

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

| | | |
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| ELECTRONIC TARIFF FILING OF EAST |) | |
| KENTUCKY POWER COOPERATIVE, INC. |) | CASE NO. |
| TO ESTABLISH A NEW TARIFF FOR DATA |) | 2025-00140 |
| CENTER POWER |) | |

DIRECT TESTIMONY OF DAVID S. SAMFORD
ON BEHALF OF EAST KENTUCKY POWER COOPERATIVE, INC.

Filed: June 16, 2025

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND**
2 **OCCUPATION.**

3 A. My name is David S. Samford and I am the General Counsel for East Kentucky
4 Power Cooperative, Inc. ("EKPC"). My business address is 4775 Lexington Road,
5 Winchester, Kentucky 40391.

6 **Q. PLEASE STATE YOUR EDUCATION AND PROFESSIONAL**
7 **EXPERIENCE.**

8 A. I earned my bachelor's degree in 1996 from the University of Kentucky and my
9 Juris Doctorate in 2000, also from the University of Kentucky. I have worked with
10 regulated utilities throughout my career, including nearly three years as General
11 Counsel to EKPC and over fifteen years representing utilities and their affiliates in
12 regulatory, transactional and advocacy roles in the course of the private practice of
13 law. In addition, I have served in several roles within state and federal government,
14 including as: General Counsel and Deputy Executive Director of the Kentucky
15 Public Service Commission; Executive Director of the Kentucky Transportation
16 Cabinet's Office of Legal Services; Special Justice of the Kentucky Supreme Court,
17 Special Advisor to a former Kentucky Governor; Legislative Assistant to the
18 Kentucky State Senate's Leadership Office; and law clerk to the former Chief
19 District Judge of the United States District Court for the Eastern District of
20 Kentucky. In addition, I have been twice appointed to both the Kentucky Registry
21 of Election Finance and the Kentucky Executive Branch Ethics Commission. Apart
22 from these roles, I earned a Masters of Fine Arts in 2021 from Asbury University.

1 **Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR DUTIES AT**
2 **EKPC.**

3 A. As General Counsel, I report to the Board of Directors and represent them in all
4 legal matters involving EKPC. As a result, I work closely with EKPC's President
5 and Chief Executive Officer on matters of strategy and policy. In addition, I
6 supervise EKPC's Legal Department, which provides legal counsel to each of
7 EKPC's business units. I also supervise EKPC's roster of retained legal
8 professionals who provide particular forms of legal expertise to EKPC as needed. I
9 also have responsibility for supervising the internal audit and government relations
10 functions of EKPC.

11 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE KENTUCKY**
12 **PUBLIC SERVICE COMMISSION?**

13 A. No, I have not.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
15 **PROCEEDING?**

16 A. The purpose of my testimony is to provide information regarding the need to
17 establish a tariff for data center power and to provide information pertaining to
18 EKPC's proposed tariff language. I am not offering any legal opinions at this time.

19 **Q. ARE YOU SPONSORING ANY ATTACHMENTS?**

20 A. Yes. I am sponsoring Attachment DSS-1 which is a clean and red-lined Rate
21 DCP tariff. The red-lined tariff shows two corrections that need to be made to
22 the proposed Rate DCP tariff that was filed in this proceeding.

1 **Q. WHY IS RATE DCP NEEDED?**

2 A. The growth and proliferation of data centers across the United States has been
3 widely reported. Kentucky is also seeing interest on the part of data centers locating
4 here due to our favorable rate environment. EKPC has been watching national
5 trends develop and learning from the experiences of others in serving data centers.
6 As these loads become increasingly large, EKPC's leadership determined that it
7 was appropriate to develop a specific tariff that anticipated the future investment of
8 significant capital into data centers located in EKPC's Owner-Members' service
9 territories. Accordingly, the company filed Rate DCP to meet the needs of data
10 center loads.

11 **Q. PLEASE GENERALLY DESCRIBE THE RATE DCP TARIFF PROPOSED**
12 **BY EKPC IN THIS PROCEEDING.**

13 A. The Rate Data Center Power tariff is intended to identify and allocate risks for
14 EKPC and, ultimately, its Owner-Members as we anticipate the likelihood of
15 providing electric energy and related services to data centers in the coming years.
16 The Rate DCP Tariff is intended to be specific enough to anticipate all of the
17 significant risks associated with serving data centers, while also being broad
18 enough to permit tailored electric service solutions that best meet the needs of
19 specific data center customers. The over-arching goal of the Rate DCP Tariff is to
20 minimize – and if possible eliminate – cross-subsidization of data center load and
21 non-data center load.

1 **Q. PLEASE BRIEFLY DESCRIBE THE PROPOSED RATE DCP TARIFF.**

2 A. “Eligible Data Centers” are defined under the proposed Rate DCP Tariff as meeting
3 two criteria: load size (15 megawatts (“MWs”) or greater) and load factor (60% or
4 greater). Rate DCP also includes several rules to assure that smaller data center
5 loads under common ownership are appropriately aggregated for purposes of
6 qualifying for the tariff and are unable to take power under a different rate schedule.
7 Rate DCP also sets forth the requirement to enter into a special contract for service,
8 conditions to such service, and key additional terms that must be included in a
9 special contract.

10 **Q. PLEASE DESCRIBE THE SPECIAL CONTRACT REQUIREMENT**
11 **CONTAINED IN THE PROPOSED RATE DCP TARIFF.**

12 A. The proposed Rate DCP tariff is not a one-size-fits-all tariff. Accordingly, it should
13 not be regarded as comprehensive. The terms and conditions of service to specific
14 data centers will likely have key distinctions and nuances that a utility cannot fully
15 anticipate or cover. The proposed Rate DCP Tariff provides a broad set of
16 guidelines that will be taken into account when drafting a specific and unique power
17 supply contract to account for distinctions and nuances of the specific data center.
18 Each of the special contracts will be negotiated between EKPC, its Owner-Member
19 in whose territory the data center would locate, and the particular data center
20 customer. EKPC believes having the tariff framework for the special contracts will
21 assure there will be consistency across all of the agreements on the essential terms
22 of each contract but also allow for case-specific adjustments to be made when

1 necessary. Each special contract will be submitted to the Commission for review
2 and approval.

3 **Q. PLEASE DESCRIBE OTHER TERMS OF THE PROPOSED DCP TARIFF.**

4 A. The proposed Rate DCP Tariff acknowledges that large data center loads could
5 quickly exceed EKPC's existing generation portfolio resources. Accordingly, the
6 Rate DCP Tariff includes a requirement that EKPC will work with a data center to
7 develop and implement a power supply plan to support the customer's load with:
8 Dedicated Resources supplied by EKPC or the data center; bilateral power and
9 capacity purchases; or a combination of these resources. For those data center loads
10 exceeding 250 MWs, one or more Dedicated Resources will be required as part of
11 the power supply plan and the Dedicated Resource Rider included as Attachment
12 A to the proposed Rate DCP tariff will apply. Rate DCP allows for some Approved
13 Back-Up Generation at a data center's location; however, it broadly prohibits power
14 supply sources that are not included in the power supply plan. The proposed tariff
15 includes language that allocates all costs associated with servicing a data center load
16 to the data center. The cost recovery provisions comprehensively apply to all build
17 out costs, operations, and other aspects of electric service.

18 **Q. WHAT ELSE DOES RATE DCP TARIFF INCLUDE?**

19 A. The tariff includes several provisions relating to pricing, billing and payment.
20 Given the size of the largest data center loads, the tariff authorizes EKPC and its
21 Owner-Members to utilize weekly billings to prevent detrimental impacts to cash
22 flows, carrying expenses and interest on accounts. It also sets forth a number of
23 provisions requiring a data center to post adequate collateral to mitigate the risks

1 associated with premature contract terminations, changes in credit markets, or
2 changes in customer credit ratings. The proposed tariff also includes important
3 procedures to facilitate the application for service experience, the timeline for
4 developing a power supply plan, and targets for executing proposed projects. Each
5 of these provisions is intended to provide consistency for all data centers seeking
6 service from EKPC and its Owner-Members and provide a basis for determining
7 whether potential customers are sincere or merely speculating.

8 **Q. WHAT TERMS WILL ONLY BE CONTAINED IN THE SPECIAL**
9 **CONTRACTS?**

10 A. The proposed Rate DCP Tariff reflects the fact that the power supply strategy for a
11 particular project will have a material impact upon the rate for power supplied to
12 that data center; and therefore, the final review and approval of such rates are
13 reserved for the special contract for each data center.

14 **Q. PLEASE DESCRIBE HOW THE PROPOSED RATE DCP TARIFF WILL**
15 **PROTECT NON-DATA CENTER RATE CLASSIFICATIONS.**

16 A. The proposed Rate DCP tariff includes language that allocates all costs associated
17 with serving a data center to the data center. This provision is one of the primary
18 methods to prevent subsidization of data center loads by non-data center rate
19 classifications. The cost recovery provisions comprehensively apply to all build
20 out costs, operations, and other aspects of electric service.

21 **Q. HAVE EKPC'S OWNER-MEMBERS PROPOSED RATE DCP TARIFFS?**

22 A. No. EKPC's Owner-Members will file data center tariffs after EKPC receives
23 approval for its proposed Rate DCP tariff. Those tariffs will conform to the terms

1 and conditions approved by the Commission and the Owner-Members' tariffs
2 are expected to essentially adopt and incorporate the Rate DCP Tariff by reference.

3 **Q. PLEASE DESCRIBE THE CHANGES CONTAINED IN ATTACHMENT**
4 **DSS-1 TO THE PROPOSED RATE DCP TARIFF.**

5 A. On Page 107, in the first line of Section V.5.(a), there is a reference to "Section
6 V(5) above." This is a typo, that should instead read "Section V(4) above." Also,
7 on Page 115, the phrase ", consistent with the principles on cost allocation and cost
8 recovery set forth herein." should have been inserted at the end of the last sentence
9 of Section VIII, 2. Neither of these changes are substantive, but they do fix a typo
10 and provide further clarification as to the proposed tariff's terms.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes.

ATTACHMENT DSS-1
CLEAN AND RED-LINED
RATE DCP TARIFF

CLEAN RATE DCP TARIFF

**Rate DCP
(Data Center Power)**

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I. Applicability

Rate DCP (the “**Tariff**”) is available in all service territories served by East Kentucky Power Cooperative’s (“**EKPC**”) owner-member distribution cooperatives.

II. Availability

This Tariff is available to any customer that is (a) a retail member of any of EKPC’s owner-member distribution cooperatives and (b) owns or operates, or proposes to own or operate, an Eligible Data Center as determined pursuant to **Section III** below (each such retail customer, a “**Qualifying Customer**”). Electric service pursuant to this Tariff is available for general service through an owner-member distribution cooperative to Qualifying Customers. Current or prospective customers who: (i) meet the requirements for a Qualifying Customer after the effective date of this Tariff; or (ii) expand or increase the monthly expected or actual peak demand of a Data Center (as defined below) in a manner that causes such Data Center to meet the requirements of an Eligible Data Center after the effective date of this Tariff, (1) are required to take service under this Tariff, (2) are required to execute a Data Center Power Agreement entered into between Qualifying Customer, EKPC and EKPC’s owner-member distribution cooperatives within whose service territory the proposed Data Center will be located (the “**Cooperative**”) in accordance with this Tariff (the “**Contract**”), and (3) will not be permitted to take electric service for any Eligible Data Center under any other general service tariff in any service territories served by EKPC’s owner-member distribution cooperatives.

III. Eligible Data Center

1. **Eligible Data Center Requirements:** This Tariff applies to any centralized facility that is used primarily or exclusively for electronic information services such as the management, storage, processing, and dissemination of electronic data and information (including mining of cryptocurrency) through the use of computer systems, servers, networking equipment, and related components (each, a “**Data Center**”) where such Data Center meets the following requirements (each such Data Center meeting the below requirements, an “**Eligible Data Center**”):
 - (a) at any time before, on or after the effective date of this Tariff, the expected or actual peak of the real-time energy demand of the Data Center is 15,000 kW or greater (the “**Load Size Test**”); and
 - (b) the expected or actual monthly load factor for the Data Center, as determined by EKPC, is sixty percent (60%) or greater (the “**Load Factor Test**”).

Aggregation of Loads: For purposes of determining whether any Data Center meets the Load Size Test and Load Factor Test, the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the Data Center will be taken together and aggregated with the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the following, as applicable:

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- (a) any other Data Centers owned or operated by Qualifying Customer located at the same location (individually, a “**Co-Located Data Center**” and collectively, “**Co-Located Data Centers**”);
- (b) any non-Data Center electricity consuming facilities owned or operated by Qualifying Customer located at the same location (individually, a “**Co-Located Non-Data Center**” and collectively, “**Co-Located Non-Data Centers**”); and
- (c) any other Data Centers owned or operated by Qualifying Customer located at a different location but within one or more of EKPC’s owner-member distribution cooperatives’ service territories (individually, a “**Grouped Data Center**” and collectively, the “**Grouped Data Centers**”).

