, Col (2)
2. Operation & Maintenance Expense	\$	P.A-14, L.8, Col (2)
3. Depreciation Expense	\$	P.A-15, L.14, Col (2)
4. Taxes Other Than Income Taxes	\$	P.A-16, L.7, Col (2)
5. Income Tax	\$	P.A-17, L.5, Col (2)
6. <u>Subtotal</u>	<u>\$</u>	Lines 1 through 5
7. Less: Off-System Sales for Resale Expenses	\$	P. A-4, L.3, Col (2)
8. Less: Customer Share of Off-System Sales Margin	\$	P. A-4, L.4, Col (2)
9. Adjustment of Other Income and Deductions	\$	Note A
10. <u>Annual Production Fixed Cost</u>	<u>\$</u>	L.6 - L.7 - L.8 + L.9
11. Monthly Peak Megawatts	#	FERC-1, p.401b
12. Demand Charge	\$ /kW	L.10 / L.11 / 1,000
13. Loss Adjusted Monthly Demand at Peak	# kW	Note B
14. <u>Annual Demand Revenue Requirement</u>	<u>\$</u>	L.10 / L.11 / 1,000
15. Loss Adjusted Monthly Demand	# kW	Note B
16. <u>Demand Charge @ Generation</u>	<u>\$ /kW</u>	L. 14 / L. 15
17. Transmission Loss Factor	#	Note C
18. <b>Transmission Voltage Demand Charge</b>	\$ /kW	L. 16 X L. 17

Note A: To be determined by accounting department.

Note B: Total customer demands adjusted for losses to generation.

Note C: Losses pursuant to OATT.

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Issued on: December 15, 2005**

**Effective: January 1, 2006**

**Kentucky Power Company  
FERC Rate Schedule No. 51**

**Cost-of-Service Formulas**

A-2  
 DETERMINATION OF ENERGY RELATED COSTS AND  
 ENERGY CHARGE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	<u>Energy Related</u>	<u>Reference</u>
1. Total Fuel	\$	P.A-14, L.16, Col (4)
2. Purchased Power (555)	\$	P.A-14, L.1, Col (4)
3. Other Production Expense	\$	P.A-14, L.4, Col (3)
4. <u>Total Production Cost</u>	<u>\$</u>	Lines 1, 2 & 3
5. Less: Off-System Sales for Resale Expenses	\$	P. A-4, L.3, Col (3)
6. Less: Customer Share of Off-System Sales Margin	\$	P. A-4, L.4, Col (3)
7. <u>Subtotal</u>	<u>\$</u>	L.4 - L.5 - L.6
8. Administrative & General Expense	\$	P.A-10, L.17, Col (5)
9. Return on Investment	\$	P.A-5, L.18, Col (3)
10. Depreciation Expense	\$	P.A-15, L.14, Col (3)
11. Income Tax	\$	P.A-17, L.5, Col (3)
12. <u>Annual Production Variable Costs</u>	<u>\$</u>	Lines 7 thru 11
13. Production Fuel Costs	\$	P.A-14, L.20, Col (4)
14. <u>Non-Fuel Costs</u>	<u>\$</u>	L.12 - L.13
15. Net mWh Generated and Purchased, less mWh Sold	#	FERC-1, p.401b
16. Energy Charge	\$ /kWh	L.14 / L.15 / 1,000
17. Fuel Charge	\$ /kWh	L.13 / L.15 / 1,000
18. Transmission Loss Factor	#	P.A-1, L. 17
19. <b>Transmission Voltage Energy Charge</b>	\$ /kWh	L. 16 X L. 18
20. <b>Transmission Voltage Fuel Charge</b>	\$ /kWh	L. 17 X L. 18

**Kentucky Power Company  
FERC Rate Schedule No. 51**

**Cost-of-Service Formulas**

A-3

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**Effective: January 1, 2006**



	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1. Off-System Sales Revenues	Note A	\$	\$	\$
2. Less: Margins from Off-System Sales	Note B	\$	\$	\$
3. Off-System Sales Expenses	L.1 - L.2	\$	\$	\$
4. Customer Share of Margins	% of L. 2	\$	\$	\$

Note A: Revenues associated with off-system sales as reported in Account 447  
 (FERC-1, Page 311, column H, excluding RQ )

Note B: From Accounting.

	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1.	<b><u>ELECTRIC PLANT</u></b>			
2.	Gross Plant in Service	P.A-6, L.7, Col.(2)	\$	\$
3.	Less: Accumulated Depreciation	P.A-6, L.17, Col.(2)	\$	\$
4.	Less: Accumulated Deferred Taxes	P.A-6, L.18, Col.(2)	\$	\$
5.	Net Plant in Service	L.2 - (L.3 + L.4)	\$	\$
6.	Plant Held for Future Use	FERC-1, P.200, L.10	\$	\$
7.	Construction Work In Progress	Note A	\$	\$
8.	Subtotal - Electric Plant	L.5+L.6+L.7	\$	\$
9.	<b><u>WORKING CAPITAL</u></b>			
10.	Materials & Supplies			
11.	Fuel	P.A-9, L.2	\$	\$
12.	Nonfuel	P.A-9, L.6	\$	\$
13.	Total M & S	L.11 + L.12	\$	\$
14.	Prepayments	Note B	\$	\$
15.	Cash Requirements	P.A-8, L.8	\$	\$
16.	Total Investment	L.8+L.13+L.14+L.15	\$	\$
17.	Composite Cost of Capital	P.A-11, L.4, Col (4)	%	%
18.	Return on Investment	L.16 x L.17	\$	\$

