

## **SETTLEMENT AGREEMENT, STIPULATION, AND RECOMMENDATION**

This Settlement Agreement, Stipulation, and Recommendation (“*Agreement*”) is entered into this 10<sup>th</sup> day of December, 2024, by and among Big Rivers Electric Corporation (“*Big Rivers*”), Kenergy Corp. (“*Kenergy*”), Domtar Paper Company, LLC (“*Domtar*”), and Kimberly-Clark Corporation (“*Kimberly-Clark*”) with respect to *In the Matter of: Electronic Tariff Filing of Big Rivers Electric Corporation and Kenergy Corp. to Revise the Large Industrial Customer Standby Service Tariff*, Case No. 2023-00312 (the “*Proceeding*”). Big Rivers, Kenergy, Domtar, and Kimberly-Clark are each individually referred to herein individually as a “*Party*” and collectively as the “*Parties*.”

### **WITNESSETH:**

**WHEREAS**, on March 3, 2022, in Case No. 2021-00289,<sup>1</sup> the Commission approved Large Industrial Customer Standby Service (“*LICSS*”) tariffs for Kenergy and Big Rivers on a pilot basis (the “*Pilot LICSS tariffs*”) and directed Kenergy and Big Rivers to file new LICSS tariffs;

**WHEREAS**, after the Commission’s approval of the Pilot LICSS tariffs, Kimberly-Clark became subject to those tariffs;

**WHEREAS**, Domtar, on the other hand, was being served under the Second Amended and Restated Agreement for Retail Electric Service between Kenergy and Domtar (the “*Domtar Contract*”);

**WHEREAS**, after the Commission’s approval of the Pilot LICSS tariffs, Kenergy gave notice to Domtar that it was terminating the Domtar Contract effective March 31, 2023, such that, absent a new contract, Domtar would be served under the Pilot LICSS tariffs;

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<sup>1</sup> *In the Matter of: Electronic Tariff Filing of Big Rivers Electric Corporation and Kenergy Corp. to Implement a New Standby Service Tariff.*

**WHEREAS**, Domtar filed a complaint with the Commission against Kenergy and Big Rivers in Case No. 2023-00017<sup>2</sup> seeking to maintain the rates under the Domtar Contract;

**WHEREAS**, on March 27, 2023, the Commission issued an Order in Case No. 2023-00017 (the “*March 27 Order*”) directing that the Domtar Contract “shall remain in effect until further order of the Commission;”

**WHEREAS**, Kenergy and Big Rivers jointly appealed the March 27 Order from Case No. 2023-00017 and the subsequent Order denying rehearing of the March 27 Order in Daviess Circuit Court Case No. 23-CI-00533, which appeal is still pending (the “*Pending Appeal*”);

**WHEREAS**, on September 1, 2023, Big Rivers filed revisions to LICSS tariff as directed by the Commission in Case No. 2021-00289;

**WHEREAS**, on September 11, 2023, Kenergy filed its revised LICSS tariff to mirror the revisions proposed by Big Rivers;

**WHEREAS**, on September 27, 2023, the Commission issued an Order initiating the Proceeding to review the reasonableness of the revised LICSS tariffs filed by Kenergy and Big Rivers, incorporating Case Nos. 2021-00289, 2023-0017, and 2023-00063 into the Proceeding, and suspending the effective date of the proposed tariffs;

**WHEREAS**, the September 27, 2023 Order made Kenergy and Big Rivers parties to the Proceeding;

**WHEREAS**, on October 12, 2023, the Commission granted Domtar and Kimberly-Clark full intervention in the Proceeding;

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<sup>2</sup> *In the Matter of: Domtar Paper Company, LLC v. Big Rivers Electric Corporation and Kenergy Corp.*

**WHEREAS**, the Commission issued its final Order in the Proceeding on June 28, 2024 (the “*Final Order*”), denying the LICSS tariffs proposed by Kenergy and Big Rivers, and directing Kenergy and Big Rivers to file new LICSS tariff sheets consistent with the Final Order;

**WHEREAS**, each of Parties, either individually or jointly with another Party, filed motions for rehearing of the Final Order asking the Commission to address specific issues each Party had with the Final Order (the “*Rehearing Issues*”);

**WHEREAS**, the Commission granted the motions for rehearing by Order dated August 7, 2024 (the “*Order Granting Rehearing*”);

**WHEREAS**, the Order Granting Rehearing also granted Big Rivers’ and Kenergy’s joint request to delay the requirement that they file new tariffs until the conclusion of the rehearing, and recognized that the Parties were negotiating a settlement of the Rehearing Issues;

**WHEREAS**, to resolve the Rehearing Issues and to minimize future disputes among the Parties, the Parties have negotiated this Agreement, new LICSS tariffs for both Kenergy and Big Rivers, which are attached hereto as Exhibit A and incorporated herein by reference (the “*Settlement Tariffs*”), and new electric service agreements for Domtar and Kimberly-Clark, which are attached hereto as Exhibit B and incorporated herein by reference (the “*Proposed Contracts*”);

**WHEREAS**, the Parties desire to settle the Rehearing Issues on the terms set forth in this Agreement; and

**WHEREAS**, the adoption of this Agreement by the Commission will eliminate the need for the Commission and the Parties to expend significant resources further litigating the Proceeding, and eliminate the possibility of, and any need for, further rehearing or appeals of the Commission’s Final Order;

**NOW, THEREFORE**, for and in consideration of the premises and terms and conditions set forth herein, the Parties hereto agree, stipulate, and recommend as follows:

1. The Parties agree and stipulate that this Agreement, viewed in its entirety and including the Settlement Tariffs and the Proposed Contracts, is a fair, just and reasonable resolution of all of the Rehearing Issues, is supported by sufficient consideration and adequate data and information, and should be approved by the Commission.

2. The Parties stipulate that Kimberly-Clark has been paying and continues to pay rates under the Pilot LICSS tariffs that are higher than both the rates approved in the Final Order and the rates under the Settlement Tariffs, whereas Domtar has been paying and continues to pay the rates under the existing Domtar Contract and will only begin paying the rates under the Settlement Tariffs when the existing Domtar Contract is terminated and the Proposed Contract for Domtar is approved.

3. The Parties further stipulate that having the Settlement Tariffs and the Proposed Contracts become effective on the first day of a month simplifies billing and makes the billing more transparent.

4. As such, if the Commission approves this Agreement, the Settlement Tariffs, and the Proposed Contracts, the Parties agree and recommend that (i) the effective date of the Settlement Tariffs be July 1, 2024, which is the first day of the month following the Final Order; (ii) the effective date of the Proposed Contracts be the first day of the month following the Order approving this Agreement; (iii) Big Rivers be authorized to issue a refund through Kenergy to Kimberly-Clark equal to the difference between the rates Kimberly-Clark has paid and will pay under the Pilot LICSS tariffs and the rates it would have paid under Settlement Tariffs, from the effective date of the Settlement Tariffs through the effective date of the Proposed Contracts; and

(iv) the Domtar Contract be terminated effective the same date as the effective date of the Proposed Contracts.

5. Upon approval by the Commission of this Agreement, Kenergy and Big Rivers agree that they will file a joint motion to dismiss the Pending Appeal as moot.

6. Each Party recommends that the Commission enter an Order approving this Settlement Agreement, the Settlement Tariffs, and the Proposed Contracts, unconditionally and without change, and that such Order include the terms the Parties agreed to in Paragraph 4 of this Agreement.

7. The Parties agree that this Agreement is subject to the acceptance of and approval by the Commission. The Parties further agree to act in good faith, and to use their best efforts to seek the Commission's approval and acceptance of this Agreement, including the Settlement Tariffs and the Proposed Contracts. All Parties waive any right to appeal, file an action seeking review of, or seek reconsideration of any Order of the Commission issued in connection with this Agreement, except as provided below.

8. The Parties agree that, if the Commission does not accept and approve this Agreement, including the Settlement Tariffs, the Proposed Contracts and Paragraph 4 hereof, in its entirety and unchanged, or if the Commission imposes conditions on its acceptance and approval that are unacceptable to any Party, then any adversely affected Party may withdraw from this Agreement within the statutory periods provided for rehearing and appeal of the Commission's order by: (i) giving notice of withdrawal to all other Parties, and/or (ii) timely filing for rehearing or appeal. If any Party so withdraws:

(A) This Agreement shall be void and withdrawn by the Parties from further consideration by the Commission, and none of the Parties shall be bound by any of the

provisions herein, provided that no Party is precluded from advocating any position contained in this Agreement; and

(B) Neither the terms of this Agreement nor any matters raised during the negotiations of this Agreement shall be binding on any of the Parties or be construed against any of the Parties.

9. The Parties agree that this Agreement shall inure to the benefit of and be binding upon the Parties hereto, their successors and assigns.

10. The Parties agree that this Agreement constitutes the complete agreement and understanding among the Parties, and any and all oral statements, representations or agreements made prior hereto or contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Agreement.

11. The Parties agree that this Agreement is a product of informed negotiation among all Parties, and no provision of this Agreement shall be strictly construed in favor of or against any Party.

12. This Agreement shall not have any precedential value in this or any other jurisdiction, and shall not bar any or waive the right of any Party from seeking to amend, replace, or change the LICSS tariffs in a future proceeding before the Commission.

13. Each signatory hereto warrants that he or she has informed, advised, and consulted with the Party the signatory represents with regard to the contents and the significance of this Agreement, and based upon the foregoing, is authorized to execute this Agreement on behalf of that Party.

14. The Parties agree that this Agreement may be executed in multiple counterparts, and that the counterparts may be executed and delivered by facsimile or other electronic signature (including portable document format).

BIG RIVERS ELECTRIC CORPORATION

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


KENERGY CORP.

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

DOMTAR PAPER COMPANY, LLC

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

KIMBERLY-CLARK CORPORATION

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

14. The Parties agree that this Agreement may be executed in multiple counterparts, and that the counterparts may be executed and delivered by facsimile or other electronic signature (including portable document format).

BIG RIVERS ELECTRIC CORPORATION

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

KENERGY CORP.

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

DOMTAR PAPER COMPANY, LLC

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

KIMBERLY-CLARK CORPORATION

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



**Exhibit A**

BREC's Proposed LICSS Tariff

Kenergy's Proposed Standby Service Tariff

## Big Rivers Electric Corporation Table of Contents

### Standard Electric Rate Schedules – Terms and Conditions

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DATE OF ISSUE

DATE EFFECTIVE                      July 1, 2024

ISSUED BY:                              /s/ Donald L. Gulley

Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Fifth Revised SHEET NO. 69

CANCELLING P.S.C. KY. No. 27

Fourth Revised SHEET NO. 69

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RATES, TERMS AND CONDITIONS – SECTION 2

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**LICSS – Large Industrial Customer Standby Service**

**Applicability:**

In all territory served by Big Rivers' transmission system.

**Availability:**

This schedule is available to any of Big Rivers' then existing Member Cooperatives for service to any large industrial customer of the Member Cooperative having generation equipment capable of supplying all or a portion of its power requirements for other than emergency purposes, who requests Supplemental, Maintenance or Backup Power Service, and who has entered, or enters, into a special contract with a Member Cooperative for the provision of electric service (the "Standby Customer"). This schedule shall only apply to a Member Cooperative who has a standby service tariff under which it can pass through the charges under this schedule to a Standby Customer.

[T]  
[T]

**Term:**

This rate schedule shall take effect at 12:01 AM CPT on the effective date of this tariff.

**Definitions:**

Please see Section 4 for definitions common to all tariffs.

"Supplemental Power Service" – a service that provides transmission capacity to the Standby Customer as well as the energy and capacity requirements for use by the Standby Customer's facility in addition to the electric power that the Standby Customer ordinarily generates with its own on-site generation.