If the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the Data Center aggregated with any Co-Located Data Center, Co-Located Non-Data Center and/or Grouped Data Center in accordance with the foregoing results in such Data Center meeting or exceeding the Load Size Test and the Load Factor Test, then (i) this Tariff will apply to such Data Center and all such Co-Located Data Centers, Co-Located Non-Data Centers and Grouped Data Centers, (ii) such Data Center and all such Co-Located Data Centers, Co-Located Non-Data Centers and Grouped Data Centers shall be deemed, individually and collectively, as an Eligible Data Center for all purposes of this Tariff, in each case, regardless of the number of such Co-Located Data Centers and Co-Located Non-Data Centers present at the applicable single location or the individual peak demand or load factor of each such Co-Located Data Center or Co-Located Non-Data Center present at the applicable single location and regardless of the number of such Grouped Data Centers present within a single or multiple service territories of EKPC’s owner-member distribution cooperatives or the individual peak demand or load factor of each such Grouped Data Center present at its location within EKPC’s owner-member distribution cooperatives’ service territories.

Notwithstanding anything to the contrary herein, unless otherwise determined by EKPC in its sole discretion, each individual Co-Located Data Center, Co-Located Non-Data Center and Grouped Data Center will be metered and billed separately on an individual basis, and will be subject to separate Contracts for the provision of electric service.

2. **Disqualification as an Eligible Data Center.** If it is determined by EKPC at any time that any individual Co-Located Data Center, Co-Located Non-Data Center or Grouped Data Center should not constitute, or be treated as, an Eligible Data Center, then EKPC and the applicable Cooperative shall be permitted to provide electric service to such individual Co-Located Data Center, Co-Located Non-Data Center or Grouped Data Center, as applicable, under any contract utilizing a different tariff as determined by EKPC and the Cooperative in their sole discretion.

IV. **Contract**

1. **General Contract Requirements:** Any Contract entered into pursuant to the terms of this Tariff must be: (a) entered into by and between Qualifying Customer, the Cooperative, and EKPC; and (b) approved by the Kentucky Public Service Commission on terms and conditions acceptable to EKPC and the Cooperative in their sole discretion (the “**KPSC Approval**”). Following completion of the Load Study, EKPC and the Cooperative will provide the Customer with a Contract that conforms to the requirements set forth herein.

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2. **Contract Conditions to Service:** The Contract will set forth any conditions precedent to each of EKPC's and Cooperative's obligations to sell or deliver energy, capacity or any other products contemplated under the Contract to Qualifying Customer, including obtaining the KPSC Approval (if applicable) (the "**Contract Conditions to Service**"). EKPC and Cooperative will not have any obligation to serve the Eligible Data Center owned or operated by Qualifying Customer until (a) a Contract for the provision of electric service to such Eligible Data Center has been executed by Qualifying Customer, EKPC and the Cooperative and (b) all of the Contract Conditions to Service (including the KPSC Approval) have been satisfied or waived in writing pursuant to the terms and conditions of the Contract. Unless otherwise required by law, EKPC and Cooperative will not have any obligation to serve the Eligible Data Center owned or operated by Qualifying Customer during any period in which a Contract for the provision of electric service to such Eligible Data Center has terminated, expired or is otherwise no longer in full force or effect.
3. **Service Location:** Qualifying Customer must designate in its application for service and request for a Load Study a specific site at which its Eligible Data Center will be constructed, owned, and operated and served by EKPC and the Cooperative (the "**Service Location**"). The Service Location for each Eligible Data Center shall be described in the applicable Contract. Qualifying Customer must own (or have the exclusive right to use) the Service Location for the development, construction, ownership and operation of the Eligible Data Center. If requested by EKPC or the Cooperative, Qualifying Customer shall provide substantiating documentation (which may redact commercially sensitive terms or conditions) evidencing its ownership or exclusive right to use the Service Location for its Eligible Data Center.
4. **Additional Minimum Contract Terms:** In addition to the Contract Conditions to Service and Service Location, the Contract will set forth the terms and conditions for electric service, including, but not limited to: (a) the initial term length and any renewal periods, (b) purchase and sale obligations (including contract capacity and load ramp schedule (which load ramp schedule shall not exceed five (5) years)), (c) rates and pricing structure, (d) billing and payment between the parties thereto (including any minimum billing demand), (e) metering, (f) level of firmness of service and curtailment, (g) indemnification, (h) events of default and remedies for events of default, (i) termination rights, (j) force majeure, (k) limits on liability, (l) changes of law (including changes in applicable regional transmission organization ("**RTO**") and/or independent system operator ("**ISO**") tariffs and requirements), (m) choice of law and venue, which shall be Kentucky, and (n) confidentiality obligations.

V. **Resource Selection and Cost Recovery**

Potential Resources: For Qualifying Customers receiving service under this Tariff for an Eligible Data Center, as part of an application for service and performance of a Load Study, EKPC shall identify resources designated to satisfy the applicable Eligible Data Center's anticipated peak energy and capacity demand within the PJM Interconnection, L.L.C. (or any successor thereto) ("**PJM**") market region or deliverable into the PJM market region with firm transmission and may hedge anticipated PJM capacity, energy and ancillary services market prices associated with serving the applicable Eligible Data Center's anticipated real-time energy demand and capacity demand. These resources may take any of the following forms:

- (a) all or any portion of an electric generation facility that is owned or leased by either: (A) EKPC or a subsidiary or affiliate of EKPC (each, a "**EKPC-Supplied Dedicated Resource**"); or (B) to the extent permitted by applicable law, the Qualifying Customer (each, a "**Qualifying Customer-**

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Supplied Dedicated Resource” and together with EKPC-Supplied Dedicated Resource, **“Dedicated Resources”**);

- (b) bilateral power and capacity purchase agreements selected by EKPC (**“Bilateral Purchases”**); or
- (c) any combination of (a) and (b) above.

EKPC will offer the selected resources into the PJM market, and PJM will dispatch resources based on the economics and transmission availability. Eligible Data Center’s energy demand requirements will be served by PJM through the day-ahead and real-time energy and ancillary services markets and capacity market (**“Market Purchases”**). All Qualifying Customers shall be served from Market Purchases like other non-Rate DCP rate classifications and will not be guaranteed to receive energy from any Dedicated Resource or any resources associated with a Bilateral Purchase.

Notwithstanding anything to the contrary herein, unless otherwise determined by EKPC in its sole discretion, if the expected or actual peak real-time energy demand of an Eligible Data Center is greater than 250,000 kW then a Dedicated Resource will be required to be selected to serve such Eligible Data Center pursuant to **Section V(3)** below.

1. **Resource Planning Generally:** Upon the filing of an application for service by the Qualifying Customer for an Eligible Data Center, EKPC shall use good faith efforts to develop a resource plan to serve such Eligible Data Center within, as an objective, but not an obligation, one hundred eighty (180) days from the filing of such application for service by the Qualifying Customer. Final selection of resources (and any combination thereof), including any terms and conditions applicable to such resources, to serve the applicable Eligible Data Center shall be within the sole discretion of EKPC, subject to review and approval by the Kentucky Public Service Commission (such final selected resources to serve the applicable Eligible Data Center, the **“Selected Resource Mix”**). EKPC will not commence execution of a Contract until EKPC has determined, and the Kentucky Public Service Commission has approved (if needed), a Selected Resource Mix sufficient to meet the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion, and EKPC will not begin commencement of electric service under this Tariff or any Contract, until such Selected Resource Mix is obtained, secured and available to utilize in connection with electric service to the applicable Eligible Data Center(s).
2. **Dedicated Resource Planning:** Notwithstanding anything to the contrary herein, if the Selected Resource Mix includes (or will include) a Dedicated Resource then the terms and conditions in **Attachment A to this Tariff (Dedicated Resource Rider)** shall apply. If the expected or actual peak real-time energy demand of an Eligible Data Center is greater than 250,000 kW then Qualifying Customer shall have the option of utilizing either (a) Qualifying Customer-Supplied Dedicated Resource(s) owned by Qualifying Customer, to the extent permitted by applicable law or (b) EKPC-Supplied Dedicated Resources, in each case, subject to the terms and conditions of Attachment A to this Tariff (Dedicated Resources Rider).

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3. **Exclusivity of Electric Service:** The Eligible Data Centers shall be served exclusively by the Cooperative via electric service provided by EKPC to the Cooperative. Qualifying Customer may not utilize behind-the-meter generation, on-site or off-site energy generation, energy storage or other sources of energy, capacity or ancillary services (other than the Selected Resource Mix determined by EKPC and approved by the Kentucky Public Service Commission) (the “**Other Power Supply Sources**”), or purchase energy to serve any Eligible Data Center from any third party (other than EKPC and the Cooperative), to serve any Eligible Data Centers. The foregoing shall not prevent, or prohibit, Qualifying Customer from utilizing any Other Power Supply Source that (1) is used solely and exclusively as emergency back-up to serve the contractual load requirements of an Eligible Data Center that EKPC and Cooperative are unable or fail to satisfy, (2) operates autonomously from EKPC’s and Cooperative’s systems, (3) has been proposed by Qualifying Customer in its application for service and Load Study, and (4) EKPC and Cooperative have determined in their sole discretion that use of such Other Power Supply Source will not pose reliability or safety concerns, pose a threat to EKPC’s or Cooperative’s owned or leased equipment, or violate applicable law, regulations or tariffs (“**Approved Back-Up Generation**”).
4. **Costs Recovery Generally.** All costs, expenses, losses and liabilities associated with, arising from, or relating to serving the Eligible Data Center (including, but not limited to, all costs arising from developing, procuring, permitting, securing, financing, purchasing, owning, leasing, constructing, operating, insuring, utilizing, maintaining, decommissioning, retiring and deconstructing the Selected Resource Mix, all associated transmission, distribution, and related infrastructure upgrades and construction, and associated transmission and distribution service, including but not limited to Regional Transmission Expansion Planning (“**RTEP**”) expenses) shall be kept as a separate account for PJM and accounting purposes from non-Rate DCP rate classification members and borne by the Qualifying Customer through a Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract along with a reasonable rate of return for both EKPC and the Cooperative, as such rate of return is determined by EKPC and the Cooperative in their sole discretion and approved by the Kentucky Public Service Commission, as the same may be amended from time to time by EKPC and/or Cooperative in its respective sole discretion and approved by the Kentucky Public Service Commission, provided that such rate of return shall be applicable to all similarly situated Qualifying Customers at the time such rate of return is established or amended.
5. **Build-Out Costs Recovery.**
- (a) Without limiting **Section V(4)** above, following completion of the Load Study, EKPC will provide Qualifying Customer with a Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract that requires the Qualifying Customer to be responsible for and pay 100% of (i) all costs, expenses, losses and liabilities incurred, or expected to be incurred, by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative associated with, arising from, or relating to all new, or upgrades to existing, local or regional transmission facilities, distribution facilities, and related infrastructure upgrades and construction, including substations, necessary or desirable to reliably and safely serve the Eligible Data Center utilizing the Selected Resource Mix without detriment to EKPC’s owner-member distribution cooperatives, as determined by EKPC and/or Cooperative in its respective sole discretion, including, but not limited to, developing, procuring, permitting, securing, financing, purchasing, owning, insuring, leasing, and constructing, including the procurement and utilization of third-party

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services for the foregoing, all such facilities, and (ii) all costs, expenses, losses and liabilities incurred, or expected to be incurred, by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative associated with, arising from, or relating to all EKPC-Supplied Dedicated Resources that will or may be utilized to serve such Qualifying Customer's Eligible Data Center(s), including, but not limited to, developing, procuring, permitting, securing, financing, purchasing, owning, insuring, leasing, and constructing, including the procurement and utilization of third-party services for any of the foregoing, all such EKPC-Supplied Dedicated Resources (clauses (i) and (ii), collectively, the **"Build-Out Costs"**).