Note A: Production amount only. To be determined by KPCO accounting department

Note B: Classified and functionalized using Gross Plant % from P.A-6, L.8  
 Total Company Account 165 \$ FERC-1, P.110, L.46

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**  
**Cost-of-Service Formulas**

A-6  
 PRODUCTION-RELATED ELECTRIC PLANT IN SERVICE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	System Amount (1)	PRODUCTION		
			Amount (2)	Demand (3)	Energy (4)
1.	GROSS PLANT IN SERVICE				
2.	Plant in Service	Note A	\$	\$	\$
3.	Less: ARO-related Plant		\$	\$	\$
4.	Restated Plant in Service	L.2 - L.3	\$	\$	\$
5.	Generator Step-Ups Included in Accts. 352 & 353 above		\$	\$	\$
6.	General & Intangible Plant	P. A-7, L.19	\$	\$	\$
7.	Total	L.4 + L.5 + L.6	\$	\$	\$
8.	Percentage of Total		%	%	%
9.	ACCUMULATED PROVISION FOR DEPRECIATION				
10.	Plant in Service	Note C	\$	\$	\$
11.	Less: ARO-related Depreciation		\$	\$	\$
12.	Adjustment to Depreciation Rate	Note D	\$	\$	\$
13.	Generator Step-Ups Included in Accts. 352 & 353 above		\$	\$	\$
14.	Adjustment to Depreciation Rate	Note D	\$	\$	\$
15.	General & Intangible Plant	Note B	\$	\$	\$
16.	Adjustment to Depreciation Rate	Note B, D	\$	\$	\$
17.	Total	L.10 - L.11 + L.12 + L.13 + L.14 + L.15 + L.16	\$	\$	\$
18.	ACCUM DEFERRED TAXES	Note E	\$	\$	\$

Note A: Gross Plant in Service is the average of beginning and ending year balances (FERC-1, P. 206 & 207)

Note B: % from P.A-7, L.17

Note C: Accumulated Depreciation is the average of beginning and ending year balances (FERC-1, P.219)

Note D: From Accounting.

Note E: FERC-1, P. 111 and 113 (Accounts 281-283 & 190);  
 Excludes directly-assignable amount from accounting of  
 Allocated on Gross Plant % From L.8 above

A-7  
 PRODUCTION-RELATED GENERAL PLANT ALLOCATION  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

General Plant Accounts 101 and 106

	Total System (1)	Allocation Factor (2)	Related to Production (1) x (2) (3)	Demand (4)	Energy (5)
1. GENERAL PLANT					
2. 389 Land	\$				
3. 390 Structures	\$				
4. 391 Office Equipment	\$				
5. 392 Transportation Equipment	\$				
6. 393 Stores Equipment	\$				
7. 394 Tools, Shop & Garage Equipment	\$				
8. 395 Lab Equipment	\$				
9. 396 Power Operated Equipment	\$				
10. 397 Communications Equipment	\$				
11. 398 Miscellaneous Equipment	\$				
12. Subtotal	\$	Note A	\$	\$	\$
13. PERCENT of Subtotal	%		%	%	%
14. Other Tangible Property (Excluding 399.1)					
15. 399.0 Other Tangible Property	\$		\$	\$	\$
16. TOTAL GENERAL PLANT (Excl. 399.1)	\$	FERC-1, P.206	\$	\$	\$
17. PERCENT of Total	%		%	%	%
18. Intangible Plant	\$	FERC-1, P.204	\$	\$	\$
19. General and Intangible Plant	\$		\$	\$	\$

Note A: Allocation factors based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses

	KPCO	AEPSC Note B	Total
a. Total wages and salaries in electric O&M excluding A&C FERC-1, P. 354, Column (b), L.25-L.24.	\$	\$	\$
b. Production wages and salaries in electric O&M FERC-1, P.354, Col (b), L.18.	\$	\$	\$
c. Ratio (b/a)			%
Classification factors based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses			
a. Production wages and salaries in electric O&M			\$
b. Production demand-related wages and salaries	\$	\$	\$
c. Ratio (b/a)			%

Note B: From Accounting.

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**  
**Cost-of-Service Formulas**

A-8  
 PRODUCTION-RELATED CASH REQUIREMENT  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	PRODUCTION		
		Amount (1)	Demand (2)	Energy (3)
1. Fuel Expense	P. A-14, L.16	\$	\$	\$
2. Fuel Cash Requirements	45/360 x L.1	\$	\$	\$
3. Purchased Power	P. A-14, L.1	\$	\$	\$
4. Purchased Power Cash Requirements	45/360 x L.3	\$	\$	\$
5. Total O&M, Excluding Fuel	P. A-14, L.8	\$	\$	\$
6. Other O&M Expense	L. 5 - L.3	\$	\$	\$
7. Other O&M Cash Requirements	45/360 x L.6	\$	\$	\$
8. Total Cash Requirements	L.2 + L.4 + L.7	\$	\$	\$

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**  
**Cost-of-Service Formulas**