[T]  
[T]

"Maintenance Power Service" – a service that provides transmission capacity as well as the energy and capacity requirements for use by the Standby Customer during Scheduled Outages to replace energy that would have ordinarily been generated by the Standby Customer's own on-site generation.

[N]  
↓

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley  
Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Fourth Revised SHEET NO. 69.01

CANCELLING P.S.C. KY. No. 27

Third Revised SHEET NO. 69.01

RATES, TERMS AND CONDITIONS – SECTION 2

**LICSS – Large Industrial Customer Standby Service – (continued)**

**Definitions (continued):**

“Backup Power Service” – a service that provides transmission capacity as well as the energy and capacity requirements for use by the Standby Customer during Unscheduled Outages to replace energy that would have ordinarily been generated by the Standby Customer’s own on-site generation.

[T]

“Self-Supply Capacity” –the amount of capacity set forth in a Standby Customer’s special contract, not to exceed the capability of the Standby Customer’s own on-site generation. Self-Supply Capacity shall be based on the historical performance of the Standby Customer’s own on-site generation when the generation was online, and may vary on a seasonal basis. If the Standby Customer does not have a special contract that defines the amount of capacity to be used for Self-Supply Capacity, Self-Supply Capacity shall be the 12-month rolling average of the metered output of the Standby Customer’s generating unit(s) when online. A one-month lag will be implemented at the end of each such 12-month period.

“Generator Outage Rate” – the ratio of the total weighted number of hours the Standby Customer’s own on-site generating unit(s) experienced an Unscheduled Outage in the prior rolling 12-month period, excluding Scheduled Outages, divided by the product of the total number of hours in the prior rolling 12-month period and the average Self-Supply Capacity over that period. The weighted number of hours the Standby Customer’s own on-site generating unit(s) experienced an Unscheduled Outage shall be determined for each hour in which an Unscheduled Outage occurred as follows: in each such hour, it is the total of the difference between the Self-Supply Capacity and the metered output of the generating unit(s) divided by the Self-Supply Capacity. For example, in an Unscheduled Outage hour in which the outage is equal to 100% of the Self-Supply Capacity, this would result in a weighted hour equal to 1.0 for that outage hour. In an Unscheduled Outage hour in which the generator output was 50% of the Self-Supply Capacity, the weighting would be 0.5 for that outage hour. A one-month lag will be implemented at the end of each such 12-month period.

[N]

“Monthly Standby Reservation Rate” – the demand rate under Big Rivers’ Standard Rate Schedule LIC – Large Industrial Customer tariff multiplied the Standby Customer’s Generator Outage Rate.

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley  
Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Second Revised SHEET NO. 69.02

CANCELLING P.S.C. KY. No. \_\_\_\_\_

First Revised SHEET NO. 69.02

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RATES, TERMS AND CONDITIONS – SECTION 2

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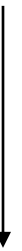
**LICSS – Large Industrial Customer Standby Service – (continued)**

**Definitions (continued):**

“Scheduled Outage” – any complete scheduled outage of the Standby Customer’s own on-site generation complying with the notice requirements for Maintenance Power Service.

[N]

“Unscheduled Outage” – any reduction in the metered output of the Standby Customer’s own on-site generation below the Self-Supply Capacity that is not a Scheduled Outage. However, it shall not be considered to be an Unscheduled Outage if the Standby Customer voluntarily reduces the output of its generator equivalent to any load reduction, provided that in such case, the Standby Customer notifies Big Rivers within one week after the close of the billing month that any such reduction in generation has occurred during the billing month.



**Billing:**

The provisions of the Standard Rate Schedule LIC – Large Industrial Customer tariff schedule and all applicable adjustment clauses and riders shall apply to Supplemental Power Service, Maintenance Power Service and Backup Power Service except where noted otherwise.

[T]

[T]

Big Rivers shall bill each Member Cooperative in accordance with the billing and payment terms set forth in the Billing section of Big Rivers’ Standard Rate Schedule LIC – Large Industrial Customer tariff schedule, or the Standby Customer’s special contract with the Member Cooperative. Each month, each Member Cooperative shall be required to pay separately for each of its Standby Customers taking service under this schedule, in each case using that individual Standby Customer’s contract demand (if any) or metered demand, as applicable.

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley

Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Second Revised SHEET NO. 69.03

CANCELLING P.S.C. KY. No. 27

First Revised SHEET NO. 69.03

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RATES, TERMS AND CONDITIONS – SECTION 2

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**LICSS – Large Industrial Customer Standby Service – (continued)**

**A. Monthly Standby Reservation Charge**

The Monthly Standby Reservation Charge shall be the Monthly Standby Reservation Rate multiplied by the Self-Supply Capacity.

**B. Energy Charges**

All energy usage under this tariff shall be billed under the terms and charges of Big Rivers' Standard Rate Schedule LIC – Large Industrial Customer tariff schedule.

**C. Supplemental Power Service**

Requirements

1. The level of demand for Supplemental Power Service shall be the Standby Customer's maximum integrated metered thirty-minute non-coincident peak demand based on the metered power supplied by Big Rivers for the month less any Maintenance Power Service and/or Back-up Power Service that occurs during such thirty-minute period.

Billing

1. Demand Charges: All Supplemental Power demand shall be billed under the terms and charges of Big Rivers' Standard Rate Schedule LIC – Large Industrial Customer tariff schedule.

[N]



[T]



[D]

[D]

[T]

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley

Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Second Revised SHEET NO. 69.04

CANCELLING P.S.C. KY. No. 27

First Revised SHEET NO. 69.04

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RATES, TERMS AND CONDITIONS – SECTION 2

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**LICSS – Large Industrial Customer Standby Service – (continued)**

**D. Maintenance Power Service**

[N]

Requirements

1. The Standby Customer's Maintenance Power requirements for each generating unit must be submitted to Big Rivers at least sixty (60) days prior to the beginning of each calendar year. Within thirty (30) days of such submission, Big Rivers shall respond to the Standby Customer either approving the Maintenance Power schedule or requesting that the Standby Customer reschedule those Maintenance Power requirements. If Big Rivers does not respond, the Standby Customer's Maintenance Power schedule shall be deemed approved.
2. For each generating unit, the Standby Customer may elect Maintenance Power Service for up to sixty (60) days in any twelve-month period, with no more than two (2) days consecutively during MISO's summer and winter seasons and with any scheduled outage during MISO's summer or winter season during MISO off-peak periods only. Maintenance outages should be scheduled during MISO off-peak times of the year when possible.
3. The Standby Customer may request an adjustment to the previously agreed-upon Maintenance Power schedule up to three weeks prior to the scheduled maintenance dates. The adjusted dates must be within one (1) week of the previously scheduled dates and result in a scheduled outage of the same seasonal and diurnal characteristics as the previously scheduled outage. Big Rivers shall respond to the Standby Customer's request for an adjustment within one (1) week of that request either approving or rejecting the adjusted schedule. If Big Rivers does not respond, the Standby Customer's proposed adjusted schedule shall be deemed approved.
4. Big Rivers may cancel a scheduled Maintenance Power period, with reason, at any time with at least seven (7) days' notice to the Standby Customer prior to the beginning of a scheduled maintenance outage but only if safety, emergency, or reliability conditions on Big Rivers' or MISO's electrical system warrant such a cancellation. Any scheduled Maintenance Power period cancelled by Big Rivers shall be rescheduled subject to the mutual agreement of Big Rivers and the Standby Customer.

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley  
Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Second Revised SHEET NO. 69.05

CANCELLING P.S.C. KY. No. 27

First Revised SHEET NO. 69.05

RATES, TERMS AND CONDITIONS – SECTION 2

**LICSS – Large Industrial Customer Standby Service (continued)**

**D. Maintenance Power Service (continued):**

[N]

5. In the event that the Standby Customer fails to meet the notice requirements in this paragraph for an outage, then the rates for Backup Power Service shall apply to the outage.
6. Big Rivers and the Standby Customer may mutually agree to waive any limitation in this Requirements section.

Billing

1. Demand Charges: A demand charge will be applied for each day Maintenance Power Service is provided. All Maintenance Power demand shall be billed at forty percent (40%) of Big Rivers' Standard Rate Schedule LIC – Large Industrial Customer tariff rate, prorated based on the number of days in the month. The level of demand that will be billed as Maintenance Power Service for a day shall be the maximum hourly difference for that day (for all hours in which a Scheduled Outage occurs) between the Self-Supply Capacity and the metered output of the Standby Customer's generator. The demand charge for Maintenance Power Service on any day in which a Scheduled Outage occurs shall not be less than zero.



**E. Backup Power Service**

Requirements

1. The Standby Customer shall notify Big Rivers by telephone within one (1) hour of the beginning and end of any Unscheduled Outage. Within one week after the close of the billing month, the Standby Customer shall supply written notice to Big Rivers of the dates and times of any Unscheduled Outage in the prior month.

[T]



DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley

Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301





(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Original SHEET NO. 69.06

CANCELLING P.S.C. KY. No.

SHEET NO.

RATES, TERMS AND CONDITIONS – SECTION 2

**LICSS – Large Industrial Customer Standby Service – (continued)**

**E. Backup Power Service (continued):**

Billing

- 1. Demand Charges: A demand charge will be applied for each day Backup Power Service is provided. All Backup Power demand shall be billed at Big Rivers' Standard Rate Schedule LIC – Large Industrial Customer tariff rate minus the Monthly Standby Reservation Rate, prorated based on the number of days in the month. The level of demand that will be billed as Backup Power Service for a day shall be the maximum hourly difference for that day (for all hours in which an **Unscheduled Outage** occurs) between the Self-Supply Capacity and the metered output of the Standby Customer's generator. The demand charge for Backup Power Service on any day in which an **Unscheduled Outage** occurs shall not be less than zero. [T]

**Terms and Conditions:**

- 1. The Standby Customer shall be subject to all adders, riders, terms and conditions, and other provisions of any applicable schedule of the Member Cooperative's tariff under which the Standby Customer takes service. [D]
- 2. Standby Customer shall be required to adhere to Big Rivers' requirements and procedures for interconnection.
- 3. Prior to the first day of each month, the Standby Customer shall provide a good faith schedule of its generation for that month. The Standby Customer shall make good faith efforts to update that schedule for changes during the month. The Standby Customer shall not be penalized for inaccuracies in its schedules or updates. [N]
- 4. The Standby Customer shall be required to allow Big Rivers to meter Standby Customer's generation, and to provide access for Big Rivers to install, operate and maintain the metering equipment, which shall remain the property of Big Rivers.
- 5. The Standby Customer shall be required to pay the cost of any new or additional facilities necessary for Big Rivers to provide service under the provisions of this schedule. [T]

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley  
Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



(Name of Utility)

For All Territory Served By  
Cooperative's Transmission System  
P.S.C. KY. No. 27

Original SHEET NO. 69.07

CANCELLING P.S.C. KY. No.

SHEET NO.