- (b) Unless otherwise mutually agreed by EKPC and Cooperative, the Build-Out Costs will be payable by Qualifying Customer up-front as a pre-payment based on good faith estimates determined by EKPC and Cooperative in accordance with the payment schedule set forth in the applicable Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract and such payments by Qualifying Customer shall be subject to periodic true-up adjustments based on actual Build-Out Costs incurred by EKPC and Cooperative at a frequency to be determined in the applicable Facilities Agreement, Dedicated Resource Recovery Agreement and/or Contract.
- (c) In the event that the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract terminate or expire prior to full recovery by EKPC and/or Cooperative of all Build-Out Costs, then Qualifying Customer shall pay EKPC and/or Cooperative for any unreimbursed Build-Out Costs incurred by EKPC and/or Cooperative (including any costs incurred to terminate or otherwise settle any underlying agreements entered into by EKPC and/or Cooperative to facilitate their respective obligations under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract). EKPC shall use commercially reasonable efforts to terminate (and mitigate the costs of terminating) all underlying agreements entered into connection with performing its obligations under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract; provided, that, EKPC and Cooperative, as applicable, shall be entitled to settle or terminate such underlying agreements on terms satisfactory to EKPC and the Cooperative in their sole discretion.
- (d) In the event that Qualifying Customer pre-paid for any anticipated Build-Out Costs under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract, Qualifying Customer shall be reimbursed for any such prepaid Build-Out Costs that EKPC and/or Cooperative were able to avoid incurring using commercially reasonable efforts after delivery or receipt of written notice of the termination or expiration of the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract; provided, that, neither EKPC nor Cooperative shall be required to reimburse Qualifying Customer for any work that has been completed or equipment or materials that has been purchased or delivered under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract as of the date of termination or expiration of the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract, as applicable, and EKPC and/or Cooperative, as applicable, shall retain all title, interest, and rights to such work, equipment and materials.
- (e) In the event that the Federal Energy Regulatory Commission ("**FERC**") prohibits (in a written order addressing cost recovery of transmission-related Build-Out Costs and/or transmission service charges to Qualifying Customer), or EKPC or PJM otherwise determines that either or both of them cannot implement, (i) the direct assignment to, and recovery from, Qualifying Customers of transmission-

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related Build-Out Costs in combination with (ii) the transmission service and related charges to Qualifying Customer provided for in **Section V(7)(a)** below, then EKPC will prepare, and file with FERC and/or the Kentucky Public Service Commission to the extent necessary or appropriate, a contract with Qualifying Customer requiring the payment by Qualifying Customer of the transmission-related Build-Out Costs that are not offset by revenues received by EKPC from PJM for transmission service charges that include rolled-in transmission-related Build-Out Costs and that are paid by Qualifying Customer for service to Qualifying Customer's Eligible Data Center(s). Such contract may take into account and include provisions on Qualifying Customer's Eligible Data Center(s) achieving commercial operation within a specified period of time, the minimum load of such Eligible Data Center(s), and an appropriate period of time for recovery of such offsetting revenues, in each case as determined by EKPC in its sole discretion. The intent of this paragraph (e) is to ensure that EKPC, Cooperative, and EKPC's other member-owners, and the retail customers that they serve, do not bear or pay for transmission-related Build-Out Costs, whether such transmission-related Build-Out Costs are directly assigned to Qualifying Customer or are recovered through PJM transmission service charges.

7. Other Cost Recovery.

- (a) The load or demand of Qualifying Customer's Eligible Data Center(s) will be treated as network load under EKPC's Network Integration Transmission Service under the PJM Open Access Transmission Tariff. EKPC will allocate to Qualifying Customer, and Qualifying Customer will pay in accordance with the billing and payment procedures set forth in this Tariff, Qualifying Customer's load ratio share of transmission service and related charges under the PJM Open Access Transmission Tariff, as determined by EKPC in its sole discretion.
- (b) Qualifying Customer will be responsible for and will pay, in accordance with the billing and payment procedures set forth in this Tariff, an operations and maintenance charge for EKPC's and Cooperative's transmission and distribution facilities that interconnect Qualifying Customer's Eligible Data Center(s) to EKPC's and Cooperative's facilities and/or provide service to Qualifying Customer's Eligible Data Center(s). Such charge will be set forth in the Contract and will be approved by the Kentucky Public Service Commission.
- (c) Qualifying Customers shall be responsible for and will pay for an allocation of EKPC's and Cooperative's reasonable costs and expenses associated with labor, professional fees, facilities, insurance, market collateral obligations or others items related to providing service under this Tariff or any agreement contemplated herein.

VI. Pricing, Billing and Payment.

- (a) The rates for electric services to an Eligible Data Center shall be the rates approved by the Kentucky Public Service Commission, as revised from time to time. The initial rates as of the effective date of the Contract shall be set forth in the Contract. In addition, Qualifying Customer will be served under any additional rates that are applicable or available to such electric service to an Eligible Data Center under any other applicable riders and tariffs, which may include without limitation: FAC – Fuel Adjustment

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Charge (provided, however, that fuel costs for a Qualifying Customer shall be kept separately and charged through the FAC separately from non-Qualifying Customer fuel costs); Rate ES – Environmental Surcharge (provided, however, that environmental compliance costs for a Qualifying Customer shall be kept separately and charged through the environmental surcharge separately from non-Rate DCP member environmental compliance costs); Rate D – Interruptible Power; Rate H – Wholesale Renewable Energy Program; and Power Factor Adjustment. Each applicable rider and tariff shall be specified in the Contract. Rates applicable hereunder and under the Contract, including any other applicable riders or other tariffs, shall be adjusted by EKPC or the Cooperative in accordance with the Kentucky Public Service Commission’s rules and regulations and the changed rate (including any other applicable riders or other tariffs) shall be prospectively applied as if set forth in a Contract without any consent or approval of Qualifying Customer.

- (b) Rates for transmission and related services shall be established in accordance with PJM’s Open Access Transmission Tariff.
- (c) Billing and payment for electric services under this Tariff shall be completed on a weekly basis. EKPC and Cooperative shall be permitted to invoice a Qualifying Customer based on estimates of any component of the pricing for electric service and transmission service when the information and data necessary to calculate such component of the pricing for the applicable invoiced period is not available. If any invoice for a period is prepared based on estimates of a component of the pricing, and the actual value of such component for the applicable period is greater than or less than the estimated value invoiced, then the next invoice following determination of such actual value(s) shall include an adjustment to reconcile to the actual value(s).

VII. Collateral Requirements

1. **Pre-Payment Deposit:** Qualifying Customer shall deliver and maintain a cash deposit equal to a rolling two (2)-month period of expected maximum monthly billings to the Cooperative, as reasonably determined by EKPC and Cooperative (the “**Pre-Payment Deposit**”). EKPC and Cooperative may adjust the Pre-Payment Deposit amount no more frequently than once per month based on the upcoming rolling two (2)-month period of expected maximum monthly billings as reasonably determined by EKPC and Cooperative. Within seven (7) days after receipt from Cooperative of written notice of the calculation of the adjusted Pre-Payment Deposit, Qualifying Customer shall replenish or supplement the cash deposit to equal the adjusted amount of the Pre-Payment Deposit as set forth in such written notice.
 - (a) EKPC and Cooperative shall each be entitled to draw on the Pre-Payment Deposit (i) immediately upon delivery of the applicable invoice, for any amounts invoiced by EKPC or Cooperative under the Contract in connection with performance of their respective obligations under the Contract, regardless of whether Qualifying Customer has failed to make any payment, or has otherwise breached or defaulted under, the Contract, or (ii) for any other amounts due under the Contract (including any damages or liabilities arising from Qualifying Customer’s breach of the Contract or the early termination of the Contract). Within seven (7) days after any draw by EKPC or Cooperative on the Pre-Payment Deposit, Qualifying Customer shall replenish the Pre-Payment Deposit in an amount equal to the amount drawn-down by EKPC and/or Cooperative.

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- (b) Unless otherwise agreed by EKPC and Cooperative, any Pre-Payment Deposit shall be held in a manner that provides EKPC and/or Cooperative a first priority security interest in the Pre-Payment Deposit by control and unfettered access to the funds constituting the Pre-Payment Deposit, in order to draw and apply them in accordance with the terms of this Tariff and the applicable Contract, all on terms to be further specified in each Contract. The Parties agree that all Pre-Payment Deposit funds constitute a "security deposit" as that term is used in Section 366 of the Bankruptcy Code.
- (c) The Pre-Payment Deposit shall be held and maintained during the term of the Contract and during any additional period during which Cooperative is providing electric service to Qualifying Customer's Eligible Data Centers or until all amounts owed between the parties are settled.
- (d) On all amounts not paid or replenished by the due date, an additional charge of 2.5% of the unpaid or un-replenished balance will be charged and due to the Cooperative or EKPC, as applicable. In the case of any disputed amounts, the undisputed portion of an invoice shall be paid promptly and the dispute shall be resolved in accordance with the tariffs of EKPC or the Cooperative (as applicable) and the rules and regulations of the Kentucky Public Service Commission
2. **Additional Collateral Requirements:** In addition to, and not in lieu of, the Pre-Payment Deposit (or any portion thereof), Qualifying Customer shall be required to post additional credit support or collateral (the "**Additional Collateral Requirement**") in favor of EKPC and Cooperative in the form of Eligible Collateral as set forth below in the event of any of the following:
- (a) If, at any point during the term of the Contract or any additional period in which EKPC and/or Cooperative are providing electric service to Qualifying Customer's Eligible Data Centers, the Qualifying Customer fails to have at all times both: (i) a credit rating of at least "A-" from S&P Global Inc. ("**S&P**") or "A3" from Moody's Corporation ("**Moody's**") (provided, that, if rated by both S&P and Moody's then the lower credit rating shall control and determine whether Qualifying Customer satisfies this condition); and (ii) cash or cash equivalents ("**Liquidity**") greater than twenty times the then-current calculation of the Downgrade Additional Collateral Amount, as defined below (with any entity that satisfies the requirements of both clause (i) and (ii) being considered "**Creditworthy**"), the Customer shall provide Eligible Collateral in accordance with the following: an amount equal to an 18-month period of expected maximum monthly billings for electric service to Qualifying Customer, calculated based on EKPC's then-current rates (the "**Downgrade Additional Collateral Amount**").
- (b) If, at any point during the term of the Contract, or any additional period in which EKPC and/or Cooperative are providing electric service to Qualifying Customer's Eligible Data Centers, during which Qualifying Customer is required to provide Eligible Collateral pursuant to sub-clause (a) above, EKPC reasonably determines that the then-posted and undrawn amount of the Downgrade Additional Collateral Amount available to draw upon is lower than the then-current calculation of the amount of Downgrade Additional Collateral Amount required under this Tariff or any Contract (including, without limitation, as a result of the redetermination, no more frequently than once per month, by EKPC of the calculation of the required Downgrade Additional Collateral Amount, due to changes in rates, expected demand, or otherwise), then, upon request from EKPC or Cooperative, Qualifying Customer shall post additional Eligible Collateral in an amount equal to the positive difference between the updated

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calculation of the Downgrade Additional Collateral Amount required under this Tariff or any Contract and the then-posted and undrawn amount of the Downgrade Additional Collateral Amount within five (5) business days of receipt of notice from EKPC or Cooperative. The Downgrade Additional Collateral Amount(s) provided pursuant to sub-clause (a) above and this sub-clause (b) shall be in addition to, and shall not count toward the satisfaction of, any required Capacity and Planning Reserve Additional Collateral Amount(s), as defined below.

- (c) In the event that EKPC makes, or plans to make, any commitments with respect to PJM capacity purchases or planning reserve requirements for the Qualifying Customer's Eligible Data Center, Qualifying Customer shall provide Eligible Collateral to EKPC in an amount sufficient to cover the costs of such capacity or planning reserve commitments if the Contract were terminated early for any reason as determined by EKPC in its sole discretion (the "**Capacity and Planning Reserve Additional Collateral Amount**"). The Capacity and Planning Reserve Additional Collateral Amount provided pursuant to this sub-clause (c) shall be in addition to, and shall not count toward the satisfaction of, any required Downgrade Additional Collateral Amount(s).
- (d) In the event that a breach by Qualifying Customer has occurred and is continuing under this Tariff or any Contract or if a notice of termination has been given with respect to a Contract (other than a termination resulting from a default or event of default by EKPC or the Cooperative), if EKPC reasonably determines that the amount available to draw upon from the Eligible Collateral then-provided by Qualifying Customer is not sufficient, for any reason, to meet the damages or costs (including any liquidated damages) that would be payable by Qualifying Customer in the event of an early termination of the Contract, then, upon request from EKPC or Cooperative, Qualifying Customer shall post additional Eligible Collateral in an amount equal to the positive difference between (i) the *sum of* (A) the then-posted and undrawn amount of the required Downgrade Additional Collateral Amount (if applicable), (B) the then-posted and undrawn amount of the required Capacity and Planning Reserve Additional Collateral Amount (if applicable), and (C) any incremental amount required to cover the anticipated damages or costs of termination described in this sub-clause (d) and (ii) the then-posted and undrawn amount of the Eligible Collateral provided as part of the Additional Collateral Requirement within five (5) business days of receipt of notice from EKPC or Cooperative.
3. **Patronage Capital Setoff.** Following any breach of, or default or event of default under, this Tariff or any Contract by Qualifying Customer, or upon the occurrence of any other event that would allow EKPC and/or Cooperative to draw on Eligible Collateral provided pursuant to this **Section VII** (regardless of whether any Eligible Collateral is in fact provided or required to be provided at the time), Cooperative may, to the extent permitted by its bylaws or similar governing documents, in the sole discretion of EKPC and Cooperative, but shall not be required to, without notice to Qualifying Customer (except as may be required by applicable law), retire and cancel all or part of the patronage or membership capital or capital credits (or similar credits) allocated to Qualifying Customer as a result of its receipt of electric service pursuant to this Tariff or any Contract and set off the value of the same against any amounts owed by Qualifying Customer under this Tariff or any Contract, in total or partial liquidation of such amounts owed. Any tax liability associated with the application of the value of a Qualifying Customer's patronage capital or patronage capital credits to any amounts owed by the Qualifying Customer under this **Section VII(3)** is the sole responsibility of the Qualifying Customer.