A-9  
 PRODUCTION-RELATED MATERIALS & SUPPLIES  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Reference	Total System (1)	Allocation Factor (2)	Related to Production (1) x (2) (3)	Demand (4)	Energy (5)
1. Material & Supplies						
2. Fuel (Note A)	FERC-1, P.110	\$		\$	\$	\$
3. Non-Fuel						
4. Account 158 - Allowances	FERC-1, P.110	\$	%	\$	\$	\$
5. Other - Non-Fuel	Note B	\$	%	\$	\$	\$
6. Total Non-Fuel	L. 4 + L. 5	\$		\$	\$	\$
7. Total Material & Supplies	L. 2 + L. 6	\$		\$	\$	\$

Note A: Accounts 120, 151, 152

Note B: Accounts 154 through 157 and 163 (FERC Form 1, P. 110) Functionalized on Gross Plant from P. A-6, L. 4

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**  
**Cost-of-Service Formulas**

A-10  
 PRODUCTION-RELATED ADMINISTRATIVE & GENERAL EXPENSE ALLOCATION  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	Account	Reference	System Amount (1)	Allocation Factor % (2)	PRODUCTION		
					Amount (3)	Demand (4)	Energy (5)
1.	ADMINISTRATIVE & GENERAL EXPENSE						
2.	RELATED TO WAGES AND SALARIES						
3.	A&G Salaries	920 FERC-1, P.322	\$				
4.	Office Supplies	921 FERC-1, P.322	\$				
5.	Adm. Expense Transfer - Cr.	922 FERC-1, P.322	\$				
6.	Outside Services	923 FERC-1, P.323	\$				
7.	Injuries & Damages	925 FERC-1, P.323	\$				
8.	Employee Pensions & Benefits	926 FERC-1, P.323	\$				
9.	Franchise Requirements	927 FERC-1, P.323	\$				
10.	Duplicate Charges - Cr.	929 FERC-1, P.323	\$				
11.	Miscellaneous General Expenses	930 FERC-1, P.323	\$				
12.	Rents	931 FERC-1, P.323	\$				
13.	Subtotal	Ls. 3 thru 12	\$	Note A	\$	\$	\$
14.	Property Insurance	924 FERC-1, P.323	\$	Note B	\$	\$	\$
15.	Regulatory Comm. Expenses	928 FERC-1, P.351	\$	Note C	\$	\$	\$
16.	Maintenance of General Plant	935 FERC-1, P.323	\$	Note D	\$	\$	\$
17.	Total	Ls. 13 thru 16	\$		\$	\$	\$

Note A: Allocation factor based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses - See Page A-7

Note B: From Accounting.

Note C: FERC-1, P.351, Excluding FERC Annual Assessment

Note D: Allocated on Gross Plant % from P.A-7, L.17

**Cost-of-Service Formulas**

A-11  
 COMPOSITE COST OF CAPITAL  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Total Company Average Capitalization		Cost of Capital %	Composite Cost of Capital (2 x 3) (4)
		\$	%		
		(1)	(2)		
1.	Long Term Debt	Note A	\$	%	%
2.	Preferred Stock	Note B	\$	%	%
3.	Common Stock	Note C	\$	%	%
4.	Total		\$	%	%

Note A: Line 1, Columns (1) and (3) from Page A-12.

Note B: Line 2, Columns (1) and (3) from Page A-13.

Note C: Line 3, Column (1) from FERC-1, P.112, Total Proprietary Capital of:	\$
Less: Preferred Stock, P.A-13, L.1(b)	\$
Less: Premium on Preferred Stock, P.A-13, L.1(c)	\$
Common Stock	\$



**Cost-of-Service Formulas**

A-12  
 AVERAGE LONG TERM DEBT  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

		Average Debt Balance (1)	Interest Booked (2)
1	Total (FERC-1, P. 112 & P. 117 - Account 427)	\$	\$
2	Preferred Stock With Mandatory Redemption (FERC-1, P. 257.2)	\$	\$
3	Account 224 - Pre-83 SNF Disposal Costs (FERC-1, P. 257)	\$	
4	Amortization of Debt Discount and Expense (FERC-1, P. 117, Accounts 428 - 429.1)		\$
5	Total (L.1 - L.2 - L. 3 + L. 4)	\$	\$
6	Embedded Costs = L.5, Col. (2)/Col. (1)		%

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**

**Cost-of-Service Formulas**

A-13  
AVERAGE PREFERRED STOCK  
TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Amount
1. (a) Preferred Stock Dividends	FERC-1, P.118, L.29 (Account 437) & FERC-1, P. 257.2	\$
(b) Preferred Stock Issued	FERC-1, P.112, L.3	\$
(c) Premium on Preferred Stock	FERC-1, P.112, L.6 (Account 2070003)	\$
(d) Preferred Stock with Mandatory Redemption	FERC-1, P.257.2	\$
(e) Total Preferred Stock	L.1 (b) + L.1 (c) + L.1(d)	\$
2. Average Cost Rate	L.1 (a)/L.1 (e)	%