RATES, TERMS AND CONDITIONS – SECTION 2

**LICSS – Large Industrial Customer Standby Service – (continued)**

**Terms and Conditions (continued):**

- 6. The Member Cooperative may enter into special agreements with Big Rivers and Standby Customers, jointly, that may deviate from the provisions of this schedule. Such agreements shall address those significant characteristics of service and cost that would influence the need for such an agreement. [T]
- 7. The Standby Customer shall take reasonable measures not to transmit energy to Big Rivers or to the Member Cooperative. Neither Big Rivers nor the Member Cooperative shall pay for any energy transmitted by the Standby Customer. [D]
- 8. The supplying of, and billing for, service and all conditions applying thereto, are subject to the jurisdiction of the Kentucky Public Service Commission, and to Big Rivers' and the Member Cooperative's generally applicable rules, terms, and conditions currently in effect, as filed with the Kentucky Public Service Commission. [T]
- 9. Standby Customer shall provide reasonable protection for Big Rivers' and the Member Cooperative's systems against any adverse impact of the Standby Customer's generation. [T]
- 10. Standby Customer shall design, construct, install, own, operate, and maintain its generation equipment in accordance with all applicable codes, laws, regulations, and generally accepted utility practices. [T]
- 11. Standby Customer shall maintain insurance in the following minimum amounts for each occurrence: [T]
  - a. Public Liability for Bodily Injury - \$1,000,000.00
  - b. Property Damage - \$500,000.00 [D]
- 12. The Standby Customer shall pay for all interconnection costs required because of the Standby Customer's generator(s). [T]
- 13. During system emergencies, Big Rivers may discontinue sales to the Standby Customer provided that any such discontinuation is implemented in accordance with the Special Rules Terms and Conditions of this tariff and applicable law. [T]

DATE OF ISSUE

DATE EFFECTIVE July 1, 2024

ISSUED BY: /s/ Donald L. Gulley  
Donald L. Gulley  
President and Chief Executive Officer  
Big Rivers Electric Corporation  
710 W. 2<sup>nd</sup> Street, Owensboro, KY 42301



Henderson, Kentucky

FOR	ALL TERRITORY SERVED
PSC No.	Community, Town or City
Second Revised	2
CANCELLING PSC NO.	SHEET NO. 34C
First Revised	2
	(Page 1 of 7)
	SHEET NO. 34C

<b>CLASSIFICATION OF SERVICE</b>
<b>SCHEDULE 34C – Standby Service</b>

**Applicable:**

In all territory served by Kenergy Corp.

**Availability:**

[T] This schedule is available to any large industrial customer of Kenergy Corp. having generation equipment capable of supplying all or a portion of its power requirements for other than emergency purposes, who requests Supplemental, Maintenance or Backup Power Service, and who has or enters into a special contract with Kenergy Corp. for the provision of electric service (the “Standby Customer”).

**Term:**

This rate schedule shall take effect at 12:01 AM CPT on the effective date of this tariff.

**Definitions:**

- [T] Supplemental Power Service — a service that provides transmission capacity to the Standby Customer as well as the energy and capacity requirements for use by the Standby Customer’s facility in addition to the electric power that the Standby Customer ordinarily generates with its own on-site generation.
- [N] Maintenance Power Service – a service that provides transmission capacity as well as the energy and capacity requirements for use by the Standby Customer during Scheduled Outages to replace energy that would have ordinarily been generated by the Standby Customer’s own on-site generation.
- [T] Backup Power Service — a service that provides transmission capacity as well as the energy and capacity requirements for use by the Standby Customer during Unscheduled Outages to replace energy that would have ordinarily been generated by the Standby Customer’s own on-site generation.

DATE OF ISSUE \_\_\_\_\_  
Month / Date / Year

DATE EFFECTIVE \_\_\_\_\_  
July 1, 2024  
Month / Date / Year

ISSUED BY \_\_\_\_\_  
/s/ Timothy Lindahl  
(Signature of Officer)

TITLE \_\_\_\_\_  
President and CEO

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION  
IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_



Henderson, Kentucky

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<b>CLASSIFICATION OF SERVICE</b>
<b>SCHEDULE 34C – Standby Service</b>

[T] Self-Supply Capacity – the amount of capacity set forth in a Standby Customer’s special contract, not to exceed the capability of the Standby Customer’s own on-site generation. Self-Supply Capacity shall be based on the historical performance of the Standby Customer’s own on-site generation when the generation was online, and may vary on a seasonal basis. If the Standby Customer does not have a special contract that defines the amount of capacity to be used for Self-Supply Capacity, Self-Supply Capacity shall be the 12-month rolling average of the metered output of the Standby Customer’s generating unit(s) when online. A one-month lag will be implemented at the end of each such 12-month period.

[N] Generator Outage Rate – the ratio of the total weighted number of hours the Standby Customer’s own on-site generating unit(s) experienced an Unscheduled Outage in the prior rolling 12-month period, excluding Scheduled Outages, divided by the product of the total number of hours in the prior rolling 12-month period and the average Self-Supply Capacity over that period. The weighted number of hours the Standby Customer’s own on-site generating unit(s) experienced an Unscheduled Outage shall be determined for each hour in which an Unscheduled Outage occurred as follows: in each such hour, it is the total of the difference between the Self-Supply Capacity and the metered output of the generating unit(s) divided by the Self-Supply Capacity. For example, in an Unscheduled Outage hour in which the outage is equal to 100% of the Self-Supply Capacity, this would result in a weighted hour equal to 1.0 for that outage hour. In an Unscheduled Outage hour in which the generator output was 50% of the Self-Supply Capacity, the weighting would be 0.5 for that outage hour. A one-month lag will be implemented at the end of each such 12-month period.

Monthly Standby Reservation Rate – the demand rate under Big Rivers’ Standard Rate Schedule LIC – Large Industrial Customer tariff multiplied the Standby Customer’s Generator Outage Rate.

Scheduled Outage – any complete scheduled outage of the Standby Customer’s own on-site generation complying with the notice requirements for Maintenance Power Service.

Unscheduled Outage – any reduction in the metered output of the Standby Customer’s own on-site generation below the Self-Supply Capacity that is not a Scheduled Outage. However, it shall not be considered to be an Unscheduled Outage if the Standby Customer voluntarily reduces the output of its generator equivalent to any load reduction, provided that in such case, the Standby Customer notifies Big Rivers within one week after the close of the billing month that any such reduction in generation has occurred during the billing month.

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<b>CLASSIFICATION OF SERVICE</b>
<b>SCHEDULE 34C – Standby Service</b>

**Billing:**

[T] The provisions of the Standby Customer’s special contract with Kenergy and Kenergy’s tariff schedules applicable to service to Standby Customer and all applicable adjustment clauses and riders shall apply to Supplemental Power Service, Maintenance Power Service and Backup Power Service except where noted otherwise.

Kenergy Corp. shall bill each Standby Customer in accordance with the billing and payment terms set forth in the Billing section of the applicable tariff schedule or the special contract between Kenergy and the Standby Customer.

**[N] A. Monthly Standby Reservation Charge**

↓ The Monthly Standby Reservation Charge shall be the Monthly Standby Reservation Rate multiplied by the Self-Supply Capacity.

**B. Energy Charges**

↓ All energy usage under this tariff shall be billed under the terms and charges of Big Rivers’ Standard Rate Schedule LIC – Large Industrial Customer tariff schedule.

[T] Retail adder: A retail adder of \$0.000166 per KWH shall apply to all KWH consumed at the site, including but not limited to Maintenance Power energy and Backup Power energy consumed by the Standby Customer.

**C. Supplemental Power Service**

Requirements

[T] 1. The level of demand for Supplemental Power Service shall be the Standby Customer’s maximum integrated metered thirty-minute non-coincident peak demand based on the metered power supplied by Big Rivers for the month less any Maintenance Power Service and/or Back-up Power Service that occurs during such thirty-minute period.

[D]

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<b>CLASSIFICATION OF SERVICE</b>
<b>SCHEDULE 34C – Standby Service</b>

Billing

[D]

[T]

- Customer and Demand Charges: All Supplemental Power demand shall be billed under the terms and charges of the Standby Customer’s special contract with Kenergy and Kenergy’s tariff schedules applicable to service to the Standby Customer.

[N] **D. Maintenance Power Service**

Requirements

- The Standby Customer’s Maintenance Power requirements for each generating unit must be submitted to Big Rivers at least sixty (60) days prior to the beginning of each calendar year. Within thirty (30) days of such submission, Big Rivers shall respond to the Standby Customer either approving the Maintenance Power schedule or requesting that the Standby Customer reschedule those Maintenance Power requirements. If Big Rivers does not respond, the Standby Customer’s Maintenance Power schedule shall be deemed approved.
- For each generating unit, the Standby Customer may elect Maintenance Power Service for up to sixty (60) days in any twelve-month period, with no more than two (2) days consecutively during MISO’s summer and winter seasons and with any scheduled outage during MISO’s summer or winter season during MISO off-peak periods only. Maintenance outages should be scheduled during MISO off-peak times of the year when possible.
- The Standby Customer may request an adjustment to the previously agreed-upon Maintenance Power schedule up to three weeks prior to the scheduled maintenance dates. The adjusted dates must be within one (1) week of the previously scheduled dates and result in a scheduled outage of the same seasonal and diurnal characteristics as the previously scheduled outage. Big Rivers shall respond to the Standby Customer’s request for an adjustment within one (1) week of that request either approving or rejecting the adjusted schedule. If Big Rivers does not respond, the Standby Customer’s proposed adjusted schedule shall be deemed approved.
- Big Rivers may cancel a scheduled Maintenance Power period, with reason, at any time with at least seven (7) days’ notice to the Standby Customer prior to the beginning of a scheduled maintenance outage but only if safety, emergency, or reliability conditions on Big Rivers’ or MISO’s electrical system warrant such a cancellation. Any scheduled Maintenance Power period cancelled by Big Rivers shall be rescheduled subject to the mutual agreement of Big Rivers and the Standby Customer.

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- [N] 5. In the event that the Standby Customer fails to meet the notice requirements in this paragraph for an outage, then the rates for Backup Power Service shall apply to the outage.
6. Big Rivers and the Standby Customer may mutually agree to waive any limitation in this Requirements section.

Billing

1. Demand Charges: A demand charge will be applied for each day Maintenance Power Service is provided. All Maintenance Power demand shall be billed at forty percent (40%) of Big Rivers’ Standard Rate Schedule LIC – Large Industrial Customer tariff rate, prorated based on the number of days in the month. The level of demand that will be billed as Maintenance Power Service for a day shall be the maximum hourly difference for that day (for all hours in which a Scheduled Outage occurs) between the Self-Supply Capacity and the metered output of the Standby Customer’s generator. The demand charge for Maintenance Power Service on any day in which a Scheduled Outage occurs shall not be less than zero.

**E. Backup Power Service**

Requirements

- [T] 1. The Standby Customer shall notify Big Rivers by telephone within one (1) hour of the beginning and end of any Unscheduled Outage. Within one week after the close of the billing month, the Standby Customer shall supply written notice to Big Rivers of the dates and times of any Unscheduled Outage in the prior month.

Billing

1. Demand Charges: A demand charge will be applied for each day Backup Power Service is provided. All Backup Power demand shall be billed at the Big Rivers Standard Rate LIC tariff rate minus the Monthly Standby Reservation Rate, prorated based on the number of days in the month. The level of demand that will be billed as Backup Power Service for a day shall be the maximum hourly difference for that day (for all hours in which an Unscheduled Outage occurs) between the Self-Supply Capacity and the metered output of the Standby Customer’s generator. The demand charge for Backup Power Service on any day in which an Unscheduled Outage occurs shall not be less than zero.