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4. **No EKPC or Cooperative Collateral.** Neither EKPC (including any subsidiary or affiliate of EKPC) nor Cooperative shall be required to provide any form of credit support, collateral or performance security to Qualifying Customer or any third party in connection with the provision of electric services under this Tariff or any Contract, including with respect to procuring, securing or financing any Selected Resource Mix; provided, that, EKPC (including any subsidiary or affiliate of EKPC) or Cooperative may, in its sole discretion, provide credit support, collateral or performance security in connection with the provision of electric services under this Tariff or a Contract (including with respect to procuring, securing or financing the applicable Selected Resource Mix or any capacity calls or collateral required by PJM to the extent attributable to electric service to Qualifying Customer's Eligible Data Centers) so long as any such credit support, collateral or performance security provided by EKPC (including any subsidiary or affiliate of EKPC) is deemed to be adequately collateralized by Qualifying Customer as determined by EKPC and Cooperative in their sole discretion.
5. **Eligible Collateral.** Unless otherwise specified in the Tariff or the Contract, Customer may satisfy its Additional Collateral Requirements with a combination of any of the following acceptable forms of "Eligible Collateral":
- A standby irrevocable letter of credit in form and substance acceptable to and approved by EKPC and the Cooperative in their sole discretion ("**Letter of Credit**"). The Letter of Credit must be issued by a U.S. bank or the U.S. branch of a foreign bank, which is not affiliated with the Qualifying Customer or its guarantor, with a credit rating of at least "A-" from S&P and A3 from Moody's and having assets of at least Ten Billion Dollars (\$10,000,000,000) (a "**Qualified Institution**"). Such Letter of Credit must be issued for a minimum term of 360 days. The Qualifying Customer must cause the renewal or extension of the Letter of Credit for additional consecutive terms of 360 days or more no later than 30 days prior to each expiration date of the Letter of Credit. If the security is not renewed or extended as required herein, EKPC and/or Cooperative will have the right to draw immediately upon the Letter of Credit and be entitled to hold the amounts so drawn as security hereunder;
 - Cash collateral held in a depository account at a Qualified Institution in a manner that provides EKPC and/or Cooperative a first priority security interest in the funds by control and unfettered access to such funds, in order to draw and apply them in accordance with the terms of this Tariff and the applicable Contract, all on terms to be further specified in each Contract;
 - A guarantee from the ultimate parent or a corporate affiliate of Qualifying Customer, so long as the guarantor is Creditworthy (such guarantor, an "**Eligible Guarantor**" and the guarantee, a "**Parent Guarantee**"). The Parent Guarantee must be in form and substance acceptable to and approved by EKPC and Cooperative in their sole discretion, provided that in no event shall the amount of the Additional Collateral Requirement posted in the form of a Parent Guarantee exceed the percentages set forth in the chart below applicable to the applicable Eligible Guarantor; or

| Eligible Guarantor Credit Rating | Maximum Percentage of Additional Collateral Requirement |
|----------------------------------|---|
| A+/A1 or higher | 50% |
| A-/A3 or higher | 25% |
| BBB+/Baa1 or lower | 0% |

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6. **Qualifying Financial Information.** Qualifying Customer shall provide information to EKPC and the Cooperative on a quarterly basis, including without limitation financial statements prepared in accordance with Generally Accepted Accounting Principles (audited, when covering full fiscal year periods or prepared as of the end of a fiscal year), demonstrating that it or its credit support issuer, as applicable, satisfies the conditions set forth herein (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has otherwise met the Additional Collateral Requirement (if applicable)). EKPC and the Cooperative may also require Qualifying Customer to provide information confirming its, or its credit support issuer's, as applicable, satisfaction of the conditions set forth under this **Section VII** at any time (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has met the Additional Collateral Requirement) and Qualifying Customer shall provide such information within five (5) business days of receipt of such request. If Qualifying Customer or its credit support issuer, as applicable, should ever fail to satisfy these conditions applicable to it (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has met the Additional Collateral Requirement), it shall notify EKPC and the Cooperative within ten (10) business days of it, or its credit support issuer, as applicable, no longer satisfying the conditions applicable to it.
7. **Capital Credits.** Any capital credits that accrue for the benefit of Qualifying Customer shall be held by EKPC or Cooperative, as applicable, until the expiration or termination of the Contract, at which point such capital credits shall be issued to the Qualifying Customer, provided that, in the event of default by Qualifying Customer under the Contract, EKPC and/or Cooperative shall be entitled to draw on the value of such credits to satisfy any amounts (including damages) owed by Qualifying Customer.

VIII. Procedural Matters

To facilitate the orderly and timely development of investments qualifying for service under this Tariff within the territories of EKPC's owner-member distribution cooperatives, the following procedures shall be followed to apply for and receive service under this tariff.

1. **Application:** A prospective customer required to take service under this Tariff due to either new load or expansion of existing load shall submit an application for service to EKPC on a form supplied by EKPC. The application shall include all information necessary for EKPC to determine the requirements for serving the prospective customer and to perform a suitable Load Study, including, without limitation, information on the specific location for the applicable Data Center, the final expected Data Center Load and the expected ramping of the Data Center Load. As part of the application, the prospective customer shall demonstrate that it has control over the land for the proposed or existing Data Center. The prospective customer shall tender a non-refundable application fee along with its application. The minimum application fee shall be \$75,000.00 and shall be increased by \$1,000.00 per additional MW of final expected Data Center Load over 15,000 kW, subject to a cap on the maximum total application fee of \$250,000.00.
2. **EKPC Load Study:** EKPC shall use commercially reasonable efforts to conduct the requested Load Study and develop a proposal for serving the Data Center customer. EKPC will submit a request for a Load Study to PJM within a commercially reasonable amount of time from the receipt by EKPC of a complete application for a Load Study in order to determine the costs of interconnecting the applicable Data Center to EKPC's transmission system. EKPC shall determine in its sole discretion when an application for a Load Study is complete. In its sole discretion, EKPC may provide the prospective customer with a good faith

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estimate of the costs prior to submitting the request to PJM; provided, that, in no event shall EKPC or Cooperative incur any liability with regard to the completeness or accuracy of the good faith estimate of such costs. EKPC may aggregate multiple pending applications for service under this Tariff into tranches or clusters based upon the expected direct connection facilities and local and/or regional transmission reinforcement needed to reliably interconnect and serve the applicable Data Center; provided, however, that service under this Tariff shall be subject to EKPC's service responsibility for native load not served under this Tariff. EKPC will use commercially reasonable efforts to prioritize prospective customers on a "first come, first served" basis, but it is not bound to do so in light of regional and local transmission grid conditions, the location of the prospective Data Center, the location of grid upgrades, and other factors beyond the control of EKPC. The costs of interconnection of the prospective customer will be determined by PJM's final action upon EKPC's request for the supplemental Load Study or other process required by PJM. To the extent necessary or appropriate, EKPC will use commercially reasonable efforts to file, or cause to be filed, with FERC one or more agreements governing the allocation and recovery of the costs of interconnection and upgrades to transmission facilities under the PJM Open Access Transmission Tariff, consistent with the principles on cost allocation and cost recovery set forth herein.

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3. **Customer Contracts Execution:** Qualifying Customer shall execute the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and Contract within sixty (60) days of receipt of such agreements from EKPC. If Qualifying Customer declines to sign within this time, the agreement will be deemed to be automatically withdrawn and Qualifying Customer must reinitiate the process by filing a new application and tendering a new application fee in order to execute such agreements. EKPC will use commercially reasonable efforts to file the applications with the Kentucky Public Service Commission for its review and approval of the signed agreements within ten (10) business days of EKPC's receipt of such signed agreements. To expedite review, EKPC will note in the filing any deviations from the terms of this Tariff. EKPC will include the expected or actual peak real-time energy demand of Qualifying Customer's Eligible Data Center in its load forecast as of the date that the Contract is signed by Qualifying Customer with respect to such Eligible Data Center. EKPC shall take steps to secure (a) the Selected Resource Mix to serve the Eligible Data Center's contractual load requirements and (b) local or regional transmission needed to reliably connect and serve the Eligible Data Center's contractual load requirements in a manner that best respects the serial priority of signed Contracts.

IX. Deviations

With Kentucky Public Service Commission approval, EKPC may deviate from the terms of this Tariff for good cause which shall be determined by EKPC in its sole discretion.

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ATTACHMENT A

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Dedicated Resource Rider

Qualifying Customer-Supplied Dedicated Resources. If the Dedicated Resource is a Qualifying Customer-Supplied Dedicated Resource then the following requirements and conditions shall apply and must be met:

- (a) the nameplate capacity of such Qualifying Customer-Supplied Dedicated Resource (or portion of the Qualifying Customer-Supplied Dedicated Resource designated to serve the Qualifying Customer) must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC's non-Rate DCP rate classification members as determined by EKPC in its sole discretion, provided that this subsection (a) shall not impact EKPC's rights under Section V(1) of the Rate DCP Tariff to offer such Qualifying Customer-Supplied Dedicated Resource into the PJM market for PJM to dispatch economically;
- (b) such Qualifying Customer Supplied Dedicated Resource must be committed for the use by EKPC and the Cooperative to serve the applicable Eligible Data Center (or if only a portion of the capacity or output of such resource is committed under the applicable Contract, then only such committed portion of the capacity or output of such resource must be committed for use by EKPC and the Cooperative to serve the applicable Eligible Data Center subject to such applicable Contract, provided, that EKPC and the Cooperative shall be permitted to offer such resource into the PJM market pursuant to Section V(1).
- (c) such Qualifying Customer-Supplied Dedicated Resource must be interconnected to the PJM transmission system and may not be interconnected "behind-the-meter" of any Eligible Data Center;
- (d) such Qualifying Customer-Supplied Dedicated Resource must be registered in PJM as a capacity resource either (1) if elected by EKPC or Cooperative in their sole discretion, through EKPC or the Cooperative or (2) otherwise by Qualifying Customer directly or through a third-party;
- (e) unless otherwise agreed, Qualifying Customer or a designated third-party shall be the Market Participant in PJM with respect to the Qualifying Customer-Supplied Dedicated Resource; and
- (f) as between Qualifying Customer, on one hand, and EKPC (or any subsidiary or affiliate of EKPC) or any Cooperative, on the other hand, Qualifying Customer (i) shall be responsible for all site control, development, engineering, design, permitting, financing, procurement, installation, construction, operation, ownership, insurance, maintenance, repair, alterations, or improvements of Qualifying Customer-Supplied Dedicated Resources and (ii) shall be liable for, and shall reimburse EKPC (or any subsidiary or affiliate of EKPC) and Cooperative for, all costs, expenses, losses and liabilities related to or arising out of such activities (including in connection with compliance with any changes in applicable laws or regulations); and
- (g) Qualifying Customer will be responsible for funding additional generation if the capacity of a generator or the generator's ability to produce energy is reduced as a result of environmental rule changes or PJM policies;

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- (h) if the Qualifying Customer elects to utilize a Qualifying Customer-Supplied Dedicated Resource(s) owned by Qualifying Customer, then the following additional conditions and requirements shall apply and must be met:
- (i) The Qualifying Customer-Supplied Dedicated Resource must be solely and exclusively owned by Qualifying Customer via one hundred percent (100%) ownership interest in the assets of the Qualifying Customer-Supplied Dedicated Resource. For avoidance of doubt, an affiliate or parent company of Qualifying Customer, or any third-party, may not have any direct ownership interest in the assets of Qualifying Customer-Supplied Dedicated Resource or the equity of the entity with ownership interest in the assets of the Qualifying Customer-Supplied Dedicated Resource;
 - (ii) Qualifying Customer and EKPC (or a subsidiary or affiliate of EKPC) must have entered into a lease agreement pursuant to which EKPC (or such subsidiary or affiliate of EKPC) shall lease the Qualifying Customer-Supplied Dedicated Resource (including all energy, capacity, ancillary services and other attributes of such resource) from Qualifying Customer on terms and conditions acceptable to EKPC in its sole discretion (each, a “**EKPC-Qualifying Customer Dedicated Resource Lease**”) and such EKPC-Qualifying Customer Dedicated Resource Lease must remain in full force and effect. Any EKPC-Qualifying Customer Dedicated Resource Lease for a Dedicated Resource serving an Eligible Data Center will co-terminate with the Contract to which such Eligible Data Center is subject and will set forth a purchase option in favor of EKPC (or any subsidiary or affiliate of EKPC) to purchase the Qualifying Customer-Supplied Dedicated Resource subject to such EKPC-Qualifying Customer Dedicated Resource Lease at net book value exercisable upon expiration or termination of such EKPC-Qualifying Customer Dedicated Resource Lease;
 - (iii) the nameplate capacity of such Qualifying Customer-Supplied Dedicated Resource must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion; and
 - (iv) Qualifying Customer may, but shall not be obligated to, enter into a contract with EKPC (or any subsidiary or affiliate of EKPC) pursuant to which EKPC will manage the design and construction of the Qualifying Customer-Supplied Dedicated Resource on terms and conditions, and for a price, satisfactory to EKPC in its sole discretion.