**Kentucky Power Company  
FERC Rate Schedule No. 51**

**Cost-of-Service Formulas**

A-14  
PRODUCTION O & M EXPENSE  
TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Account No.	Total Company (1)	(Demand) Fixed (2)	Energy	
				Non-Fuel Variable (3)	Fuel (4)
1. Purchased Power (FERC Form-1, P.327)	555	\$	\$	\$	\$
2. System Control of Load Dispatching (FERC Form-1, P.321)	556	\$	\$	\$	\$
3. Other Production Expenses (FERC Form-1, P.321)	557	\$	\$	\$	\$
4. Other Production Expenses	Note A	\$	\$	\$	\$
5. Total Production Expense Excluding Fuel Used In Electric Generation above		\$	\$	\$	\$
6. A & G Expense P.A-10, L.17		\$	\$	\$	\$
7. Generator Step Up related O&M	Note B	\$	\$	\$	\$
8. Total O & M Excluding Fuel		\$	\$	\$	\$
9. Fuel - Account 501 (FERC Form-1, P.320)	501	\$			\$
10. Less: Fuel Handling		\$			\$
11. Less: Sale of Fly Ash (Revenue & Expense)		\$			\$
12. Plus: Account 518	518	\$			\$
13. Plus: Account 547	547	\$			\$
14. Less: Pre 4/7/83 Spent Nuclear Fuel	Note C	\$			\$
15. Plus: Pre 4/7/83 Spent Nuclear Fuel - Study		\$			\$
16. Total Fuel		\$	\$	\$	\$
17. Total - Production O&M	L.5 + L.16	\$	\$	\$	\$
18. Less: Off-System Sales Revenues (P.A-4, L.1)					\$
19. Plus: Company Share of Margins (P.A-4, L.2 - L.4)					\$
20. Total Fuel Costs					\$
21. Plus: Gains/(Losses) on Disp. of Allowances	A-14(a)	\$			
22. Plus: Nuclear Decomm Expense - ARO	A-14(a)	\$			
23. Less: Nuclear Decommissioning Adjustment	A-14(a)	\$			
24. Less: Spent Nuclear Fuel Adjustment	L.15 - L.14	\$			
25. Check Total - Perbooks Production O&M	P.321	\$			

Note A: Classified into Fixed and Variable Components in accordance with P.A-14(a)

Note B: FERC-1, P.321, (Accounts 562, 569 & 570) allocated on Gross Plant ratio - GSU to total.

Note C: Accounts 5180004 & 5180005

**Cost-of-Service Formulas**

**APPENDIX B**

A-14(a)

CLASSIFICATION OF FIXED AND VARIABLE PRODUCTION EXPENSES  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

Line No.	Description	FERC Account No.	Demand Related	Energy Related
1	Operation supervision and engineering	500	\$	-
2	Fuel	501	-	xx
3	Fuel Handling	5010003	-	\$
4	Sale of Fly Ash (Revenue & Expense)	5010012	-	\$
5	Steam expenses	502	\$	-
6	Steam from other sources	503	-	\$
7	Steam transferred-Cr.	504	-	\$
8	Electric expenses	505	\$	-
9	Miscellaneous steam power expenses	506	\$	-
10	Rents	507	\$	-
11	Allowances	509	-	\$
12	Less: Gains from Disposition of Allowances	411.8	-	\$
13	Plus: Losses from Disposition of Allowances	411.9	-	\$
14	Maintenance supervision and engineering	510	-	\$
15	Maintenance of structures	511	\$	-
16	Maintenance of boiler plant	512	-	\$
17	Maintenance of electric plant	513	-	\$
18	Maintenance of miscellaneous steam plant	514	\$	-
19	Total steam power generation expenses		\$	\$
20	Operation supervision and engineering	517	\$	-
21	Coolants and Water	519	\$	-
22	Steam expenses	520	\$	-
23	Steam from other sources	521	\$	-
24	Steam transferred-Cr.	522	\$	-
25	Electric expenses	523	\$	-
26	Miscellaneous nuclear power expenses	524	\$	-
27	Less: Nuclear Decomm Expense - ARO	524.0009	\$	-
28	Rents	525	\$	-
29	Total nuclear power generation operation expenses		\$	\$
30	Maintenance supervision and engineering	528	-	\$
31	Maintenance of structures	529	\$	-
32	Maintenance of reactor plant equipment	530	-	\$
33	Maintenance of electric plant	531	-	\$
34	Maintenance of miscellaneous nuclear plant	532	-	\$
35	Total nuclear power generation maintenance expenses		\$	\$
36	Less: Nuclear Decommissioning	524.0008	\$	-
37	Plus: Nuclear Decommissioning (Stipulated / IURC Approved Amount)		\$	-
38	Operation supervision and engineering	535	\$	-
39	Water for power	536	\$	-
40	Hydraulic expenses	537	\$	-
41	Electric expenses	538	\$	-
42	Misc. hydraulic power generation expenses	539	\$	-
43	Rents	540	\$	-
44	Maintenance supervision and engineering	541	\$	-
45	Maintenance of structures	542	\$	-
46	Maintenance of reservoirs, dams and waterways	543	\$	-
47	Maintenance of electric plant	544	-	\$
48	Maintenance of miscellaneous hydraulic plant	545	\$	-
49	Total hydraulic power generation expenses		\$	\$
50	Operation supervision and engineering	546	\$	-
51	Fuel	547	-	xx
52	Generation expenses	548	\$	-
53	Miscellaneous other power generation expenses	549	\$	-
54	Rents	550	\$	-
55	Maintenance supervision and engineering	551	\$	-
56	Maintenance of structures	552	\$	-
57	Maintenance of generation and electric plant	553	\$	-
58	Maintenance of misc. other power generation plan	554	\$	-
59	Total other power generation expenses		\$	\$
60	Purchased power	555	xx	xx
61	System control and load dispatching	556	xx	-
62	Other expenses	557	xx	-
63	<b>TOTAL OTHER PRODUCTION EXPENSES</b>		\$	\$