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<b>CLASSIFICATION OF SERVICE</b>
<b>SCHEDULE 34C – Standby Service</b>

**[D]**  
**Terms and Conditions:**

- 1. The Standby Customer shall be subject to all adders, riders, terms and conditions, and other provisions of any applicable special contract or schedule of Kenergy Corp.'s tariff under which the Standby Customer takes service.
- 2. Standby Customer shall be required to adhere to Big Rivers' requirements and procedures for interconnection.
- 3. Prior to the first day of each month, the Standby Customer shall provide a good faith schedule of its generation for that month. The Standby Customer shall make good faith efforts to update that schedule for changes during the month. The Standby Customer shall not be penalized for inaccuracies in its schedules or updates.
- 4. The Standby Customer shall be required to allow Big Rivers to meter Standby Customer's generation, and to provide access for Big Rivers to install, operate and maintain the metering equipment, which shall remain the property of Big Rivers.
- 5. The Standby Customer shall be required to pay the cost of any new or additional facilities necessary for Big Rivers to provide service under the provisions of this schedule.
- 6. Kenergy Corp. may enter into special agreements with Big Rivers and Standby Customers, jointly, that may deviate from the provisions of this schedule. Such agreements shall address those significant characteristics of service and cost that would influence the need for such an agreement
- 7. The Standby Customer shall take reasonable measures not to transmit energy to Big Rivers or to Kenergy Corp. Neither Big Rivers nor Kenergy Corp. shall pay for any energy transmitted by the Standby Customer.
- 8. The supplying of, and billing for, service and all conditions applying thereto, are subject to the jurisdiction of the Kentucky Public Service Commission, and to Big Rivers' and Kenergy Corp.'s generally applicable rules, terms, or conditions currently in effect, as filed with the Kentucky Public Service Commission.
- 9. Standby Customer shall provide reasonable protection for Big Rivers' and Kenergy Corp.'s systems against any adverse impact of the Standby Customer's generation.
- 10. Standby Customer shall design, construct, install, own, operate, and maintain its generation equipment in accordance with all applicable codes, laws, regulations, and generally accepted utility practices.

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<b>SCHEDULE 34C – Standby Service</b>

- [T] 11. Standby Customer shall maintain insurance in the following minimum amounts for each occurrence:
  - a. Public Liability for Bodily Injury - \$1,000,000.00
  - b. Property Damage - \$500,000.00
- [D] 12. The Standby Customer shall pay for all interconnection costs required because of the Standby
- [T] Customer’s generator(s).
- [T] 13. During system emergencies, Big Rivers may discontinue sales to the Standby Customer provided that
- [T] any such discontinuation is implemented in accordance with the Special Rules Terms and Conditions of
- [T] Big Rivers’ tariff and applicable law.

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**Exhibit B**

Proposed Retail Electric Service Agreement for Domtar

Proposed Retail Electric Service Agreement for Kimberly-Clark

AGREEMENT FOR ELECTRIC SERVICE

THIS AGREEMENT FOR ELECTRIC SERVICE (“Agreement”) is made and entered into as of the 11<sup>th</sup> day of December, 2024, by and between KENERGY CORP., a Kentucky rural electric cooperative corporation, with its principal office located at 6402 Old Corydon Road, P.O. Box 18, Henderson, Kentucky 42419-0018 (hereinafter, the “Seller”), BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative corporation, with its principal office located at 710 W. 2<sup>nd</sup> Street, Owensboro, Kentucky 42301 (hereinafter, “BREC”), and DOMTAR PAPER COMPANY, LLC, a Delaware limited liability company, with principal offices at 100 Kingsley Park Drive, Fort Mill, South Carolina 29715 (hereinafter, the “Customer”) (Seller, Customer and BREC are individually referred to herein as a “Party” and collectively as the “Parties”).

WHEREAS, Seller currently supplies and delivers to Customer’s integrated pulp and paper mill in Hawesville, Kentucky (the “Facility”) electric power and energy pursuant to an existing Second Amended and Restated Agreement for Electric Service dated January 21, 2011, between Kenergy Corp. and Domtar Paper Company, LLC (the “Existing Agreement”);

WHEREAS, Seller currently purchases electric power and energy for resale to Customer from BREC under a wholesale power agreement (“Wholesale Power Agreement”);

WHEREAS, Customer requires Seller to provide the Facility with Supplemental Power, Maintenance Power Service and Backup Power Service as those terms are defined in Seller’s Schedule 34C and BREC’s tariff LICSS on file with the Kentucky Public Service Commission (“Commission”);

WHEREAS, the Parties desire that BREC hold, and BREC is willing to hold, Customer’s credit support under the terms set forth in this Agreement; and

WHEREAS, the Parties wish to replace the Existing Agreement with this Agreement to reflect various changed circumstances;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties and BREC agree as follows:

ARTICLE I  
GENERAL OBLIGATIONS AND TERMINATION OF EXISTING AGREEMENT

1.01 Basic Obligations of the Parties. Except for any electric power and energy generated by Customer through on-site generation as permitted under Section 2.03 hereunder, Seller will supply, sell, and deliver to Customer, and Customer will accept and pay for, all of the electric power and energy required by Customer for the operation of its facilities at the plant site located at Hwy 1406, 58 Wescor Road, Hawesville, KY 42348 (the “Plant Site”), up to the Maximum Contract Demand (as defined in Section 2.04 below). This service will be

supplied under this Agreement, and the rules, regulations, and orders of the Commission, which may be applicable and effective from time to time. The Parties agree that this Agreement contains the exclusive terms on which Seller will provide retail service to Customer during the term of this Agreement, and that the Existing Agreement is terminated as of the Effective Date, as defined herein.

1.02 Membership. Customer shall be a member of Seller and shall be bound by such rules and regulations as may from time to time be adopted by and conditions of this Agreement.

## ARTICLE II SERVICE CHARACTERISTICS

2.01 The electric power and energy delivered hereunder will be in the form of three-phase alternating current (60 hertz) at 12,470 volts nominal.

2.02 Delivery Point. The “Delivery Point” of the electric power and energy made available under this Agreement shall be the point of connection between Customer’s bus with BREC’s step-down transformers’ low-side bushing.

2.03 Service Restriction. Customer shall not use the electric power and energy furnished hereunder as an auxiliary or supplement to any other source of purchased power and shall not sell any electric power and energy purchased hereunder.

2.04 Maximum Contract Demand. The maximum demand of Customer (including all Supplemental Power Demand, Maintenance Power Demand, and Backup Power Demand, as those terms are defined in Seller’s tariffs) during the primary term of this Agreement, or any extension thereof, shall be 75,000 kilowatts (the “Maximum Contract Demand”), unless otherwise agreed in writing by the Parties. The Maximum Contract Demand shall not be used for demand charge billing purposes. Seller shall not be obligated to supply capacity in excess of said demand; provided, however that if Customer modifies or expands its plant in such a way as to increase its electric requirements, Customer shall be entitled to obtain additional service to the same extent as any other customer of Seller would be so entitled, and that if Customer installs another paper machine at its Plant Site, Seller agrees to negotiate an amendment to this Agreement to include a change in the Maximum Contract Demand and provisions relating to a second 161,000 volt transmission line.

2.05 Self-Supply Capacity. The Customer’s Self-Supply Capacity shall equal the 12-month rolling average of the metered output of the Standby Customer’s generating unit(s) when online. A one-month lag will be implemented at the end of each such 12-month period.

2.06 Electric Disturbances and Phase Balancing.

(a) Customer shall not use the energy delivered hereunder in such a manner as to cause electric disturbances which may reasonably be expected to (i) cause damage or interference with Seller’s system, systems connected with Seller’s system, or facilities or other

property in proximity to Seller's system, or (ii) prevent Seller from serving other customers satisfactorily.

(b) Seller may require Customer, at Customer's expense, to make such changes in its system as may be necessary to reasonably limit such fluctuations and disturbances. The Parties agree that Customer's historic use of power and energy has not caused fluctuations and disturbances on Seller's system or systems connected to Seller's system.

(c) Customer shall take and use the power and energy hereunder in such a manner that the load at the Delivery Point shall not cause an imbalance between phases sufficient to cause interference with the Seller's system or to systems connected to Seller's system; otherwise, Seller reserves the right to require Customer, at Customer's expense, to make necessary changes to correct such conditions. In addition to any other remedies that Seller may have hereunder, should Customer fail to make such changes, Seller may, in its determination of billing demand, assume the load on each phase is equal to the greatest load on any phase. The Parties agree that Customer's historic use of power and energy has not caused imbalances between phases sufficient to cause interference with the Seller's system or to systems connected to Seller's system.

(d) Customer acknowledges and agrees that Seller and BREC shall have no responsibility for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point that results solely from acts or omissions of Customer, its employees, agents, contractors or invitees, or malfunction of any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point. The Parties agree that Customer's historic use of power and energy has not caused any damage, interference, or phase imbalance on Seller's system or systems connected to Seller's system.

(e) Seller and BREC acknowledges and agrees that they shall have no responsibility for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point, except those that result solely from negligent acts or omissions or intentional acts of Seller or BREC, or Seller's or BREC's employees, contractors or invitees acting within the scope of their employment, contract or invitation, respectively. Customer waives any claims it may have against Seller or BREC for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point that occurred prior to the effective date of this Agreement.

(f) The Parties acknowledge that the System Disturbances Agreement among Customer, Seller, and BREC, as previously amended, remains in effect.

2.07 Power Factor. Customer shall maintain a power factor at the Delivery Point as nearly as practicable to unity. Power factor during normal operation may range from unity to ninety percent (90%). If Customer's power factor is less than 90% at the time of maximum load as determined by Seller's meter pursuant to Section 3.03(a) below for more than any three

months during an annual period, Seller reserves the right to require Customer to choose either (a) installation at Customer's expense of equipment which will maintain a power factor of 90% or higher; or (b) adjustment of the maximum monthly metered demand for billing purposes in accordance with the following formula:

$$\frac{\text{Maximum Actual Measured Kilowatts} \times 90\%}{\text{Power Factor (\%)}}$$

## 2.08 Metering.

(a) The metering equipment necessary to register the electric demand and energy for this service shall be furnished, installed, operated, and maintained by Seller or Seller's power supplier, and shall be and remain the property of Seller or Seller's power supplier, as applicable.

(b) Each meter shall be read on or about the first day of each month, or such other day as may be mutually agreed upon by a representative of Seller and may be simultaneously read by a representative of Customer should Customer so elect.

(c) All inspections and testing of metering equipment shall be performed in accordance with applicable rules and regulations of the Commission.

(d) The metering point for service under this Agreement shall be the Delivery Point. At Customer's expense, Seller has installed a meter to measure the energy output of Customer's on-site generation.

2.09 Easements and Facilities Provided by Customer. Customer has provided, and shall continue to provide or cause to be provided, without cost to Seller, the following easements and facilities which are or may be necessary for Seller or its power supplier to supply the electric consuming facilities of Customer with retail electric service:

(a) Easements for rights-of-way upon Customer's property, at such locations and of such dimensions as determined by Seller and which are necessary for the construction of facilities which Seller or its power supplier must furnish to provide electric service herein; provided, however, that if Customer wishes to move such facilities in the future, Seller will cooperate in identifying alternate satisfactory locations so long as any relocation is at Customer's expense. Customer shall also provide or cause to be provided, without cost to Seller, a suitable switching station site in fee, rough-graded to Seller's requirements, located adjacent to Customer's main substation, for the construction and erection of such new facilities and future alterations to existing facilities as may from time to time be necessary to serve Customer; provided, however, that Seller shall reconvey any such site back to Customer in the event that this Agreement is terminated and Seller is not then using such site for any other customer, or in the event that Customer has a need for such site and is willing to provide Seller with a satisfactory alternate site and pay all relocation costs.

(b) Customer has furnished, and except as provided in Section 2.09 hereof, Customer shall continue to furnish, operate, and maintain (or cause to be furnished, operated, and maintained) such substation facilities and equipment as may be necessary to enable it to receive and use electric power and energy purchased hereunder at and from the Delivery Point, including two power transformers and low voltage distribution equipment (including switchgear, supporting structures, associated bus and hardware, and such protective devices as may be reasonably necessary to protect the system of Seller from disturbances caused by Customer). Plans for equipment to be installed for such protection shall be submitted to Seller for prior approval, provided that (i) Seller shall respond promptly to any such submission either with its approval or describing in detail what changes Seller requires in order to grant its approval, (ii) such review shall be at Seller's expense, (iii) approval shall not be unreasonably withheld, and (iv) Seller shall not require any greater degree of protection than would be required by generally accepted standards of prudent electrical practice.