EKPC-Supplied Dedicated Resources. If the Dedicated Resource is a “**EKPC-Supplied Dedicated Resource**” then the following conditions and requirements shall apply and must be met:

- (a) the nameplate capacity of such EKPC-Supplied Dedicated Resource (or portion of the EKPC-Supplied Dedicated Resource designated to serve the Qualifying Customer) must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the
- (b) detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion, provided that this subsection (a) shall not impact EKPC’s rights under **Section V(1)** of the Rate DCP Tariff to offer such EKPC-Supplied Dedicated Resource into the PJM market for PJM to dispatch economically;

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- (c) such EKPC-Supplied Dedicated Resource shall be interconnected to the PJM transmission system and shall not be interconnected “behind-the-meter” of any Eligible Data Center;
- (d) Qualifying Customer shall be liable for, and shall either prepay or reimburse EKPC (or any subsidiary or affiliate of EKPC) and Cooperative for, any costs, expenses, losses and liabilities incurred by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative related to or arising from site control, development, engineering, design, permitting, financing, procurement, installation, construction, operation (including all fuel and consumable expenses), ownership, insurance, maintenance, repair, alteration or improvements, and decommissioning (and procurement and utilization of third party services for the foregoing) for EKPC-Supplied Dedicated Resources serving Qualifying Customer’s Eligible Data Center(s) (including in connection with compliance with any changes in applicable laws or regulations); provided, that, if only a portion of such EKPC-Supplied Dedicated Resource is committed to serve Qualifying Customer’s Eligible Data Center(s), then Qualifying Customer shall only be liable for the pro-rated portion of such costs, expenses, losses and liabilities based on the percentage of the EKPC-Supplied Dedicated Resource committed to serve the Qualifying Customer’s Eligible Data Center(s);
- (e) Qualifying Customer will be responsible for funding additional generation if the capacity of a generator or the generator’s ability to produce energy is reduced as a result of environmental rule changes, PJM policy or tariff revisions, or any changes of applicable law;
- (f) a sinking fund will be established to cover decommissioning costs at the end of the Dedicated Resource’s useful life, which will be funded by Qualifying Customer; and
- (g) all terms and conditions applicable to EKPC-Supplied Dedicated Resources in the Rate DCP tariff have been satisfied.

Dedicated Resource Project Financing. EKPC may elect, in its sole and absolute discretion (but shall in no case be obligated), to participate in (including through an affiliate or subsidiary) or otherwise accommodate a project financing with respect to an EKPC-Supplied Dedicated Resource (a “**Dedicated Resource Project Financing**”), on terms and conditions acceptable to EKPC in its sole and absolute discretion. If EKPC does elect to participate in (including through an affiliate or subsidiary) or otherwise accommodate a Dedicated Resource Project Financing, the debt obligations and liabilities under such Dedicated Resource Project Financing shall be with limited recourse to EKPC and Cooperative. EKPC and/or Cooperative may pledge their interests in a Contract authorized by this Tariff, and certain rights thereunder or associated therewith, in connection with a Dedicated Resource Project Financing, but shall in no case have any other obligations with respect to the debt obligations and liabilities thereunder (including, for the avoidance of doubt, no obligation to make any payments with respect thereto, except by making available certain proceeds of the Contract pledged in connection with the Dedicated Resource Project Financing and other amounts received, directly or indirectly, from a Qualified Customer).

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RED-LINED RATE DCP TARIFF

**Rate DCP
(Data Center Power)**

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I. Applicability

Rate DCP (the “**Tariff**”) is available in all service territories served by East Kentucky Power Cooperative’s (“**EKPC**”) owner-member distribution cooperatives.

II. Availability

This Tariff is available to any customer that is (a) a retail member of any of EKPC’s owner-member distribution cooperatives and (b) owns or operates, or proposes to own or operate, an Eligible Data Center as determined pursuant to **Section III** below (each such retail customer, a “**Qualifying Customer**”). Electric service pursuant to this Tariff is available for general service through an owner-member distribution cooperative to Qualifying Customers. Current or prospective customers who: (i) meet the requirements for a Qualifying Customer after the effective date of this Tariff; or (ii) expand or increase the monthly expected or actual peak demand of a Data Center (as defined below) in a manner that causes such Data Center to meet the requirements of an Eligible Data Center after the effective date of this Tariff, (1) are required to take service under this Tariff, (2) are required to execute a Data Center Power Agreement entered into between Qualifying Customer, EKPC and EKPC’s owner-member distribution cooperatives within whose service territory the proposed Data Center will be located (the “**Cooperative**”) in accordance with this Tariff (the “**Contract**”), and (3) will not be permitted to take electric service for any Eligible Data Center under any other general service tariff in any service territories served by EKPC’s owner-member distribution cooperatives.

III. Eligible Data Center

1. **Eligible Data Center Requirements:** This Tariff applies to any centralized facility that is used primarily or exclusively for electronic information services such as the management, storage, processing, and dissemination of electronic data and information (including mining of cryptocurrency) through the use of computer systems, servers, networking equipment, and related components (each, a “**Data Center**”) where such Data Center meets the following requirements (each such Data Center meeting the below requirements, an “**Eligible Data Center**”):
 - (a) at any time before, on or after the effective date of this Tariff, the expected or actual peak of the real-time energy demand of the Data Center is 15,000 kW or greater (the “**Load Size Test**”); and
 - (b) the expected or actual monthly load factor for the Data Center, as determined by EKPC, is sixty percent (60%) or greater (the “**Load Factor Test**”).

Aggregation of Loads: For purposes of determining whether any Data Center meets the Load Size Test and Load Factor Test, the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the Data Center will be taken together and aggregated with the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the following, as applicable:

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- (a) any other Data Centers owned or operated by Qualifying Customer located at the same location (individually, a “**Co-Located Data Center**” and collectively, “**Co-Located Data Centers**”);
- (b) any non-Data Center electricity consuming facilities owned or operated by Qualifying Customer located at the same location (individually, a “**Co-Located Non-Data Center**” and collectively, “**Co-Located Non-Data Centers**”); and
- (c) any other Data Centers owned or operated by Qualifying Customer located at a different location but within one or more of EKPC’s owner-member distribution cooperatives’ service territories (individually, a “**Grouped Data Center**” and collectively, the “**Grouped Data Centers**”).

If the expected or actual peak real-time energy demand and expected or actual monthly load factor (as determined by EKPC) of the Data Center aggregated with any Co-Located Data Center, Co-Located Non-Data Center and/or Grouped Data Center in accordance with the foregoing results in such Data Center meeting or exceeding the Load Size Test and the Load Factor Test, then (i) this Tariff will apply to such Data Center and all such Co-Located Data Centers, Co-Located Non-Data Centers and Grouped Data Centers, (ii) such Data Center and all such Co-Located Data Centers, Co-Located Non-Data Centers and Grouped Data Centers shall be deemed, individually and collectively, as an Eligible Data Center for all purposes of this Tariff, in each case, regardless of the number of such Co-Located Data Centers and Co-Located Non-Data Centers present at the applicable single location or the individual peak demand or load factor of each such Co-Located Data Center or Co-Located Non-Data Center present at the applicable single location and regardless of the number of such Grouped Data Centers present within a single or multiple service territories of EKPC’s owner-member distribution cooperatives or the individual peak demand or load factor of each such Grouped Data Center present at its location within EKPC’s owner-member distribution cooperatives’ service territories.

Notwithstanding anything to the contrary herein, unless otherwise determined by EKPC in its sole discretion, each individual Co-Located Data Center, Co-Located Non-Data Center and Grouped Data Center will be metered and billed separately on an individual basis, and will be subject to separate Contracts for the provision of electric service.

2. **Disqualification as an Eligible Data Center.** If it is determined by EKPC at any time that any individual Co-Located Data Center, Co-Located Non-Data Center or Grouped Data Center should not constitute, or be treated as, an Eligible Data Center, then EKPC and the applicable Cooperative shall be permitted to provide electric service to such individual Co-Located Data Center, Co-Located Non-Data Center or Grouped Data Center, as applicable, under any contract utilizing a different tariff as determined by EKPC and the Cooperative in their sole discretion.

IV. **Contract**

1. **General Contract Requirements:** Any Contract entered into pursuant to the terms of this Tariff must be: (a) entered into by and between Qualifying Customer, the Cooperative, and EKPC; and (b) approved by the Kentucky Public Service Commission on terms and conditions acceptable to EKPC and the Cooperative in their sole discretion (the “**KPSC Approval**”). Following completion of the Load Study, EKPC and the Cooperative will provide the Customer with a Contract that conforms to the requirements set forth herein.

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2. **Contract Conditions to Service:** The Contract will set forth any conditions precedent to each of EKPC's and Cooperative's obligations to sell or deliver energy, capacity or any other products contemplated under the Contract to Qualifying Customer, including obtaining the KPSC Approval (if applicable) (the "**Contract Conditions to Service**"). EKPC and Cooperative will not have any obligation to serve the Eligible Data Center owned or operated by Qualifying Customer until (a) a Contract for the provision of electric service to such Eligible Data Center has been executed by Qualifying Customer, EKPC and the Cooperative and (b) all of the Contract Conditions to Service (including the KPSC Approval) have been satisfied or waived in writing pursuant to the terms and conditions of the Contract. Unless otherwise required by law, EKPC and Cooperative will not have any obligation to serve the Eligible Data Center owned or operated by Qualifying Customer during any period in which a Contract for the provision of electric service to such Eligible Data Center has terminated, expired or is otherwise no longer in full force or effect.
3. **Service Location:** Qualifying Customer must designate in its application for service and request for a Load Study a specific site at which its Eligible Data Center will be constructed, owned, and operated and served by EKPC and the Cooperative (the "**Service Location**"). The Service Location for each Eligible Data Center shall be described in the applicable Contract. Qualifying Customer must own (or have the exclusive right to use) the Service Location for the development, construction, ownership and operation of the Eligible Data Center. If requested by EKPC or the Cooperative, Qualifying Customer shall provide substantiating documentation (which may redact commercially sensitive terms or conditions) evidencing its ownership or exclusive right to use the Service Location for its Eligible Data Center.
4. **Additional Minimum Contract Terms:** In addition to the Contract Conditions to Service and Service Location, the Contract will set forth the terms and conditions for electric service, including, but not limited to: (a) the initial term length and any renewal periods, (b) purchase and sale obligations (including contract capacity and load ramp schedule (which load ramp schedule shall not exceed five (5) years)), (c) rates and pricing structure, (d) billing and payment between the parties thereto (including any minimum billing demand), (e) metering, (f) level of firmness of service and curtailment, (g) indemnification, (h) events of default and remedies for events of default, (i) termination rights, (j) force majeure, (k) limits on liability, (l) changes of law (including changes in applicable regional transmission organization ("**RTO**") and/or independent system operator ("**ISO**") tariffs and requirements), (m) choice of law and venue, which shall be Kentucky, and (n) confidentiality obligations.