**Cost-of-Service Formulas**

**APPENDIX B**

A-15

PRODUCTION-RELATED DEPRECIATION EXPENSE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

			Production Related (1)	Demand (2)	Energy (3)
1.	Steam Production Plant	Note A	\$	\$	\$
2.	Nuclear Production Plant	Note A	\$	\$	\$
3.	Hydro Production Plant Conventional	Note A	\$	\$	\$
4.	Pump Storage	Note A	\$	\$	\$
5.	Other Production	Note A	\$	\$	\$
6.	Production Subtotal		\$	\$	\$
7.	Less: ARO-Related Depreciation (403.1)	Note A	\$	\$	\$
8.	Plus: Non-Nuclear Depr. & Accretion	Note B	\$	\$	\$
9.	Adjustment to Depreciation Rate	Note B	\$	\$	\$
10.	Production-Related Gen. & Int. Plant	Note C	\$	\$	\$
11.	Adjustment to Depreciation Rate	Note B, C	\$	\$	\$
12.	GSU-related Depreciation Expense	Note B	\$	\$	\$
13.	Adjustment to Depreciation Rate	Note B	\$	\$	\$
14.	Total Production		\$	\$	\$

Note A: Lines 1 through 5 are Depreciation Expense reported on page 336 of the FERC Form No. 1 for Accounts 403, 404 and 405 (excluding 403.1)

Note B: From Accounting.

Note C:	General and Intangible Plant Depreciation Expense	\$	FERC-1, p. 336, Col. (f)
	Production-Related %	%	Page A-7, L.17, Col.(3)
	Gen Plant Depr. Exp. - Prod. Related	\$	
	Adjustment to General Plant Depreciation Expense	\$	
	Production-Related %	%	Page A-7, L.17, Col.(3)
	Gen Plant Depr. Exp. - Prod. Related	\$	

	REFERENCE	SYSTEM AMOUNT (1)	%	PRODUCTION AMOUNT (2)
TAXES RELATED TO PRODUCTION WAGES AND SALARIES				
1.	State Unemployment	Note A	\$	
2.	Federal Social Security & Unemployment	Note A	\$	
3.	Total Taxes Related to Wages & Salaries		\$	Note B
4.	Real and Personal Property Tax	Note A	\$	
5.	Franchise Tax	Note A	\$	
6.	Total Taxes Related to Production Plant		\$	Note C
7.	Total Taxes Other Than Income Taxes	L. 3 + L. 6	\$	\$
8.	Misc. & State Commission Assessments		\$	
9.	Check Total - Taxes Other	FERC-1 P.114	\$	

Note A: Taxes other than Income Taxes will be those reported in FERC-1 pages 262 & 263 as listed above.

Note B: Allocation factor based on wages and salaries in electric operations and maintenance expenses, excluding administrative and general expenses - See Page A-7 %

Note C: Allocation factor based on gross plant in service - See Page A-6 %

**Cost-of-Service Formulas**

A-17  
 PRODUCTION-RELATED INCOME TAX  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

**APPENDIX B**

	Reference	Amount (1)	Demand (2)	Energy (3)
1. Return on Investment	P. A-5, L.18	\$	\$	\$
2. Interest	P. A-5, L.16 x P. A-11, L.1, Col(4)	\$	\$	\$
3. Balance for Equity Earnings	L.1 - L.2	\$	\$	\$
4. Combined Income Tax Factor	P. A-18, L.17		#	#
5. Income Tax	L.4 x L.3	\$	\$	\$

**Kentucky Power Company**  
**FERC Rate Schedule No. 51**  
**Cost-of-Service Formulas**

A-18  
 COMPUTATION OF EFFECTIVE INCOME TAX RATE  
 TWELVE MONTHS ENDED DECEMBER 31, \_\_\_\_\_

	REFERENCE	AMOUNT
1. Net Income before Extraordinary	FERC-1, P. 117, L. 67	\$
2. Less: Allowance for Funds Used During Construction (AFUDC)	FERC-1, P. 117, Acct 419.1	\$
3. Adjusted Net Income	Line 1 - Line 2	\$
Income Taxes:		
4. Federal	FERC-1.P. 114, Acct 409.1	\$
5. Other	FERC-1.P. 114, Acct 409.1	\$
6. Provision for Deferred Inc. Taxes	FERC-1.P. 114, Acct 410.1	\$
7. Provision for Def. Inc. Taxes-Cr.	FERC-1.P. 114, Acct 411.1	\$
8. Investment Tax Cr. Adjustment Net	FERC-1.P. 114, Acct 411.4	\$
Taxes Applicable to Other Income and Deductions		
9. Income Taxes - Federal	FERC-1 P.117, Acct 409.2	\$
10. Income Taxes - Other	FERC-1 P.117, Acct 409.2	\$
11. Provision for Deferred Inc. Taxes	FERC-1 P.117, Acct 410.2	\$
12. Provision for Deferred Inc. Taxes - credit	FERC-1 P.117, Acct 411.2	\$
13. Investment Tax Credit Adj. - Net	FERC-1 P.117, Acct 411.5	\$
14. Total Income Taxes	Lines 4 thru 13	\$
15. Pretax Earnings Base	Line 3 + Line 14	\$
16. Effective Income Tax Rate	Line 14 / Line 15	%
17. Combined Tax Factor	Line 16 / (100 - Line 16)	#