#### 2.10 Facilities Provided by BREC and Customer.

(a) Facilities Provided by BREC. BREC has furnished, and shall continue to furnish or cause to be furnished, at no extra charge to Customer, all of the facilities required for the delivery of electric power and energy to the Delivery Point including the following facilities:

(i) Three (3) 24/32/40 MVA transformers presently located in the BREC Skillman substation; and

(ii) Metering, communications, relaying, control circuits, and associated equipment necessary to properly measure, control, and coordinate the delivery of electrical power and energy between BREC's and Customer's facilities.

BREC agrees to permit Customer reasonable access to the BREC Skillman substation to operate and maintain the facilities owned by Domtar located in that substation.

(b) Facilities Provided by Customer. Customer shall provide or cause to be provided, without cost to Seller, all required 12,470 volt substation equipment, including buses or cables to connect to transformers owned by Seller, BREC, or both, excluding, however, the 12,470 volt transformer, lightning arresters, revenue metering equipment, and station service equipment for BREC's portion of the substation.

#### 2.11 Operation and Maintenance of Facilities.

(a) Seller or BREC shall construct, operate, and maintain, or cause to be constructed, operated and maintained, all facilities and equipment owned by it or its power supplier and required to supply retail electric service to Customer in accordance with the terms of this Agreement, and all other applicable laws, codes and regulations.

(b) Customer shall construct, operate, and maintain, or cause to be constructed, operated, and maintained, all of the facilities and equipment owned by it in accordance with the applicable provisions of the National Electrical Safety Code and all other

applicable laws, codes, and regulations; provided, however, that Seller shall have no duty to inspect such facilities for compliance therewith.

2.12 Right of Removal. Any and all equipment, apparatus, devices, or facilities placed or installed, or caused to be placed or installed, by either Party on or in the premises of the other Party shall be and remain the property of the Party owning and installing such equipment, apparatus, devices, or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement, the owner thereof shall have the right to enter upon the premises of the other and shall within a reasonable time remove such equipment, apparatus, devices, or facilities; provided, however, that Customer may not recover any easements or sites conveyed to Seller as referred to in Section 2.08 hereof except to the extent that Seller no longer has a need to make use of such easements or sites.

### ARTICLE III PAYMENT

3.01 Rates. On and after the Effective Date (as defined in Section 12.02 below) of this Agreement, Customer shall pay Seller for service hereunder at the rates set forth in Seller's Rate Schedule 34C, attached hereto as Exhibit A, and other applicable tariffs of Seller, or any successor tariff(s), all of which are incorporated herein by reference, subject to such changes as may become effective from time to time by operation of law or by order of the Commission, provided that in the case of any filing with the Commission that changes or affects the terms, conditions, or rates under this Agreement, Seller gives Customer notice in accordance with Article VIII of this Agreement and in accordance with law and the Commission's regulations and orders so that Customer has the opportunity to participate in any proceeding at the Commission affecting the terms, conditions, or rates hereunder.

3.02 Taxes. Customer shall pay all taxes, charges, or assessments now or hereafter applicable to electric service hereunder.

3.03 Billing Demand.

The level of demand for Supplemental Power Service shall be the Customer's maximum integrated thirty-minute non-coincident peak demand supplied by Seller at the Delivery Point during each month, less any Maintenance Power Service and/or Back-up Power Service that occurs during such thirty-minute period, with such maximum integrated thirty-minute demand determined by meters which record at the end of each thirty-minute period the integrated kilowatt demand during the preceding thirty minutes. The provisions of Section 2.06 apply to the measured kilowatts.

3.04 Payment of Bills. Bills for service furnished during the preceding monthly billing period shall be processed and mailed to Customer, and a copy faxed to Customer, not later than the first Working Day after the thirteenth (13th) day of each month. Bills for service hereunder shall be due and payable on or before the first Working Day after the twenty-fourth (24th) day of the month. "Working Day" shall mean any day other than a Saturday, Sunday, or banking holiday. In the event payment of the current monthly bill (excluding any amounts as



to which there is a bona fide dispute) is not received by Seller on or before the due date, Seller may discontinue delivery of electric power and energy hereunder upon fifteen (15) days' written notice to Customer of its intention to do so, unless Seller receives payment before the end of such fifteen (15) day notice period. Simple interest equal to the then-effective prime commercial lending rate as published in the "Money Rates" section of *The Wall Street Journal* plus one percent (1%) shall apply to any unpaid amounts from the due date until paid. Any such discontinuance of service under this paragraph shall not relieve Customer of any of its obligations under this Agreement. The Parties agree that if the billing date by which BREC bills Seller under BREC's tariff relative to the service provided under this Agreement changes, or that if the due date by which Seller must pay BREC under BREC's tariff relative to the service provided under this Agreement changes, the Parties will amend the billing date and due date herein accordingly.

#### ARTICLE IV CONTINUITY OF SERVICE

4.01 Seller shall use reasonable diligence to provide a constant and uninterrupted supply of electric power and energy hereunder. However, Seller shall not be responsible for damages to Customer occasioned by any failure, shortage, or interruption of service or for failure as a result of Force Majeure (as defined in Section 4.02 below).

4.02 In the event either Seller or Customer shall be unable, wholly or in part, by reason of Force Majeure (as defined below), including Force Majeure preventing Seller's power supplier from supplying power for Seller's resale to Customer, to carry out its obligations hereunder, on such Party's giving notice and reasonably full particulars of such Force Majeure, first by telephone and then confirmed in writing, to the other Party within a reasonable time after the occurrence of the cause relied upon, then the obligations of the Parties, to the extent they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and the following provisions shall apply:

(a) Inability of Seller. Should Seller's ability to make power available to Customer in the amount provided for hereunder be interrupted or curtailed for a period longer than 120 consecutive minutes because of Force Majeure, then for the period of and to the extent of such interruption or curtailment, the monthly billing demand shall be prorated by a factor equal to the ratio of the time Seller is unable to deliver power to the total time in the billing period.

(b) Inability of Customer. If a Force Majeure affects all or a portion of Customer's equipment so that for a period longer than 120 consecutive minutes, Customer is unable to receive and utilize all or a portion of the power that it would have otherwise received and utilized, then an appropriate adjustment will be made in the monthly billing demand.,

(c) The term "Force Majeure" as used herein, shall mean acts of God, strikes or general employee work stoppages that are not under the reasonable control of Customer, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning,

earthquakes, fires, storms, floods, washouts, arrests and restraints of government, whether federal, state, or local, civil or military, civil disturbances, explosions, breakage of or accident to machinery, equipment, or transmission lines, inability of either Party to obtain necessary materials, supplies, or permits due to existing or future rules, regulations, orders, laws, or proclamations of governmental authorities, whether federal, state, or local, civil or military, and any other causes which are not reasonably within the control of the Party affected.

(d) The Seller or Customer which is unable to perform its obligations hereunder by reason of Force Majeure shall remedy such inability with all reasonable dispatch; provided, however, the Customer shall not be required to restore its plant and/or operations to the extent that it is not practical for Customer to do so. The Party affected by an event of Force Majeure shall provide the other with a timely and reasonably full description of the nature and impact of any damages to its facilities and operations caused by such event, and the anticipated duration of the effect thereof on that Party's performance hereunder. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

## ARTICLE V TERM

5.01 Term and Renewals. This Agreement shall remain in full force and effect for a primary term beginning with the Effective Date hereof (as defined in Section 12.02 below) and continuing through the twelfth (12<sup>th</sup>) month thereafter. After the primary term, this Agreement shall automatically renew for successive terms of one year each (each, a "Renewal Term") unless a Party elects to terminate the Agreement by providing written notice of termination to the other Party at least six months' prior to the start of any Renewal Term.

5.02 Assignment. This Agreement shall be assignable by Customer only if (a) Customer agrees in writing to guarantee all of Customer's obligations hereunder, or (b) Customer obtains the prior written consent of Seller, which consent will not be unreasonably withheld, delayed or conditioned. Seller may withhold approval of a proposed assignment until, among other things, Seller has been provided with all information it may reasonably require regarding the proposed assignee, including the ability of the proposed assignee to fulfill its obligations hereunder.

## ARTICLE VI RIGHT OF ACCESS

6.01 Duly authorized representatives of Seller shall be permitted to enter upon Customer's premises at all reasonable hours in order to carry out the provisions of this Agreement.

6.02 Each Party shall furnish to the other such reports and information concerning its operations as the other may reasonably request from time to time.

6.03 Seller shall cause BREC to provide to Customer, upon Customer's request, documentation regarding unplanned downtime events on the transmission line to Customer, a

description of such downtime events, and a description of any remediation efforts to prevent future similar events.

6.04 Seller shall cause BREC to provide to Customer, upon Customer's request, documentation listing the preventative maintenance measures planned on the transmission line to Customer, as well as the actual preventative maintenance measures from the prior year.

ARTICLE VII  
EVENTS OF DEFAULT AND REMEDIES

7.01 Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

- (a) Failure by Customer to make any payment in accordance with this Agreement;
- (b) Failure of a Party to perform any material duty imposed on it by this Agreement;
- (c) Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Section 5.02;
- (d) Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise, or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;
- (e) Assignment by a Party for the benefit of its creditors; or
- (f) Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment.

7.02 Remedies. Following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Remedies provided in this Agreement are cumulative. Nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein, except as provided in Section 7.03 below.

7.03 LIMITATION OF DAMAGES. UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, OR AGENTS, WHETHER IN TORT, CONTRACT, OR

OTHERWISE, FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE VIII  
NOTICES

8.01 Any notice, demand, or request required or authorized under this Agreement shall be deemed properly given to or served upon the other Party if the notice is in writing and delivered in person, delivered by any qualified and recognized delivery service, or sent postage prepaid by United States certified mail, return receipt requested at the following addresses:

To the Seller:

Kenergy Corp.  
6402 Old Corydon Road  
P.O. Box 18  
Henderson, KY 42419-0018  
Attn: President and CEO

With a copy to:

Big Rivers Electric Corporation  
710 West Second Street P.O. Box 20015  
Owensboro, KY 42304  
Attn: President and CEO

To the Customer:

Domtar Paper Company, LLC  
Highway 1406, PO Box 130  
Hawesville, KY 42348  
Attn: Plant Manager

With a copy to:

Domtar Paper Company, LLC  
395 de Maisonneuve Blvd. West  
Montreal, Quebec  
Canada H3A 1L6  
Attn: Legal Services

Each Party shall have the right to change the name of the person or location to whom or where notice shall be given or served by notifying the other Party in writing of such change.

ARTICLE IX  
REPRESENTATIONS AND WARRANTIES

9.01 Representations and Warranties of Seller. Seller hereby represents and warrants to Customer as follows:

(a) Seller is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the term hereof.

(b) The execution, delivery, and performance of this Agreement by Seller have been duly and effectively authorized by all requisite corporate action.

9.02 Representations and Warranties of Customer. Customer hereby represents and warrants to Seller as follows:

(a) Customer is a limited liability company duly organized and validly existing and in good standing under the laws of the State of Delaware, is authorized to do business in the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the term hereof.

(b) The execution, delivery, and performance of this Agreement by Customer have been duly and effectively authorized by all requisite corporate action.