V. **Resource Selection and Cost Recovery**

Potential Resources: For Qualifying Customers receiving service under this Tariff for an Eligible Data Center, as part of an application for service and performance of a Load Study, EKPC shall identify resources designated to satisfy the applicable Eligible Data Center's anticipated peak energy and capacity demand within the PJM Interconnection, L.L.C. (or any successor thereto) ("**PJM**") market region or deliverable into the PJM market region with firm transmission and may hedge anticipated PJM capacity, energy and ancillary services market prices associated with serving the applicable Eligible Data Center's anticipated real-time energy demand and capacity demand. These resources make take any of the following forms:

- (a) all or any portion of an electric generation facility that is owned or leased by either: (A) EKPC or a subsidiary or affiliate of EKPC (each, a "**EKPC-Supplied Dedicated Resource**"); or (B) to the extent permitted by applicable law, the Qualifying Customer (each, a "**Qualifying Customer-**

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Supplied Dedicated Resource” and together with EKPC-Supplied Dedicated Resource, **“Dedicated Resources”**);

- (b) bilateral power and capacity purchase agreements selected by EKPC (**“Bilateral Purchases”**); or
- (c) any combination of (a) and (b) above.

EKPC will offer the selected resources into the PJM market, and PJM will dispatch resources based on the economics and transmission availability. Eligible Data Center’s energy demand requirements will be served by PJM through the day-ahead and real-time energy and ancillary services markets and capacity market (**“Market Purchases”**). All Qualifying Customers shall be served from Market Purchases like other non-Rate DCP rate classifications and will not be guaranteed to receive energy from any Dedicated Resource or any resources associated with a Bilateral Purchase.

Notwithstanding anything to the contrary herein, unless otherwise determined by EKPC in its sole discretion, if the expected or actual peak real-time energy demand of an Eligible Data Center is greater than 250,000 kW then a Dedicated Resource will be required to be selected to serve such Eligible Data Center pursuant to **Section V(3)** below.

1. **Resource Planning Generally:** Upon the filing of an application for service by the Qualifying Customer for an Eligible Data Center, EKPC shall use good faith efforts to develop a resource plan to serve such Eligible Data Center within, as an objective, but not an obligation, one hundred eighty (180) days from the filing of such application for service by the Qualifying Customer. Final selection of resources (and any combination thereof), including any terms and conditions applicable to such resources, to serve the applicable Eligible Data Center shall be within the sole discretion of EKPC, subject to review and approval by the Kentucky Public Service Commission (such final selected resources to serve the applicable Eligible Data Center, the **“Selected Resource Mix”**). EKPC will not commence execution of a Contract until EKPC has determined, and the Kentucky Public Service Commission has approved (if needed), a Selected Resource Mix sufficient to meet the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion, and EKPC will not begin commencement of electric service under this Tariff or any Contract, until such Selected Resource Mix is obtained, secured and available to utilize in connection with electric service to the applicable Eligible Data Center(s).
2. **Dedicated Resource Planning:** Notwithstanding anything to the contrary herein, if the Selected Resource Mix includes (or will include) a Dedicated Resource then the terms and conditions in **Attachment A to this Tariff (Dedicated Resource Rider)** shall apply. If the expected or actual peak real-time energy demand of an Eligible Data Center is greater than 250,000 kW then Qualifying Customer shall have the option of utilizing either (a) Qualifying Customer-Supplied Dedicated Resource(s) owned by Qualifying Customer, to the extent permitted by applicable law or (b) EKPC-Supplied Dedicated Resources, in each case, subject to the terms and conditions of Attachment A to this Tariff (Dedicated Resources Rider).

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3. **Exclusivity of Electric Service:** The Eligible Data Centers shall be served exclusively by the Cooperative via electric service provided by EKPC to the Cooperative. Qualifying Customer may not utilize behind-the-meter generation, on-site or off-site energy generation, energy storage or other sources of energy, capacity or ancillary services (other than the Selected Resource Mix determined by EKPC and approved by the Kentucky Public Service Commission) (the “**Other Power Supply Sources**”), or purchase energy to serve any Eligible Data Center from any third party (other than EKPC and the Cooperative), to serve any Eligible Data Centers. The foregoing shall not prevent, or prohibit, Qualifying Customer from utilizing any Other Power Supply Source that (1) is used solely and exclusively as emergency back-up to serve the contractual load requirements of an Eligible Data Center that EKPC and Cooperative are unable or fail to satisfy, (2) operates autonomously from EKPC’s and Cooperative’s systems, (3) has been proposed by Qualifying Customer in its application for service and Load Study, and (4) EKPC and Cooperative have determined in their sole discretion that use of such Other Power Supply Source will not pose reliability or safety concerns, pose a threat to EKPC’s or Cooperative’s owned or leased equipment, or violate applicable law, regulations or tariffs (“**Approved Back-Up Generation**”).
4. **Costs Recovery Generally.** All costs, expenses, losses and liabilities associated with, arising from, or relating to serving the Eligible Data Center (including, but not limited to, all costs arising from developing, procuring, permitting, securing, financing, purchasing, owning, leasing, constructing, operating, insuring, utilizing, maintaining, decommissioning, retiring and deconstructing the Selected Resource Mix, all associated transmission, distribution, and related infrastructure upgrades and construction, and associated transmission and distribution service, including but not limited to Regional Transmission Expansion Planning (“**RTEP**”) expenses) shall be kept as a separate account for PJM and accounting purposes from non-Rate DCP rate classification members and borne by the Qualifying Customer through a Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract along with a reasonable rate of return for both EKPC and the Cooperative, as such rate of return is determined by EKPC and the Cooperative in their sole discretion and approved by the Kentucky Public Service Commission, as the same may be amended from time to time by EKPC and/or Cooperative in its respective sole discretion and approved by the Kentucky Public Service Commission, provided that such rate of return shall be applicable to all similarly situated Qualifying Customers at the time such rate of return is established or amended.
5. **Build-Out Costs Recovery.**
- (a) Without limiting **Section V(4)** above, following completion of the Load Study, EKPC will provide Qualifying Customer with a Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract that requires the Qualifying Customer to be responsible for and pay 100% of (i) all costs, expenses, losses and liabilities incurred, or expected to be incurred, by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative associated with, arising from, or relating to all new, or upgrades to existing, local or regional transmission facilities, distribution facilities, and related infrastructure upgrades and construction, including substations, necessary or desirable to reliably and safely serve the Eligible Data Center utilizing the Selected Resource Mix without detriment to EKPC’s owner-member distribution cooperatives, as determined by EKPC and/or Cooperative in its respective sole discretion, including, but not limited to, developing, procuring, permitting, securing, financing, purchasing, owning, insuring, leasing, and constructing, including the procurement and utilization of third-party

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services for the foregoing, all such facilities, and (ii) all costs, expenses, losses and liabilities incurred, or expected to be incurred, by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative associated with, arising from, or relating to all EKPC-Supplied Dedicated Resources that will or may be utilized to serve such Qualifying Customer's Eligible Data Center(s), including, but not limited to, developing, procuring, permitting, securing, financing, purchasing, owning, insuring, leasing, and constructing, including the procurement and utilization of third-party services for any of the foregoing, all such EKPC-Supplied Dedicated Resources (clauses (i) and (ii), collectively, the **"Build-Out Costs"**).

- (b) Unless otherwise mutually agreed by EKPC and Cooperative, the Build-Out Costs will be payable by Qualifying Customer up-front as a pre-payment based on good faith estimates determined by EKPC and Cooperative in accordance with the payment schedule set forth in the applicable Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract and such payments by Qualifying Customer shall be subject to periodic true-up adjustments based on actual Build-Out Costs incurred by EKPC and Cooperative at a frequency to be determined in the applicable Facilities Agreement, Dedicated Resource Recovery Agreement and/or Contract.
- (c) In the event that the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract terminate or expire prior to full recovery by EKPC and/or Cooperative of all Build-Out Costs, then Qualifying Customer shall pay EKPC and/or Cooperative for any unreimbursed Build-Out Costs incurred by EKPC and/or Cooperative (including any costs incurred to terminate or otherwise settle any underlying agreements entered into by EKPC and/or Cooperative to facilitate their respective obligations under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract). EKPC shall use commercially reasonable efforts to terminate (and mitigate the costs of terminating) all underlying agreements entered into connection with performing its obligations under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract; provided, that, EKPC and Cooperative, as applicable, shall be entitled to settle or terminate such underlying agreements on terms satisfactory to EKPC and the Cooperative in their sole discretion.
- (d) In the event that Qualifying Customer pre-paid for any anticipated Build-Out Costs under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract, Qualifying Customer shall be reimbursed for any such prepaid Build-Out Costs that EKPC and/or Cooperative were able to avoid incurring using commercially reasonable efforts after delivery or receipt of written notice of the termination or expiration of the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract; provided, that, neither EKPC nor Cooperative shall be required to reimburse Qualifying Customer for any work that has been completed or equipment or materials that has been purchased or delivered under the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract as of the date of termination or expiration of the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and/or Contract, as applicable, and EKPC and/or Cooperative, as applicable, shall retain all title, interest, and rights to such work, equipment and materials.
- (e) In the event that the Federal Energy Regulatory Commission ("**FERC**") prohibits (in a written order addressing cost recovery of transmission-related Build-Out Costs and/or transmission service charges to Qualifying Customer), or EKPC or PJM otherwise determines that either or both of them cannot implement, (i) the direct assignment to, and recovery from, Qualifying Customers of transmission-

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related Build-Out Costs in combination with (ii) the transmission service and related charges to Qualifying Customer provided for in **Section V(7)(a)** below, then EKPC will prepare, and file with FERC and/or the Kentucky Public Service Commission to the extent necessary or appropriate, a contract with Qualifying Customer requiring the payment by Qualifying Customer of the transmission-related Build-Out Costs that are not offset by revenues received by EKPC from PJM for transmission service charges that include rolled-in transmission-related Build-Out Costs and that are paid by Qualifying Customer for service to Qualifying Customer's Eligible Data Center(s). Such contract may take into account and include provisions on Qualifying Customer's Eligible Data Center(s) achieving commercial operation within a specified period of time, the minimum load of such Eligible Data Center(s), and an appropriate period of time for recovery of such offsetting revenues, in each case as determined by EKPC in its sole discretion. The intent of this paragraph (e) is to ensure that EKPC, Cooperative, and EKPC's other member-owners, and the retail customers that they serve, do not bear or pay for transmission-related Build-Out Costs, whether such transmission-related Build-Out Costs are directly assigned to Qualifying Customer or are recovered through PJM transmission service charges.

7. Other Cost Recovery.

- (a) The load or demand of Qualifying Customer's Eligible Data Center(s) will be treated as network load under EKPC's Network Integration Transmission Service under the PJM Open Access Transmission Tariff. EKPC will allocate to Qualifying Customer, and Qualifying Customer will pay in accordance with the billing and payment procedures set forth in this Tariff, Qualifying Customer's load ratio share of transmission service and related charges under the PJM Open Access Transmission Tariff, as determined by EKPC in its sole discretion.
- (b) Qualifying Customer will be responsible for and will pay, in accordance with the billing and payment procedures set forth in this Tariff, an operations and maintenance charge for EKPC's and Cooperative's transmission and distribution facilities that interconnect Qualifying Customer's Eligible Data Center(s) to EKPC's and Cooperative's facilities and/or provide service to Qualifying Customer's Eligible Data Center(s). Such charge will be set forth in the Contract and will be approved by the Kentucky Public Service Commission.
- (c) Qualifying Customers shall be responsible for and will pay for an allocation of EKPC's and Cooperative's reasonable costs and expenses associated with labor, professional fees, facilities, insurance, market collateral obligations or others items related to providing service under this Tariff or any agreement contemplated herein.

VI. Pricing, Billing and Payment.

- (a) The rates for electric services to an Eligible Data Center shall be the rates approved by the Kentucky Public Service Commission, as revised from time to time. The initial rates as of the effective date of the Contract shall be set forth in the Contract. In addition, Qualifying Customer will be served under any additional rates that are applicable or available to such electric service to an Eligible Data Center under any other applicable riders and tariffs, which may include without limitation: FAC – Fuel Adjustment

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Charge (provided, however, that fuel costs for a Qualifying Customer shall be kept separately and charged through the FAC separately from non-Qualifying Customer fuel costs); Rate ES – Environmental Surcharge (provided, however, that environmental compliance costs for a Qualifying Customer shall be kept separately and charged through the environmental surcharge separately from non-Rate DCP member environmental compliance costs); Rate D – Interruptible Power; Rate H – Wholesale Renewable Energy Program; and Power Factor Adjustment. Each applicable rider and tariff shall be specified in the Contract. Rates applicable hereunder and under the Contract, including any other applicable riders or other tariffs, shall be adjusted by EKPC or the Cooperative in accordance with the Kentucky Public Service Commission’s rules and regulations and the changed rate (including any other applicable riders or other tariffs) shall be prospectively applied as if set forth in a Contract without any consent or approval of Qualifying Customer.