**Assignment of PJM Charges and Credits  
 for Full Requirements Electric Service**

**Appendix C**

**PJM Operating Agreement**

<b>Schedules</b>	<b>Description</b>	<b>KPCO</b>	<b>Vanceburg</b>
1-3.2.1 & 3.3.1	Spot Market Energy, including day-ahead and balancing charges, credits and reconciliations	x	
1-3.2.4, 3.4.1 & 5.2	Transmission Congestion, including day-ahead and balancing charges, credits and reconciliations	x	
1-3.2.5 & 3.4.2	Transmission Losses, including day-ahead and balancing charges, credits and reconciliations	x	
1-3.2.2, 3.2.2A, 3.3.2 & 3.3.2A	Regulation charges, credits and reconciliations	x	
1-3.2.3A & 3.3.5	Spinning Reserves charges, credits and reconciliations	x	
1-3.2.3 & 3.3.3	Operating Reserves, including day-ahead, balancing and synchronous condensing charges, credits and reconciliations	x	
	Synchronous Condensing - included under Operating Reserves, above	x	
1-3.2.3B	Reactive Services charges, credits and reconciliations	x	
11-6.7	Capacity Credit Market charges, credits and reconciliations	x	
1-7.3.8	FTR Auction charges, credits and reconciliations	x	
1-7.4	Auction Revenue Rights credits	x	
1-3.2.6, 3.3.4, 3.5.1 & 4.3	Emergency Energy charges, credits and reconciliations	x	
1-3.6	Meter Correction	x	

**Assignment of PJM Charges and Credits  
 for Full Requirements Electric Service**

**Appendix C**

**PJM OATT**

<b>Schedules</b>	<b>Description</b>	<b>KPCO</b>	<b>Vanceburg</b>
1 & 9	Scheduling, System Control & Dispatch Services <i>PJM charges and reconciliation for control area administration, FTR administration, market support, regulation and frequency response administration, capacity and resource obligation administration, and FERC annual charge recovery</i>	<b>x</b>	
1A	Scheduling, System Control & Dispatch Services <i>Transmission Owner charges, credits and reconciliations</i>		<b>x</b>
2	Reactive Supply & Voltage Control from Generation Sources charges, credits and reconciliations	<b>x</b>	
3	Regulation and Frequency Response - billed under PJM Operating Agreement, above	<b>x</b>	
4	Energy Imbalance - billed under PJM Operating Agreement, above	<b>x</b>	
5	Operating Reserve - Spinning Reserve Service - billed under PJM Operating Agreement, above	<b>x</b>	
6	Operating Reserve - Supplemental Reserve Service - billed under PJM Operating Agreement, above	<b>x</b>	
6A	Black Start Service charges and credits	<b>x</b>	
7	NITS Service charges and credits, including Contract Demand Reservation Service		<b>x</b>
7 & 8	Firm and Non-Firm Point-to-Point Transmission Service		<b>x</b>
13	Expansion Cost Recovery charges and credits	<b>x</b>	
Attachment R	PJM/MISO and Intra-PJM SECA charges		<b>x</b>
Attachment X	PJM/MISO and Intra-PJM SECA credits	<b>x</b>	
ILDSA	Other Supporting Facilities		<b>x</b>
	AEP Inadvertent	<b>x</b>	
	Energy Imbalance	<b>x</b>	

KENTUCKY POWER COMPANY  
 FORMULA RATE BILLING TIMELINE  
 Bill For Month Of

Description	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-May 2007	June-Dec 2007
<b>Generation Demand &amp; Energy Charges</b>														
Initial Bill Basis	2004 Form 1, Dec. '04 ROE	Same	Same	Same	Same	2005 Form 1, Dec. '05 ROE	Same	Same	Same	Same	Same	Same	Same	2006 Form 1 Dec. '06 ROE
True-Up Basis	2006 Form 1, Dec. '05 ROE	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	2007 Form 1, Dec. '06 ROE	Same
True-Up Calculated	May-07	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	May-08	Same
True-Up Charged / Credited on Invoices Mailed in	Jul, Aug & Sep '07	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Same	Jul, Aug & Sep '08	Same
<b>Generation Fuel Charge</b>														
Initial Bill Basis	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06		
True-Up Basis	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06		
True-Up Calculated	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-07		
True-Up Charged / Credited on Invoices Mailed in	Apr-06	May-06	Jun-06	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-07	Feb-07	Mar-07		

Kentucky Power Company  
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**DATA REQUEST**

**KPSC 3\_38** Refer to Kentucky Power's Response to Staff's Second Request, Item 80(a).

- a. Explain whether the 2026/2027 Net CONE for a combustion turbine is \$365 as shown in the Brattle Group's April 21, 2022 PJM CONE 2026/2027 Report.
- b. If the Net CONE for 2026/2027 has not been established, indicate when it will be established for 2026/2027.
- c. Provide a narrative explanation of the process for developing CONE values and explain how Kentucky Power is notified once the values are finalized.
- d. Explain how much notice Kentucky Power receives prior to each Base Residual Auction (BRA) for both the Net CONE value and the date of the auction.