ARTICLE X  
CUSTOMER DEPOSIT AND BREC OBLIGATIONS

10.01 Customer Deposit. Customer shall provide to BREC (as agent for Seller), prior to the Effective Date, a cash deposit or an irrevocable bank standby letter of credit satisfactory to BREC representing two (2) months of estimated billing as security for the payment of Customer's monthly billing obligations under this Agreement. In the event Customer fails to pay any undisputed monthly billing invoice by the Due Date, after notifying Customer of its intent to do so, BREC may, in addition to and without limiting any other remedies available to it, call on the standby letter of credit provided in this subsection or any other security deposit, payment security, or credit support to satisfy any unpaid invoices owed to Seller. BREC may increase or decrease the required amount of this payment security as necessary based on estimated increases or decreases in Customer's bills. Customer shall provide the level of credit support required by BREC within 15 business days after each such adjustment. Any cash deposit will earn interest in accordance with law, and interest earned will be paid annually by

BREC to Customer. Except with regard to the Customer Deposit in this Section 10.01, nothing in this Agreement shall create any duty or obligation on behalf of BREC to Customer.

10.02 Relationship of this Agreement to the Wholesale Power Agreement.

(a) BREC will make available to Seller the electric power required for Seller to perform the power supply obligations assumed by it in this Agreement, and Seller shall take and pay for such service from BREC pursuant to the Wholesale Power Agreement, this Agreement, and BREC's Large Industrial Customer Standby Service ("LICSS") tariff as such tariff may be amended from time to time, and any other applicable tariffs of BREC, or any successor tariff(s), all of which are incorporated herein by reference. The terms of the Wholesale Power Agreement shall continue in full force and effect except as expressly modified by this Agreement.

(b) Seller agrees to bill Customer for amounts due under this Agreement, and agrees to pay over to BREC all funds actually collected under such billings, except for Seller's adder. Seller will pay to BREC a pro rata share of any partial payment made to Seller by or on behalf of Customer.

(c) Customer acknowledges and agrees that, to the extent BREC has a corresponding or related obligation to Seller under the Wholesale Power Agreement, Seller's performance of an obligation under this Agreement (i) is subject to and conditioned upon BREC's performance of such corresponding or related obligation to Seller, and (ii) may be undertaken by BREC and that such performance of corresponding or related obligations by BREC will satisfy Seller's performance obligations hereunder.

(d) BREC shall be entitled to the benefit of each covenant undertaken by Customer in this Agreement, and BREC may enforce any such covenant by action in its own name or may require Seller to enforce such covenant for and on behalf of BREC.

(e) In the event the Wholesale Power Agreement is terminated prior to the termination of this Agreement, BREC's obligations hereunder shall terminate effective with the termination of the Wholesale Power Agreement and shall transfer to Seller.

10.03 BREC Consent. The Parties may not amend or assign this Agreement, or change the Maximum Contract Demand, except with the written consent of BREC.

10.04 RUS Collateral Assignment. Notwithstanding any other provision of this Agreement to the contrary, BREC may, without the written consent of Customer or Seller and without relieving itself from liability hereunder, assign, transfer, mortgage or pledge this Agreement or its rights under this Agreement to create a security interest for the benefit of the United States of America, acting through the Rural Utilities Service ("RUS"), or other secured party (directly or through an indenture trustee or other collateral agent; collectively, including such indenture trustee or other collateral agent, a "Secured Party"). Thereafter, a Secured Party, without the written consent of Customer or Seller may (i) cause this Agreement (and all obligations hereunder) to be sold, assigned, transferred or otherwise disposed of to a third party

pursuant to the terms governing such security interest, or (ii) if RUS first acquires this Agreement pursuant to 7 U.S.C. § 907 or if any other Secured Party otherwise first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) to a third party; provided, however, that in either case (A) BREC is in default of its obligations that are secured by such security interest and that the applicable Secured Party has given Customer and Seller written notice of such default; and (B) the applicable Secured Party has given Customer and Seller not less than thirty (30) days' prior written notice of its intention to sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) indicating the identity of the intended third-party assignee or purchaser.

#### ARTICLE XI SEVERABILITY

11.01 The invalidity of any portion of this Agreement shall not affect the validity of the remainder thereof.

#### ARTICLE XII SUCCESSION, APPROVAL, AND EFFECTIVE DATE

12.01 This Agreement shall be binding upon and inure to the benefit of the successors, legal representatives, and permitted assigns of the respective Parties hereto.

12.02 The “Effective Date” of this Agreement shall be the date hereof, except that said Effective Date shall be postponed and this Agreement shall not become effective unless and until this Agreement is approved or accepted in writing by the Commission and the Rural Utilities Service.

#### ARTICLE XIII MISCELLANEOUS

13.01 Entire Agreement. The terms, covenants, and conditions contained herein constitute the entire agreement between the Parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof, provided, however, that service to Customer is subject to the lawful orders of the Commission. All applicable tariffs of Seller are incorporated by reference.

13.02 Governing Law, Jurisdiction, and Venue. All respective rights and obligations of the Parties shall be governed by the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; provided that the subject matter of such dispute is not a matter reserved by law to the Commission, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky

courts for such purpose. Venue of any state court action, legal or equitable, related to this Agreement shall be Daviess County, Kentucky.

13.03 Waiver. The waiver by either Party or BREC of any breach of any term, covenant, or condition contained herein will not be deemed a waiver of any other term, covenant, or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein.

13.04 Amendments. This Agreement may be amended, revised, or modified by, and only by, a written instrument duly executed by both Parties and BREC.

13.05 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument, and each counterpart will have the same force and effect as if they were one original. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by any of the parties and the receiving party(ies) may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

13.06 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

(Signatures are on the following page(s))




IN WITNESS WHEREOF, the Parties and BREC hereto have executed this Agreement, as of the day and year first above written.

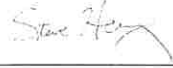
KENERGY CORP.

By:   
Name: Timothy Lindahl  
Title: President & CEO


Attest:

  
Name: Nicholas Kafer  
Title: General Counsel

DOMTAR PAPER COMPANY, LLC

By:   
Name: Steve Henry  
Title: President Paper and Packaging

Attest:

  
Name: Michael Kurtz  
Title: Counsel

BIG RIVERS ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name: Donald L. Gulley  
Title: President & CEO

Attest:

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

IN WITNESS WHEREOF, the Parties and BREC hereto have executed this Agreement, as of the day and year first above written.

KENERGY CORP.

By: \_\_\_\_\_  
Name: Timothy Lindahl  
Title: President & CEO

Attest:

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

DOMTAR PAPER COMPANY, LLC

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

Attest:

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

BIG RIVERS ELECTRIC CORPORATION

By:  \_\_\_\_\_  
Name: Donald L. Gulley  
Title: President & CEO

Attest:

  
\_\_\_\_\_  
Name: Tisha Kauf  
Title: General Counsel

## AGREEMENT FOR ELECTRIC SERVICE

THIS AGREEMENT FOR ELECTRIC SERVICE (“Agreement”) is made and entered into as of the 11<sup>th</sup> day of December, 2024, by and between KENERGY CORP., a Kentucky rural electric cooperative corporation, with its principal office located at 6402 Old Corydon Road, P.O. Box 18, Henderson, Kentucky 42419-0018 (hereinafter, the “Seller”), BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative corporation, with its principal office located at 710 W. 2<sup>nd</sup> Street, Owensboro, Kentucky 42301 (hereinafter, “BREC”), and KIMBERLY-CLARK CORPORATION, a Delaware corporation, with its principal office located at World Headquarters, 351 Phelps Drive, Irving, Texas 75038 (hereinafter, the “Customer”) (Seller and Customer are individually referred to herein as a “Party” and collectively as the “Parties”).

WHEREAS, Seller currently supplies and delivers to Customer electric power and energy pursuant to an existing First Amended and Restated Agreement for Electric Service dated November 13, 2008, between Kenergy Corp. and Kimberly-Clark Corporation (the “Existing Agreement”);

WHEREAS, Seller currently purchases electric power and energy for resale to Customer from BREC under a wholesale power agreement (“Wholesale Power Agreement”);

WHEREAS, since the execution of the Existing Agreement, Customer’s power requirements have changed due to, *inter alia*, the installation of a combined heat and power system at the Customer’s tissue-manufacturing facility in Owensboro, Kentucky (the “Facility”);

WHEREAS, Customer requires Seller to provide the Facility with Supplemental Power, Maintenance Power Service and Backup Power Service as those terms are defined in Seller’s tariff on file with the Kentucky Public Service Commission (“Commission”);

WHEREAS, the Parties desire that BREC hold, and BREC is willing to hold, Customer’s credit support under the terms set forth in this Agreement; and

WHEREAS, the Parties wish to replace the Existing Agreement with this Agreement to reflect various changed circumstances;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties and BREC agree as follows:

ARTICLE I  
GENERAL OBLIGATIONS AND TERMINATION OF EXISTING AGREEMENT

1.01 Basic Obligations of the Parties. Except for any electric power and energy generated by Customer through on-site generation as permitted under Section 2.03 hereunder, Seller will supply, sell, and deliver to Customer, and Customer will accept and pay for, all of the electric power and energy required by Customer for the operation of its facilities at the plant site located at 601 Innovative Way, Owensboro, Daviess County, Kentucky 42301-8437 (the "Plant Site"), up to the Maximum Contract Demand (as defined in Section 2.04 below). This service will be supplied under this Agreement, and the rules, regulations, and orders of the Commission, which may be applicable and effective from time to time. Seller and Customer agree that this Agreement contains the exclusive terms on which Seller will provide retail service to Customer during the term of this Agreement, and that the Existing Agreement is terminated as of the Effective Date, as defined herein.

1.02 Membership. Customer shall be a member of Seller and shall be bound by such rules and regulations as may from time to time be adopted by and conditions of this Agreement.

ARTICLE II  
SERVICE CHARACTERISTICS

2.01 The electric power and energy delivered hereunder will be in the form of three-phase alternating current (60 hertz) at 161,000 volts nominal.

2.02 Delivery Point. The "Delivery Point" of the electric power and energy made available under this Agreement shall be the point at which Customer's facilities connect to Seller's facilities, which is at the primary terminals of the 161,000 volt/13,800 volt transformer bushings at Customer's main substation at the Plant Site.

2.03 Service Restriction. Customer shall not use the electric power and energy furnished hereunder as an auxiliary or supplement to any other source of purchased power and shall not sell any electric power and energy purchased hereunder.

2.04 Maximum Contract Demand. The maximum demand of Customer (including all Supplemental Power Demand, Maintenance Power Demand, and Backup Power Demand, as those terms are defined in Seller's tariffs) during the primary term of this Agreement, or any extension thereof, shall be 44,258 kilowatts (the "Maximum Contract Demand"), unless otherwise agreed in writing by the Parties. Seller shall not be obligated to supply capacity in excess of said demand; provided, however that if Customer modifies or expands its plant in such a way as to increase its electric requirements, Customer shall be entitled to obtain additional service to the same extent as any other customer of Seller would be so entitled, and that if Customer installs another paper machine at its Plant Site, Seller agrees to negotiate an amendment to this Agreement to include a change in the Maximum Contract Demand and provisions relating to a second 161,000 volt transmission line..

2.05 Self-Supply Capacity. The amount of capacity supplied by Customer's on-site generation shall be as follows: 12.5 MW during the winter period (December, January, and February); 11.5 MW during the spring period (March, April, and May); 10.5 MW during the summer period (June, July, and August); and 11.5 MW during the fall period (September, October, or November) (individually, "Seasonal Self-Supply Capacity Values"; collectively, "Self-Supply Capacity"). Not more than once per calendar year, either Party may request by notice to the other Party in writing that the Seasonal Self-Supply Capacity Values be revised due to historic generator performance. In the event of such a request, the Parties shall negotiate revised Seasonal Self-Supply Capacity Values. If the Parties agree to revised values, the revised Seasonal Self-Supply Capacity Values shall replace the values set forth in this section. If the Parties are unable to agree to revised values, the Seasonal Self-Supply Capacity Value for each season shall be the prior year's 3-month rolling average metered output of the Standby Customer's generating unit(s) during the applicable season. If Customer modifies or expands its onsite generation, the Parties agree to negotiate an amendment to this Agreement to include a change in the Self-Supply Capacity or Seasonal Self-Supply Capacity Values.