- (b) Rates for transmission and related services shall be established in accordance with PJM’s Open Access Transmission Tariff.
- (c) Billing and payment for electric services under this Tariff shall be completed on a weekly basis. EKPC and Cooperative shall be permitted to invoice a Qualifying Customer based on estimates of any component of the pricing for electric service and transmission service when the information and data necessary to calculate such component of the pricing for the applicable invoiced period is not available. If any invoice for a period is prepared based on estimates of a component of the pricing, and the actual value of such component for the applicable period is greater than or less than the estimated value invoiced, then the next invoice following determination of such actual value(s) shall include an adjustment to reconcile to the actual value(s).

VII. Collateral Requirements

1. **Pre-Payment Deposit:** Qualifying Customer shall deliver and maintain a cash deposit equal to a rolling two (2)-month period of expected maximum monthly billings to the Cooperative, as reasonably determined by EKPC and Cooperative (the “**Pre-Payment Deposit**”). EKPC and Cooperative may adjust the Pre-Payment Deposit amount no more frequently than once per month based on the upcoming rolling two (2)-month period of expected maximum monthly billings as reasonably determined by EKPC and Cooperative. Within seven (7) days after receipt from Cooperative of written notice of the calculation of the adjusted Pre-Payment Deposit, Qualifying Customer shall replenish or supplement the cash deposit to equal the adjusted amount of the Pre-Payment Deposit as set forth in such written notice.
 - (a) EKPC and Cooperative shall each be entitled to draw on the Pre-Payment Deposit (i) immediately upon delivery of the applicable invoice, for any amounts invoiced by EKPC or Cooperative under the Contract in connection with performance of their respective obligations under the Contract, regardless of whether Qualifying Customer has failed to make any payment, or has otherwise breached or defaulted under, the Contract, or (ii) for any other amounts due under the Contract (including any damages or liabilities arising from Qualifying Customer’s breach of the Contract or the early termination of the Contract). Within seven (7) days after any draw by EKPC or Cooperative on the Pre-Payment Deposit, Qualifying Customer shall replenish the Pre-Payment Deposit in an amount equal to the amount drawn-down by EKPC and/or Cooperative.

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- (b) Unless otherwise agreed by EKPC and Cooperative, any Pre-Payment Deposit shall be held in a manner that provides EKPC and/or Cooperative a first priority security interest in the Pre-Payment Deposit by control and unfettered access to the funds constituting the Pre-Payment Deposit, in order to draw and apply them in accordance with the terms of this Tariff and the applicable Contract, all on terms to be further specified in each Contract. The Parties agree that all Pre-Payment Deposit funds constitute a "security deposit" as that term is used in Section 366 of the Bankruptcy Code.
- (c) The Pre-Payment Deposit shall be held and maintained during the term of the Contract and during any additional period during which Cooperative is providing electric service to Qualifying Customer's Eligible Data Centers or until all amounts owed between the parties are settled.
- (d) On all amounts not paid or replenished by the due date, an additional charge of 2.5% of the unpaid or un-replenished balance will be charged and due to the Cooperative or EKPC, as applicable. In the case of any disputed amounts, the undisputed portion of an invoice shall be paid promptly and the dispute shall be resolved in accordance with the tariffs of EKPC or the Cooperative (as applicable) and the rules and regulations of the Kentucky Public Service Commission
2. **Additional Collateral Requirements:** In addition to, and not in lieu of, the Pre-Payment Deposit (or any portion thereof), Qualifying Customer shall be required to post additional credit support or collateral (the "**Additional Collateral Requirement**") in favor of EKPC and Cooperative in the form of Eligible Collateral as set forth below in the event of any of the following:
- (a) If, at any point during the term of the Contract or any additional period in which EKPC and/or Cooperative are providing electric service to Qualifying Customer's Eligible Data Centers, the Qualifying Customer fails to have at all times both: (i) a credit rating of at least "A-" from S&P Global Inc. ("**S&P**") or "A3" from Moody's Corporation ("**Moody's**") (provided, that, if rated by both S&P and Moody's then the lower credit rating shall control and determine whether Qualifying Customer satisfies this condition); and (ii) cash or cash equivalents ("**Liquidity**") greater than twenty times the then-current calculation of the Downgrade Additional Collateral Amount, as defined below (with any entity that satisfies the requirements of both clause (i) and (ii) being considered "**Creditworthy**"), the Customer shall provide Eligible Collateral in accordance with the following: an amount equal to an 18-month period of expected maximum monthly billings for electric service to Qualifying Customer, calculated based on EKPC's then-current rates (the "**Downgrade Additional Collateral Amount**").
- (b) If, at any point during the term of the Contract, or any additional period in which EKPC and/or Cooperative are providing electric service to Qualifying Customer's Eligible Data Centers, during which Qualifying Customer is required to provide Eligible Collateral pursuant to sub-clause (a) above, EKPC reasonably determines that the then-posted and undrawn amount of the Downgrade Additional Collateral Amount available to draw upon is lower than the then-current calculation of the amount of Downgrade Additional Collateral Amount required under this Tariff or any Contract (including, without limitation, as a result of the redetermination, no more frequently than once per month, by EKPC of the calculation of the required Downgrade Additional Collateral Amount, due to changes in rates, expected demand, or otherwise), then, upon request from EKPC or Cooperative, Qualifying Customer shall post additional Eligible Collateral in an amount equal to the positive difference between the updated

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calculation of the Downgrade Additional Collateral Amount required under this Tariff or any Contract and the then-posted and undrawn amount of the Downgrade Additional Collateral Amount within five (5) business days of receipt of notice from EKPC or Cooperative. The Downgrade Additional Collateral Amount(s) provided pursuant to sub-clause (a) above and this sub-clause (b) shall be in addition to, and shall not count toward the satisfaction of, any required Capacity and Planning Reserve Additional Collateral Amount(s), as defined below.

- (c) In the event that EKPC makes, or plans to make, any commitments with respect to PJM capacity purchases or planning reserve requirements for the Qualifying Customer's Eligible Data Center, Qualifying Customer shall provide Eligible Collateral to EKPC in an amount sufficient to cover the costs of such capacity or planning reserve commitments if the Contract were terminated early for any reason as determined by EKPC in its sole discretion (the "**Capacity and Planning Reserve Additional Collateral Amount**"). The Capacity and Planning Reserve Additional Collateral Amount provided pursuant to this sub-clause (c) shall be in addition to, and shall not count toward the satisfaction of, any required Downgrade Additional Collateral Amount(s).
- (d) In the event that a breach by Qualifying Customer has occurred and is continuing under this Tariff or any Contract or if a notice of termination has been given with respect to a Contract (other than a termination resulting from a default or event of default by EKPC or the Cooperative), if EKPC reasonably determines that the amount available to draw upon from the Eligible Collateral then-provided by Qualifying Customer is not sufficient, for any reason, to meet the damages or costs (including any liquidated damages) that would be payable by Qualifying Customer in the event of an early termination of the Contract, then, upon request from EKPC or Cooperative, Qualifying Customer shall post additional Eligible Collateral in an amount equal to the positive difference between (i) the *sum of* (A) the then-posted and undrawn amount of the required Downgrade Additional Collateral Amount (if applicable), (B) the then-posted and undrawn amount of the required Capacity and Planning Reserve Additional Collateral Amount (if applicable), and (C) any incremental amount required to cover the anticipated damages or costs of termination described in this sub-clause (d) and (ii) the then-posted and undrawn amount of the Eligible Collateral provided as part of the Additional Collateral Requirement within five (5) business days of receipt of notice from EKPC or Cooperative.
3. **Patronage Capital Setoff.** Following any breach of, or default or event of default under, this Tariff or any Contract by Qualifying Customer, or upon the occurrence of any other event that would allow EKPC and/or Cooperative to draw on Eligible Collateral provided pursuant to this **Section VII** (regardless of whether any Eligible Collateral is in fact provided or required to be provided at the time), Cooperative may, to the extent permitted by its bylaws or similar governing documents, in the sole discretion of EKPC and Cooperative, but shall not be required to, without notice to Qualifying Customer (except as may be required by applicable law), retire and cancel all or part of the patronage or membership capital or capital credits (or similar credits) allocated to Qualifying Customer as a result of its receipt of electric service pursuant to this Tariff or any Contract and set off the value of the same against any amounts owed by Qualifying Customer under this Tariff or any Contract, in total or partial liquidation of such amounts owed. Any tax liability associated with the application of the value of a Qualifying Customer's patronage capital or patronage capital credits to any amounts owed by the Qualifying Customer under this **Section VII(3)** is the sole responsibility of the Qualifying Customer.

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4. **No EKPC or Cooperative Collateral.** Neither EKPC (including any subsidiary or affiliate of EKPC) nor Cooperative shall be required to provide any form of credit support, collateral or performance security to Qualifying Customer or any third party in connection with the provision of electric services under this Tariff or any Contract, including with respect to procuring, securing or financing any Selected Resource Mix; provided, that, EKPC (including any subsidiary or affiliate of EKPC) or Cooperative may, in its sole discretion, provide credit support, collateral or performance security in connection with the provision of electric services under this Tariff or a Contract (including with respect to procuring, securing or financing the applicable Selected Resource Mix or any capacity calls or collateral required by PJM to the extent attributable to electric service to Qualifying Customer's Eligible Data Centers) so long as any such credit support, collateral or performance security provided by EKPC (including any subsidiary or affiliate of EKPC) is deemed to be adequately collateralized by Qualifying Customer as determined by EKPC and Cooperative in their sole discretion.
5. **Eligible Collateral.** Unless otherwise specified in the Tariff or the Contract, Customer may satisfy its Additional Collateral Requirements with a combination of any of the following acceptable forms of "Eligible Collateral":
- (a) A standby irrevocable letter of credit in form and substance acceptable to and approved by EKPC and the Cooperative in their sole discretion ("**Letter of Credit**"). The Letter of Credit must be issued by a U.S. bank or the U.S. branch of a foreign bank, which is not affiliated with the Qualifying Customer or its guarantor, with a credit rating of at least "A-" from S&P and A3 from Moody's and having assets of at least Ten Billion Dollars (\$10,000,000,000) (a "**Qualified Institution**"). Such Letter of Credit must be issued for a minimum term of 360 days. The Qualifying Customer must cause the renewal or extension of the Letter of Credit for additional consecutive terms of 360 days or more no later than 30 days prior to each expiration date of the Letter of Credit. If the security is not renewed or extended as required herein, EKPC and/or Cooperative will have the right to draw immediately upon the Letter of Credit and be entitled to hold the amounts so drawn as security hereunder;
 - (b) Cash collateral held in a depository account at a Qualified Institution in a manner that provides EKPC and/or Cooperative a first priority security interest in the funds by control and unfettered access to such funds, in order to draw and apply them in accordance with the terms of this Tariff and the applicable Contract, all on terms to be further specified in each Contract;
 - (c) A guarantee from the ultimate parent or a corporate affiliate of Qualifying Customer, so long as the guarantor is Creditworthy (such guarantor, an "**Eligible Guarantor**" and the guarantee, a "**Parent Guarantee**"). The Parent Guarantee must be in form and substance acceptable to and approved by EKPC and Cooperative in their sole discretion, provided that in no event shall the amount of the Additional Collateral Requirement posted in the form of a Parent Guarantee exceed the percentages set forth in the chart below applicable to the applicable Eligible Guarantor; or

| Eligible Guarantor Credit Rating | Maximum Percentage of Additional Collateral Requirement |
|----------------------------------|---|
| A+/A1 or higher | 50% |
| A-/A3 or higher | 25% |
| BBB+/Baa1 or lower | 0% |

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6. **Qualifying Financial Information.** Qualifying Customer shall provide information to EKPC and the Cooperative on a quarterly basis, including without limitation financial statements prepared in accordance with Generally Accepted Accounting Principles (audited, when covering full fiscal year periods or prepared as of the end of a fiscal year), demonstrating that it or its credit support issuer, as applicable, satisfies the conditions set forth herein (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has otherwise met the Additional Collateral Requirement (if applicable)). EKPC and the Cooperative may also require Qualifying Customer to provide information confirming its, or its credit support issuer's, as applicable, satisfaction of the conditions set forth under this **Section VII** at any time (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has met the Additional Collateral Requirement) and Qualifying Customer shall provide such information within five (5) business days of receipt of such request. If Qualifying Customer or its credit support issuer, as applicable, should ever fail to satisfy these conditions applicable to it (including that it qualifies as Creditworthy, or a Qualified Institution, as applicable, and has met the Additional Collateral Requirement), it shall notify EKPC and the Cooperative within ten (10) business days of it, or its credit support issuer, as applicable, no longer satisfying the conditions applicable to it.
7. **Capital Credits.** Any capital credits that accrue for the benefit of Qualifying Customer shall be held by EKPC or Cooperative, as applicable, until the expiration or termination of the Contract, at which point such capital credits shall be issued to the Qualifying Customer, provided that, in the event of default by Qualifying Customer under the Contract, EKPC and/or Cooperative shall be entitled to draw on the value of such credits to satisfy any amounts (including damages) owed by Qualifying Customer.