**RESPONSE**

a. Table 20 of the referenced report provides the indicative value for Net CONE for a Combined Cycle in PJM. The value applicable for the AEP zone is \$307/MW-day. (PJM CONE 2026/2027 Report) The combined cycle unit is the FERC approved reference unit for 2026/27. The Net CONE value is indicative as Brattle was directed by PJM to estimate Gross CONE values and recommend changes to the Energy & Ancillary Service approach, but not estimate the Energy & Ancillary Service offsets for the 2026/27 BRA.

b. The Net CONE values for a delivery year are made available by PJM when they post the Planning Period Parameters for an upcoming Base Residual Auction (BRA). This occurs approximately four months prior to the BRA and is communicated by PJM via subscribed emails lists and their website at: <https://pjm.com/markets-and-operations/rpm>. The 2026/27 BRA is currently scheduled to occur in December 2024.

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c. Gross CONE is the levelized annual cost to construct a new resource plus annual fixed operation and maintenance costs. The referenced Brattle report (<https://www.pjm.com/-/media/library/reports-notices/special-reports/2022/20220422-brattle-final-cone-report.ashx>) describes the methodology used in the development of Net CONE. PJM communicates the results via subscribed email lists and their website at: <https://www.pjm.com/markets-and-operations/rpm.aspx>

d. Please see the response to part b.

Witness: Alex E. Vaughan

Witness: Michael M. Spaeth

Kentucky Power Company  
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**DATA REQUEST**

**KPSC 3\_39** Refer to Kentucky Power's Response to Staff's Second Request, Item 90b.

- a. Explain whether all interruptible customers across the AEP East system are called to interrupt service when a decision is made to interrupt service.
- b. If the response to 42(a) is no, explain whether some Kentucky Power regulated affiliates are interrupted and not others.
- c. Explain whether, through the interruption process, Kentucky Power can alter its PJM/AEP share of allocated costs relative to the other AEP East companies by strategically interrupting its own interruptible customers.

**RESPONSE**

- a. All customers designated as an AEP dispatched interruptible customer through an approved tariff offering or special contract (rather than being a RTO dispatched interruptible customer), are called to interrupt at the same time within the bounds of each tariff or contract.
- b. Not applicable.
- c. No, not to reduce its share of allocated costs, because the cost causing peaks are system coincident peaks. If Kentucky Power Company elected to not interrupt its own interruptible customers during the system coincident peaks, the result would be that Kentucky Power Company would incur additional costs (i.e., increase its share of allocated costs).

Witness: Alex E. Vaughan

Kentucky Power Company  
KPSC Case No. 2023-00159  
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**DATA REQUEST**

**KPSC 3\_40** Refer to Kentucky Power's Response to Staff's Second Request, Item 82(a). Confirm that the expenses included in adjustment W58 are also included in the three-year average used in adjustment W57. If confirmed, explain how this does not include these costs in base rates twice.

**RESPONSE**

Kentucky Power's proposed adjustments W58 and W57 do not result in recovery of the same costs twice. The purpose of adjustment W58 is to recover the Company's actual expenses in excess of the level in current base rates for the historical period since the Company's last base case, beginning April 1, 2020 and ending March 31, 2023. The purpose of adjustment W57 is to recover an adequate level of expense prospectively, beginning on the date new rates are implemented in 2024 as a result of this proceeding and going forward.

Witness: Brian K. West

Witness: Heather M. Whitney

Kentucky Power Company  
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**DATA REQUEST**

**KPSC 3\_41** Refer to Kentucky Power's Response to Staff's Second Request, Item 82(b). Explain how the cited language supports Kentucky Power's adjustment W58.

**RESPONSE**

The purpose of Kentucky Power's proposed adjustment W58 is to recover the Company's actual expenses in excess of the level in current base rates for the historical period since the Company's last base case, beginning April 1, 2020 and ending March 31, 2023. The language cited from the Commission's January 18, 2018 Order in Case No. 2017-00179 provides that Kentucky Power can seek recovery of purchased power expenses appropriately incurred after the test year in its last base case, but excluded from the FAC, in its next base rate case.

Specifically, the Commission's January 18, 2018 Order in Case No. 2017-00179 at 55, states: "*The Commission will allow recovery of the test year amount of purchased power reasonably incurred, but excluded from the FAC. **To the extent that Kentucky Power incurs any expense due to purchased power that is appropriately incurred after the test year, but excluded from the FAC, it can file a base rate case seeking recovery of those expenses.***" (Emphasis supplied).

Witness: Brian K. West

Witness: Heather M. Whitney



Kentucky Power Company  
KPSC Case No. 2023-00159  
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**DATA REQUEST**

**KPSC 3\_42** Refer to Kentucky Power's Response to Joint Intervenor's First Request for Information, Item 32. Explain, and provide supporting documentation for, how Kentucky Power arrived at the market price estimate of Renewable Energy Certificates (RECs) that would be used for the various Renewable Power Option Rider service options.

**RESPONSE**

Forward price estimates for National Wind and Solar RECs informed the subscription rates. A volatility premium was added to the forward prices to establish the new rates for the three voluntary offerings. KPCO\_R\_KPSC\_3\_42\_ConfidentialAttachment1 illustrates the market price for 2024 and 2025 vintage year National Wind and National Solar RECs. The Company used the forecasted National Wind REC prices as a proxy for hydro RECs and they are a less liquid product.