2.06 Electric Disturbances and Phase Balancing.

(a) Customer shall not use the energy delivered hereunder in such a manner as to cause electric disturbances which may reasonably be expected to (i) cause damage or interference with Seller's system, systems connected with Seller's system, or facilities or other property in proximity to Seller's system, or (ii) prevent Seller from serving other customers satisfactorily.

(b) Seller may require Customer, at Customer's expense, to make such changes in its system as may be necessary to reasonably limit such fluctuations and disturbances. The Parties agree that Customer's historic use of power and energy has not caused fluctuations and disturbances on Seller's system or systems connected to Seller's system.

(c) Customer shall take and use the power and energy hereunder in such a manner that the load at the Delivery Point shall not cause an imbalance between phases sufficient to cause interference with the Seller's system or to systems connected to Seller's system; otherwise, Seller reserves the right to require Customer, at Customer's expense, to make necessary changes to correct such conditions. In addition to any other remedies that Seller may have hereunder, should Customer fail to make such changes, Seller may, in its determination of billing demand, assume the load on each phase is equal to the greatest load on any phase. The Parties agree that Customer's historic use of power and energy has not caused imbalances between phases sufficient to cause interference with the Seller's system or to systems connected to Seller's system.

(d) Customer acknowledges and agrees that Seller shall have no responsibility for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point that results solely from acts or omissions of Customer, its employees, agents, contractors or invitees, or malfunction of any equipment or devices connected to Customer's electrical system on Customer's side of the

Delivery Point. The Parties agree that Customer's historic use of power and energy has not caused any damage, interference, or phase imbalance on Seller's system or systems connected to Seller's system.

(e) Seller acknowledges and agrees that it shall have no responsibility for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point, except those that result solely from negligent acts or omissions or intentional acts of Seller, or Seller's employees, contractors or invitees acting within the scope of their employment, contract or invitation, respectively. Customer waives any claims it may have against Seller for damage to any property, or to any equipment or devices connected to Customer's electrical system on Customer's side of the Delivery Point that occurred prior to the effective date of this Agreement.

2.07 Power Factor. Customer shall maintain a power factor at the Delivery Point as nearly as practicable to unity. Power factor during normal operation may range from unity to ninety percent (90%). If Customer's power factor is less than 90% at the time of maximum load as determined by Seller's meter pursuant to Section 3.03(a) below for more than any three months during an annual period, Seller reserves the right to require Customer to choose either (a) installation at Customer's expense of equipment which will maintain a power factor of 90% or higher; or (b) adjustment of the maximum monthly metered demand for billing purposes in accordance with the following formula:

$$\frac{\text{Maximum Actual Measured Kilowatts} \times 90\%}{\text{Power Factor (\%)}}$$

2.08 Metering.

(a) The metering equipment necessary to register the electric demand and energy for this service shall be furnished, installed, operated, and maintained by Seller or Seller's power supplier, and shall be and remain the property of Seller or Seller's power supplier, as applicable.

(b) Each meter shall be read on or about the first day of each month, or such other day as may be mutually agreed upon by a representative of Seller and may be simultaneously read by a representative of Customer should Customer so elect.

(c) All inspections and testing of metering equipment shall be performed in accordance with applicable rules and regulations of the Commission.

(d) The metering point for service under this Agreement shall be the Delivery Point. At Customer's expense, Seller has installed a meter to measure the energy output of Customer's on-site generation.

2.09 Easements and Facilities Provided by Customer. Customer has provided, and shall continue to provide or cause to be provided, without cost to Seller, the following

easements and facilities which are or may be necessary for Seller or its power supplier to supply the electric consuming facilities of Customer with retail electric service:

(a) Easements for rights-of-way upon Customer's property, at such locations and of such dimensions as determined by Seller and which are necessary for the construction of facilities which Seller or its power supplier must furnish to provide electric service herein; provided, however, that if Customer wishes to move such facilities in the future, Seller will cooperate in identifying alternate satisfactory locations so long as any relocation is at Customer's expense. Customer shall also provide or cause to be provided, without cost to Seller, a suitable switching station site in fee, rough-graded to Seller's requirements, located adjacent to Customer's main substation, for the construction and erection of such new facilities and future alterations to existing facilities as may from time to time be necessary to serve Customer; provided, however, that Seller shall reconvey any such site back to Customer in the event that this Agreement is terminated and Seller is not then using such site for any other customer, or in the event that Customer has a need for such site and is willing to provide Seller with a satisfactory alternate site and pay all relocation costs.

(b) Customer has furnished, and except as provided in Section 2.09 hereof, Customer shall continue to furnish, operate, and maintain (or cause to be furnished, operated, and maintained) such substation facilities and equipment as may be necessary to enable it to receive and use electric power and energy purchased hereunder at and from the Delivery Point, including two power transformers and low voltage distribution equipment (including switchgear, supporting structures, associated bus and hardware, and such protective devices as may be reasonably necessary to protect the system of Seller from disturbances caused by Customer). Plans for equipment to be installed for such protection shall be submitted to Seller for prior approval, provided that (i) Seller shall respond promptly to any such submission either with its approval or describing in detail what changes Seller requires in order to grant its approval, (ii) such review shall be at Seller's expense, (iii) approval shall not be unreasonably withheld, and (iv) Seller shall not require any greater degree of protection than would be required by generally accepted standards of prudent electrical practice.

2.10 Facilities Provided by Seller. Seller has furnished, and shall continue to furnish or cause to be furnished, at no extra charge to Customer, all of the facilities required for the delivery of electric power and energy to the Delivery Point including the following facilities:

(a) One 161,000-volt radial transmission line extending from one of the existing substations on Big Rivers' transmission system to the Delivery Point; and

(b) Metering, communications, relaying, control circuits, and associated equipment necessary to properly measure, control, and coordinate the delivery of electrical power and energy between Seller's and Customer's facilities.

2.11 Operation and Maintenance of Facilities.

(a) Seller shall construct, operate, and maintain, or cause to be constructed, operated and maintained, all facilities and equipment owned by it or its power supplier and

required to supply retail electric service to Customer in accordance with the terms of this Agreement, and all other applicable laws, codes and regulations.

(b) Customer shall construct, operate, and maintain, or cause to be constructed, operated, and maintained, all of the facilities and equipment owned by it in accordance with the applicable provisions of the National Electrical Safety Code and all other applicable laws, codes, and regulations; provided, however, that Seller shall have no duty to inspect such facilities for compliance therewith.

2.12 Right of Removal. Any and all equipment, apparatus, devices, or facilities placed or installed, or caused to be placed or installed, by either Party on or in the premises of the other Party shall be and remain the property of the Party owning and installing such equipment, apparatus, devices, or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement, the owner thereof shall have the right to enter upon the premises of the other and shall within a reasonable time remove such equipment, apparatus, devices, or facilities; provided, however, that Customer may not recover any easements or sites conveyed to Seller as referred to in Section 2.08 hereof except to the extent that Seller no longer has a need to make use of such easements or sites.

### ARTICLE III PAYMENT

3.01 Rates. On and after the Effective Date (as defined in Section 12.02 below) of this Agreement, Customer shall pay Seller for service hereunder at the rates set forth in Seller's Rate Schedule 34C, attached hereto as Exhibit A, and other applicable tariffs of Seller, or any successor tariff(s), all of which are incorporated herein by reference, subject to such changes as may become effective from time to time by operation of law or by order of the Commission, provided that in the case of any filing with the Commission that changes or affects the terms, conditions, or rates under this Agreement, Seller gives Customer notice in accordance with Article VIII of this Agreement and in accordance with law and the Commission's regulations and orders so that Customer has the opportunity to participate in any proceeding at the Commission affecting the terms, conditions, or rates hereunder.

3.02 Taxes. Customer shall pay all taxes, charges, or assessments now or hereafter applicable to electric service hereunder.

3.03 Billing Demand.

The level of demand for Supplemental Power Service shall be the Customer's maximum integrated thirty-minute non-coincident peak demand supplied by Seller at the Delivery Point during each month, less any Maintenance Power Service and/or Back-up Power Service that occurs during such thirty-minute period, with such maximum integrated thirty-minute demand determined by meters which record at the end of each thirty-minute period the integrated kilowatt demand during the preceding thirty minutes. The provisions of Section 2.06 apply to the measured kilowatts.



3.04 Payment of Bills. Bills for service furnished during the preceding monthly billing period shall be processed and mailed to Customer, and a copy faxed to Customer, not later than the first Working Day after the thirteenth (13th) day of each month. Bills for service hereunder shall be due and payable on or before the first Working Day after the twenty-fourth (24th) day of the month. "Working Day" shall mean any day other than a Saturday, Sunday, or banking holiday. In the event payment of the current monthly bill (excluding any amounts as to which there is a bona fide dispute) is not received by Seller on or before the due date, Seller may discontinue delivery of electric power and energy hereunder upon fifteen (15) days' written notice to Customer of its intention to do so, unless Seller receives payment before the end of such fifteen (15) day notice period. Simple interest equal to the then-effective prime commercial lending rate as published in the "Money Rates" section of *The Wall Street Journal* plus one percent (1%) shall apply to any unpaid amounts from the due date until paid. Any such discontinuance of service under this paragraph shall not relieve Customer of any of its obligations under this Agreement. The Parties agree that if the billing date by which BREC bills Seller under BREC's tariff relative to the service provided under this Agreement changes, or that if the due date by which Seller must pay BREC under BREC's tariff relative to the service provided under this Agreement changes, the Parties will amend the billing date and due date herein accordingly.

#### ARTICLE IV CONTINUITY OF SERVICE

4.01 Seller shall use reasonable diligence to provide a constant and uninterrupted supply of electric power and energy hereunder. However, Seller shall not be responsible for damages to Customer occasioned by any failure, shortage, or interruption of service or for failure as a result of Force Majeure (as defined in Section 4.02 below).

4.02 In the event either Party shall be unable, wholly or in part, by reason of Force Majeure (as defined below), including Force Majeure preventing Seller's power supplier from supplying power for Seller's resale to Customer, to carry out its obligations hereunder, on such Party's giving notice and reasonably full particulars of such Force Majeure, first by telephone and then confirmed in writing, to the other Party within a reasonable time after the occurrence of the cause relied upon, then the obligations of the Parties, to the extent they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and the following provisions shall apply:

(a) Inability of Seller. Should Seller's ability to make power available to Customer in the amount provided for hereunder be interrupted or curtailed for a period longer than 120 consecutive minutes because of Force Majeure, then for the period of and to the extent of such interruption or curtailment, the monthly billing demand shall be prorated by a factor equal to the ratio of the time Seller is unable to deliver power to the total time in the billing period.

(b) Inability of Customer. If a Force Majeure affects all or a portion of Customer's equipment so that for a period longer than 120 consecutive minutes, Customer is unable to receive and utilize all or a portion of the power that it would have otherwise received and utilized, then an appropriate adjustment will be made in the monthly billing demand.

(c) The term "Force Majeure" as used herein, shall mean acts of God, strikes or general employee work stoppages that are not under the reasonable control of Customer, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of government, whether federal, state, or local, civil or military, civil disturbances, explosions, breakage of or accident to machinery, equipment, or transmission lines, inability of either Party to obtain necessary materials, supplies, or permits due to existing or future rules, regulations, orders, laws, or proclamations of governmental authorities, whether federal, state, or local, civil or military, and any other causes which are not reasonably within the control of the Party affected.