VIII. Procedural Matters

To facilitate the orderly and timely development of investments qualifying for service under this Tariff within the territories of EKPC's owner-member distribution cooperatives, the following procedures shall be followed to apply for and receive service under this tariff.

1. **Application:** A prospective customer required to take service under this Tariff due to either new load or expansion of existing load shall submit an application for service to EKPC on a form supplied by EKPC. The application shall include all information necessary for EKPC to determine the requirements for serving the prospective customer and to perform a suitable Load Study, including, without limitation, information on the specific location for the applicable Data Center, the final expected Data Center Load and the expected ramping of the Data Center Load. As part of the application, the prospective customer shall demonstrate that it has control over the land for the proposed or existing Data Center. The prospective customer shall tender a non-refundable application fee along with its application. The minimum application fee shall be \$75,000.00 and shall be increased by \$1,000.00 per additional MW of final expected Data Center Load over 15,000 kW, subject to a cap on the maximum total application fee of \$250,000.00.
2. **EKPC Load Study:** EKPC shall use commercially reasonable efforts to conduct the requested Load Study and develop a proposal for serving the Data Center customer. EKPC will submit a request for a Load Study to PJM within a commercially reasonable amount of time from the receipt by EKPC of a complete application for a Load Study in order to determine the costs of interconnecting the applicable Data Center to EKPC's transmission system. EKPC shall determine in its sole discretion when an application for a Load Study is complete. In its sole discretion, EKPC may provide the prospective customer with a good faith

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estimate of the costs prior to submitting the request to PJM; provided, that, in no event shall EKPC or Cooperative incur any liability with regard to the completeness or accuracy of the good faith estimate of such costs. EKPC may aggregate multiple pending applications for service under this Tariff into tranches or clusters based upon the expected direct connection facilities and local and/or regional transmission reinforcement needed to reliably interconnect and serve the applicable Data Center; provided, however, that service under this Tariff shall be subject to EKPC's service responsibility for native load not served under this Tariff. EKPC will use commercially reasonable efforts to prioritize prospective customers on a "first come, first served" basis, but it is not bound to do so in light of regional and local transmission grid conditions, the location of the prospective Data Center, the location of grid upgrades, and other factors beyond the control of EKPC. The costs of interconnection of the prospective customer will be determined by PJM's final action upon EKPC's request for the supplemental Load Study or other process required by PJM. To the extent necessary or appropriate, EKPC will use commercially reasonable efforts to file, or cause to be filed, with FERC one or more agreements governing the allocation and recovery of the costs of interconnection and upgrades to transmission facilities under the PJM Open Access Transmission Tariff, consistent with the principles on cost allocation and cost recovery set forth herein.

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3. **Customer Contracts Execution:** Qualifying Customer shall execute the Facilities Agreement, Dedicated Resource Cost Recovery Agreement and Contract within sixty (60) days of receipt of such agreements from EKPC. If Qualifying Customer declines to sign within this time, the agreement will be deemed to be automatically withdrawn and Qualifying Customer must reinitiate the process by filing a new application and tendering a new application fee in order to execute such agreements. EKPC will use commercially reasonable efforts to file the applications with the Kentucky Public Service Commission for its review and approval of the signed agreements within ten (10) business days of EKPC's receipt of such signed agreements. To expedite review, EKPC will note in the filing any deviations from the terms of this Tariff. EKPC will include the expected or actual peak real-time energy demand of Qualifying Customer's Eligible Data Center in its load forecast as of the date that the Contract is signed by Qualifying Customer with respect to such Eligible Data Center. EKPC shall take steps to secure (a) the Selected Resource Mix to serve the Eligible Data Center's contractual load requirements and (b) local or regional transmission needed to reliably connect and serve the Eligible Data Center's contractual load requirements in a manner that best respects the serial priority of signed Contracts.

IX. Deviations

With Kentucky Public Service Commission approval, EKPC may deviate from the terms of this Tariff for good cause which shall be determined by EKPC in its sole discretion.

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ATTACHMENT A

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Dedicated Resource Rider

Qualifying Customer-Supplied Dedicated Resources. If the Dedicated Resource is a Qualifying Customer-Supplied Dedicated Resource then the following requirements and conditions shall apply and must be met:

- (a) the nameplate capacity of such Qualifying Customer-Supplied Dedicated Resource (or portion of the Qualifying Customer-Supplied Dedicated Resource designated to serve the Qualifying Customer) must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC's non-Rate DCP rate classification members as determined by EKPC in its sole discretion, provided that this subsection (a) shall not impact EKPC's rights under Section V(1) of the Rate DCP Tariff to offer such Qualifying Customer-Supplied Dedicated Resource into the PJM market for PJM to dispatch economically;
- (b) such Qualifying Customer Supplied Dedicated Resource must be committed for the use by EKPC and the Cooperative to serve the applicable Eligible Data Center (or if only a portion of the capacity or output of such resource is committed under the applicable Contract, then only such committed portion of the capacity or output of such resource must be committed for use by EKPC and the Cooperative to serve the applicable Eligible Data Center subject to such applicable Contract, provided, that EKPC and the Cooperative shall be permitted to offer such resource into the PJM market pursuant to Section V(1).
- (c) such Qualifying Customer-Supplied Dedicated Resource must be interconnected to the PJM transmission system and may not be interconnected "behind-the-meter" of any Eligible Data Center;
- (d) such Qualifying Customer-Supplied Dedicated Resource must be registered in PJM as a capacity resource either (1) if elected by EKPC or Cooperative in their sole discretion, through EKPC or the Cooperative or (2) otherwise by Qualifying Customer directly or through a third-party;
- (e) unless otherwise agreed, Qualifying Customer or a designated third-party shall be the Market Participant in PJM with respect to the Qualifying Customer-Supplied Dedicated Resource; and
- (f) as between Qualifying Customer, on one hand, and EKPC (or any subsidiary or affiliate of EKPC) or any Cooperative, on the other hand, Qualifying Customer (i) shall be responsible for all site control, development, engineering, design, permitting, financing, procurement, installation, construction, operation, ownership, insurance, maintenance, repair, alterations, or improvements of Qualifying Customer-Supplied Dedicated Resources and (ii) shall be liable for, and shall reimburse EKPC (or any subsidiary or affiliate of EKPC) and Cooperative for, all costs, expenses, losses and liabilities related to or arising out of such activities (including in connection with compliance with any changes in applicable laws or regulations); and
- (g) Qualifying Customer will be responsible for funding additional generation if the capacity of a generator or the generator's ability to produce energy is reduced as a result of environmental rule changes or PJM policies;

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- (h) if the Qualifying Customer elects to utilize a Qualifying Customer-Supplied Dedicated Resource(s) owned by Qualifying Customer, then the following additional conditions and requirements shall apply and must be met:
- (i) The Qualifying Customer-Supplied Dedicated Resource must be solely and exclusively owned by Qualifying Customer via one hundred percent (100%) ownership interest in the assets of the Qualifying Customer-Supplied Dedicated Resource. For avoidance of doubt, an affiliate or parent company of Qualifying Customer, or any third-party, may not have any direct ownership interest in the assets of Qualifying Customer-Supplied Dedicated Resource or the equity of the entity with ownership interest in the assets of the Qualifying Customer-Supplied Dedicated Resource;
 - (ii) Qualifying Customer and EKPC (or a subsidiary or affiliate of EKPC) must have entered into a lease agreement pursuant to which EKPC (or such subsidiary or affiliate of EKPC) shall lease the Qualifying Customer-Supplied Dedicated Resource (including all energy, capacity, ancillary services and other attributes of such resource) from Qualifying Customer on terms and conditions acceptable to EKPC in its sole discretion (each, a “**EKPC-Qualifying Customer Dedicated Resource Lease**”) and such EKPC-Qualifying Customer Dedicated Resource Lease must remain in full force and effect. Any EKPC-Qualifying Customer Dedicated Resource Lease for a Dedicated Resource serving an Eligible Data Center will co-terminate with the Contract to which such Eligible Data Center is subject and will set forth a purchase option in favor of EKPC (or any subsidiary or affiliate of EKPC) to purchase the Qualifying Customer-Supplied Dedicated Resource subject to such EKPC-Qualifying Customer Dedicated Resource Lease at net book value exercisable upon expiration or termination of such EKPC-Qualifying Customer Dedicated Resource Lease;
 - (iii) the nameplate capacity of such Qualifying Customer-Supplied Dedicated Resource must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion; and
 - (iv) Qualifying Customer may, but shall not be obligated to, enter into a contract with EKPC (or any subsidiary or affiliate of EKPC) pursuant to which EKPC will manage the design and construction of the Qualifying Customer-Supplied Dedicated Resource on terms and conditions, and for a price, satisfactory to EKPC in its sole discretion.

EKPC-Supplied Dedicated Resources. If the Dedicated Resource is a “**EKPC-Supplied Dedicated Resource**” then the following conditions and requirements shall apply and must be met:

- (a) the nameplate capacity of such EKPC-Supplied Dedicated Resource (or portion of the EKPC-Supplied Dedicated Resource designated to serve the Qualifying Customer) must be sufficient to serve the anticipated contractual load requirements of the Eligible Data Center plus any associated PJM reserve requirements without acting to the
- (b) detriment of EKPC’s non-Rate DCP rate classification members as determined by EKPC in its sole discretion, provided that this subsection (a) shall not impact EKPC’s rights under **Section V(1)** of the Rate DCP Tariff to offer such EKPC-Supplied Dedicated Resource into the PJM market for PJM to dispatch economically;

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- (c) such EKPC-Supplied Dedicated Resource shall be interconnected to the PJM transmission system and shall not be interconnected “behind-the-meter” of any Eligible Data Center;
- (d) Qualifying Customer shall be liable for, and shall either prepay or reimburse EKPC (or any subsidiary or affiliate of EKPC) and Cooperative for, any costs, expenses, losses and liabilities incurred by EKPC (or any subsidiary or affiliate of EKPC) or Cooperative related to or arising from site control, development, engineering, design, permitting, financing, procurement, installation, construction, operation (including all fuel and consumable expenses), ownership, insurance, maintenance, repair, alteration or improvements, and decommissioning (and procurement and utilization of third party services for the foregoing) for EKPC-Supplied Dedicated Resources serving Qualifying Customer’s Eligible Data Center(s) (including in connection with compliance with any changes in applicable laws or regulations); provided, that, if only a portion of such EKPC-Supplied Dedicated Resource is committed to serve Qualifying Customer’s Eligible Data Center(s), then Qualifying Customer shall only be liable for the pro-rated portion of such costs, expenses, losses and liabilities based on the percentage of the EKPC-Supplied Dedicated Resource committed to serve the Qualifying Customer’s Eligible Data Center(s);
- (e) Qualifying Customer will be responsible for funding additional generation if the capacity of a generator or the generator’s ability to produce energy is reduced as a result of environmental rule changes, PJM policy or tariff revisions, or any changes of applicable law;
- (f) a sinking fund will be established to cover decommissioning costs at the end of the Dedicated Resource’s useful life, which will be funded by Qualifying Customer; and
- (g) all terms and conditions applicable to EKPC-Supplied Dedicated Resources in the Rate DCP tariff have been satisfied.

Dedicated Resource Project Financing. EKPC may elect, in its sole and absolute discretion (but shall in no case be obligated), to participate in (including through an affiliate or subsidiary) or otherwise accommodate a project financing with respect to an EKPC-Supplied Dedicated Resource (a “**Dedicated Resource Project Financing**”), on terms and conditions acceptable to EKPC in its sole and absolute discretion. If EKPC does elect to participate in (including through an affiliate or subsidiary) or otherwise accommodate a Dedicated Resource Project Financing, the debt obligations and liabilities under such Dedicated Resource Project Financing shall be with limited recourse to EKPC and Cooperative. EKPC and/or Cooperative may pledge their interests in a Contract authorized by this Tariff, and certain rights thereunder or associated therewith, in connection with a Dedicated Resource Project Financing, but shall in no case have any other obligations with respect to the debt obligations and liabilities thereunder (including, for the avoidance of doubt, no obligation to make any payments with respect thereto, except by making available certain proceeds of the Contract pledged in connection with the Dedicated Resource Project Financing and other amounts received, directly or indirectly, from a Qualified Customer).

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