Witness: Alex E. Vaughan

KPCO\_R\_KPSC\_3\_42\_PublicAttachment1 has been redacted in its entirety.







VERIFICATION

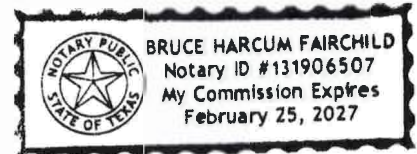
The undersigned, Adrien M. McKenzie, being duly sworn, deposes and says he is the President of FINCAP, Incorporated, that he has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of his information, knowledge, and belief.

*Adrien M. McKenzie*  
Adrien M. McKenzie

State of Texas                    )  
  )     Case No. 2023-00159  
County of Travis                )

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Adrien M. McKenzie, on 9/19/2023.

*Bruce Harcum Fairchild*  
Notary Public



My Commission Expires 2/25/2027

Notary ID Number 131906507







**VERIFICATION**

The undersigned, Michael M. Spaeth, being duly sworn, deposes and says he is the Regulatory Pricing and Analysis Manager for American Electric Power Service Corporation, that he has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of his information, knowledge, and belief.

  
\_\_\_\_\_  
Michael M. Spaeth

Franklin County )  
Ohio )

Case No. 2023-00159

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Michael M. Spaeth, on 9/20/23.

  
\_\_\_\_\_  
Notary Public

My Commission Expires Never

Notary ID Number No ID



**Paul D. Flory**  
Attorney At Law  
Notary Public, State of Ohio  
My commission has no expiration date  
Sec. 147.03 R.C.

**VERIFICATION**

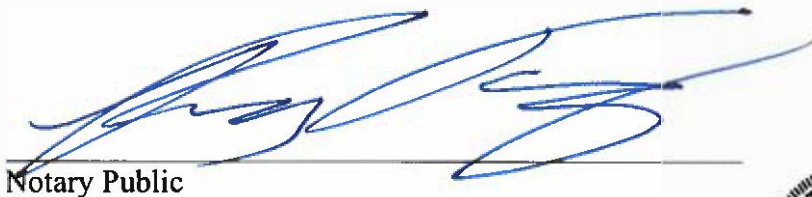
The undersigned, Alex E. Vaughan, being duly sworn, deposes and says he is the Managing Director for Renewables and Fuel Strategy for American Electric Power Service Corporation, that he has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of his information, knowledge, and belief.

  
Alex E. Vaughan

Franklin County )  
Ohio )

Case No. 2023-00159

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Alex E. Vaughan, on 9/20/23.

  
Notary Public

My Commission Expires Never

Notary ID Number NO ID



**Paul D. Flory**  
Attorney At Law  
Notary Public, State of Ohio  
My commission has no expiration date  
Sec.147.03 R.C.

**VERIFICATION**

The undersigned, Katharine I. Walsh, being duly sworn, deposes and says she is a Director of Regulatory Pricing and Analysis for American Electric Power Service Corporation, that she has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of her information, knowledge, and belief.

*Katharine I. Walsh*

Katharine I. Walsh

Franklin County )  
Ohio )

Case No. 2023-00159

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Katharine I. Walsh, on 9/20/23.

*Paul D. Flory*

Notary Public

My Commission Expires

Never

Notary ID Number

NOTD



**Paul D. Flory**  
Attorney At Law  
Notary Public, State of Ohio  
My commission has no expiration date  
Sec. 147.03 R.C.





### Whitney Verification Form.doc

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#### E-Signature Summary

**E-Signature 1: Heather M. Whitney (HMW)**  
 September 22, 2023 07:12:40-8:00 [A68AE7A7073E] [167.239.221.106]  
 hmwhitney@aep.com (Principal) (Personally Known)

**E-Signature Notary: Marilyn Michelle Caldwell (MMC)**  
 September 22, 2023 07:12:40 -8:00 [5F5FFD3F1EF5] [167.239.221.104]  
 mmcaldwell@aep.com  
 I, Marilyn Michelle Caldwell, did witness the participants named above electronically sign this document.



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VERIFICATION

The undersigned, Heather M. Whitney, being duly sworn, deposes and says she is a Director in Regulatory Accounting Services for American Electric Power Service Corporation, that she has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of her information, knowledge, and belief.

Heather M. Whitney  
Signed on 2023/09/22 07:12:40 -0500

Heather M. Whitney

Commonwealth of Kentucky )  
 )  
County of Boyd )

Case No. 2023-00159

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Heather M. Whitney, on September 22, 2023.

Notary Pub Marilyn Caldwell  
Signed on 2023/09/22 07:12:40 -0500

**MARILYN MICHELLE CALDWELL**  
ONLINE NOTARY PUBLIC  
STATE AT LARGE KENTUCKY  
Commission # KYNP71841  
My Commission Expires May 05, 2027  
Signed on 2023/09/22 07:12:40 -0500

Notarial act performed by audio-visual communication

My Commission Expires \_\_\_\_\_

Notary ID Number \_\_\_\_\_

380662AD-CA2A-40B9-90FA-90DE66C52756 --- 2023/09/20 12:39:38 -0500 --- Remote Notary