(d) The Party unable to perform its obligations hereunder by reason of Force Majeure shall remedy such inability with all reasonable dispatch; provided, however, the Customer shall not be required to restore its plant and/or operations to the extent that it is not practical for Customer to do so. The Party affected by an event of Force Majeure shall provide the other with a timely and reasonably full description of the nature and impact of any damages to its facilities and operations caused by such event, and the anticipated duration of the effect thereof on that Party's performance hereunder. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

## ARTICLE V TERM

5.01 Term and Renewals. This Agreement shall remain in full force and effect for a primary term beginning with the Effective Date hereof (as defined in Section 12.02 below) and continuing through the one hundred twentieth (120<sup>th</sup>) month thereafter. Customer may terminate this Agreement prior to the end of the ten-year primary term by giving Seller and Big Rivers at least twelve (12) months' prior notice in accordance with Article VIII of this Agreement. After the primary term, this Agreement shall automatically renew for successive terms of one year each (each, a "Renewal Term") unless a Party elects to terminate the Agreement by providing written notice of termination to the other Party at least six months' prior to the start of any Renewal Term.

5.02 Assignment. This Agreement shall be assignable by Customer only if (a) Customer agrees in writing to guarantee all of Customer's obligations hereunder, or (b) Customer obtains the prior written consent of Seller, which consent will not be unreasonably withheld, delayed or conditioned. Seller may withhold approval of a proposed assignment until, among other things, Seller has been provided with all information it may reasonably require regarding the proposed assignee, including the ability of the proposed assignee to fulfill its obligations hereunder.

ARTICLE VI  
RIGHT OF ACCESS

6.01 Duly authorized representatives of Seller shall be permitted to enter upon Customer's premises at all reasonable hours in order to carry out the provisions of this Agreement.

6.02 Each Party shall furnish to the other such reports and information concerning its operations as the other may reasonably request from time to time.

6.03 Seller shall cause BREC to provide to Customer, upon Customer's request, documentation regarding unplanned downtime events on the transmission line to Customer, a description of such downtime events, and a description of any remediation efforts to prevent future similar events.

6.04 Seller shall cause BREC to provide to Customer, upon Customer's request, documentation listing the preventative maintenance measures planned on the transmission line to Customer, as well as the actual preventative maintenance measures from the prior year.

ARTICLE VII  
EVENTS OF DEFAULT AND REMEDIES

7.01 Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

(a) Failure by Customer to make any payment in accordance with this Agreement;

(b) Failure of a Party to perform any material duty imposed on it by this Agreement;

(c) Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Section 5.02;

(d) Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise, or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;

(e) Assignment by a Party for the benefit of its creditors; or

(f) Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment.

7.02 Remedies. Following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Remedies provided in this Agreement are cumulative. Nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein, except as provided in Section 7.03 below.

7.03 LIMITATION OF DAMAGES. UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, OR AGENTS, WHETHER IN TORT, CONTRACT, OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

#### ARTICLE VIII NOTICES

8.01 Any notice, demand, or request required or authorized under this Agreement shall be deemed properly given to or served upon the other Party if the notice is in writing and delivered in person, delivered by any qualified and recognized delivery service, or sent postage prepaid by United States certified mail, return receipt requested at the following addresses:

To the Seller:

Kenergy Corp.  
6402 Old Corydon Road  
P.O. Box 18  
Henderson, KY 42419-0018  
Attn: President and CEO

With a copy to:

Big Rivers Electric Corporation  
710 West Second Street  
P.O. Box 20015  
Owensboro, KY 42304  
Attn: President and CEO

To the Customer:

Kimberly-Clark Corporation  
Owensboro Mill  
601 Innovative Way  
Owensboro, KY 42301-8437  
Attn: Mill Manager

With a copy to:

Kimberly-Clark Corporation  
1400 Holcomb Bridge Road  
Roswell, GA 30076  
Attn: Energy Supply Manager

Each Party shall have the right to change the name of the person or location to whom or where notice shall be given or served by notifying the other Party in writing of such change.

#### ARTICLE IX REPRESENTATIONS AND WARRANTIES

9.01 Representations and Warranties of Seller. Seller hereby represents and warrants to Customer as follows:

(a) Seller is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the term hereof.

(b) The execution, delivery, and performance of this Agreement by Seller have been duly and effectively authorized by all requisite corporate action.

9.02 Representations and Warranties of Customer. Customer hereby represents and warrants to Seller as follows:

(a) Customer is a corporation duly organized and validly existing and in good standing under the laws of the State of Delaware, is authorized to do business in the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the term hereof.

(b) The execution, delivery, and performance of this Agreement by Customer have been duly and effectively authorized by all requisite corporate action.

ARTICLE X  
CUSTOMER DEPOSIT AND BREC OBLIGATIONS

10.01 Customer Deposit. Customer shall provide to BREC (as agent for Seller), prior to the Effective Date, a cash deposit or an irrevocable bank standby letter of credit satisfactory to BREC representing two (2) months of estimated billing as security for the payment of Customer's monthly billing obligations under this Agreement. In the event Customer fails to pay any undisputed monthly billing invoice by the Due Date, after notifying Customer of its intent to do so, BREC may, in addition to and without limiting any other remedies available to it, call on the standby letter of credit provided in this subsection or any other security deposit, payment security, or credit support to satisfy any unpaid invoices owed to Seller. BREC may increase or decrease the required amount of this payment security as necessary based on estimated increases or decreases in Customer's bills. Customer shall provide the level of credit support required by BREC within 15 business days after each such adjustment. Any cash deposit will earn interest in accordance with law, and interest earned will be paid annually by BREC to Customer. Except with regard to the Customer Deposit in this Section 10.01, nothing in this Agreement shall create any duty or obligation on behalf of BREC to Customer.

10.02 Relationship of this Agreement to the Wholesale Power Agreement.

(a) BREC will make available to Seller the electric power required for Seller to perform the power supply obligations assumed by it in this Agreement, and Seller shall take and pay for such service from Big Rivers pursuant to the Wholesale Power Agreement, this Agreement, and Big Rivers' Large Industrial Customer Standby Service ("LICSS") tariff as such tariff may be amended from time to time, and any other applicable tariffs of Big Rivers, or any successor tariff(s), all of which are incorporated herein by reference. The terms of the Wholesale Power Agreement shall continue in full force and effect except as expressly modified by this Agreement.

(b) Seller agrees to bill Customer for any other amounts due under this Agreement, and agrees to pay over to BREC all funds actually collected under such billings, except for Seller's adder. Seller will pay to BREC a pro rata share of any partial payment made to Seller by or on behalf of Customer.

(c) Customer acknowledges and agrees that, to the extent BREC has a corresponding or related obligation to Seller under the Wholesale Power Agreement, Seller's performance of an obligation under this Agreement (i) is subject to and conditioned upon BREC's performance of such corresponding or related obligation to Seller, and (ii) may be undertaken by BREC and that such performance of corresponding or related obligations by BREC will satisfy Seller's performance obligations hereunder.

(d) BREC shall be entitled to the benefit of each covenant undertaken by Customer in this Agreement, and BREC may enforce any such covenant by action in its own name or may require Seller to enforce such covenant for and on behalf of BREC.

(e) In the event the Wholesale Power Agreement is terminated prior to the termination of this Agreement, BREC's obligations hereunder shall terminate effective with the termination of the Wholesale Power Agreement and shall transfer to Seller.

10.03 BREC Consent. The Parties may not amend or assign this Agreement, or change the Maximum Contract Demand, Self-Supply Capacity, or Seasonal Self-Supply Capacity Values, except with the written consent of BREC.

10.04 RUS Collateral Assignment. Notwithstanding any other provision of this Agreement to the contrary, BREC may, without the written consent of Customer or Seller and without relieving itself from liability hereunder, assign, transfer, mortgage or pledge this Agreement or its rights under this Agreement to create a security interest for the benefit of the United States of America, acting through the Rural Utilities Service ("RUS"), or other secured party (directly or through an indenture trustee or other collateral agent; collectively, including such indenture trustee or other collateral agent, a "Secured Party"). Thereafter, a Secured Party, without the written consent of Customer or Seller may (i) cause this Agreement (and all obligations hereunder) to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such security interest, or (ii) if RUS first acquires this Agreement pursuant to 7 U.S.C. § 907 or if any other Secured Party otherwise first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) to a third party; provided, however, that in either case (A) BREC is in default of its obligations that are secured by such security interest and that the applicable Secured Party has given Customer and Seller written notice of such default; and (B) the applicable Secured Party has given Customer and Seller not less than thirty (30) days' prior written notice of its intention to sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) indicating the identity of the intended third-party assignee or purchaser.

## ARTICLE XI SEVERABILITY

11.01 The invalidity of any portion of this Agreement shall not affect the validity of the remainder thereof.

## ARTICLE XII SUCCESSION, APPROVAL, AND EFFECTIVE DATE

12.01 This Agreement shall be binding upon and inure to the benefit of the successors, legal representatives, and permitted assigns of the respective Parties hereto.

12.02 The "Effective Date" of this Agreement shall be the date hereof, except that said Effective Date shall be postponed and this Agreement shall not become effective unless and until this Agreement is approved or accepted in writing by the Commission and the Rural Utilities Service.

ARTICLE XIII  
MISCELLANEOUS

13.01 Entire Agreement. The terms, covenants, and conditions contained herein constitute the entire agreement between the Parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof, provided, however, that service to Customer is subject to the lawful orders of the Commission. All applicable tariffs of Seller are incorporated by reference.

13.02 Governing Law, Jurisdiction, and Venue. All respective rights and obligations of the Parties shall be governed by the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; provided that the subject matter of such dispute is not a matter reserved by law to the Commission, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue of any state court action, legal or equitable, related to this Agreement shall be Daviess County, Kentucky.

13.03 Waiver. The waiver by either Party or BREC of any breach of any term, covenant, or condition contained herein will not be deemed a waiver of any other term, covenant, or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein.

13.04 Amendments. This Agreement may be amended, revised, or modified by, and only by, a written instrument duly executed by both Parties and BREC.

13.05 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument, and each counterpart will have the same force and effect as if they were one original. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by any of the parties and the receiving party(ies) may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

13.06 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

(Signatures are on page 15)




IN WITNESS WHEREOF, the Parties and BREC hereto have executed this Agreement, as of the day and year first above written.

KENERGY CORP.

By:   
Name: Timothy Lindahl  
Title: President & CEO

Attest:

  
Name: Nicholas Kafer  
Title: General Counsel

KIMBERLY-CLARK CORPORATION

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

Attest:

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

BIG RIVERS ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name: Donald L. Gulley  
Title: President & CEO

Attest:

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

IN WITNESS WHEREOF, the Parties and BREC hereto have executed this Agreement, as of the day and year first above written.

KENERGY CORP.

By: \_\_\_\_\_  
Name: Timothy Lindahl  
Title: President & CEO

Attest:

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

KIMBERLY-CLARK CORPORATION

By: Wayne S. Roberts  
Name: Wayne S. Roberts  
Title: Sr. Director, Procurement

Attest:

J. Schneider  
Name: JAMES SCHNEIDER  
Title: GLOBAL ENERGY SUPPLY MGR.

BIG RIVERS ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name: Donald L. Gulley  
Title: President & CEO

Attest:

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

IN WITNESS WHEREOF, the Parties and BREC hereto have executed this Agreement, as of the day and year first above written.

KENERGY CORP.

By: \_\_\_\_\_  
Name: Timothy Lindahl  
Title: President & CEO

Attest:

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

KIMBERLY-CLARK CORPORATION

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

Attest:

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

BIG RIVERS ELECTRIC CORPORATION

By: Donald L. Gulley  
Name: Donald L. Gulley  
Title: President & CEO

Attest:

TSK  
Name: Tyson Kent  
Title: General Counsel