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November 13, 2009

**Via Hand Delivery**

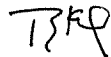
Jeff DeRouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard, P.O. Box 615  
Frankfort, Kentucky 40602-0615

Re: The Application of Big Rivers Electric Corporation for Approval  
to Issue Evidences of Indebtedness

Dear Mr. DeRouen:

Enclosed for filing on behalf of Big Rivers Electric Corporation ("Big Rivers") are an original and ten copies of Big Rivers' application seeking approval to supplement or terminate certain existing evidences of indebtedness and to issue certain new evidences of indebtedness in connection with a pollution control bond refinancing.

Sincerely yours,



Tyson Kamuf, Esq.

TAK/bh

cc: Attorney General Office of Rate Intervention

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PUBLIC SERVICE  
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1 COMMONWEALTH OF KENTUCKY

2 BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

3 In the Matter of:

4 THE APPLICATION OF BIG RIVERS )  
5 ELECTRIC CORPORATION FOR APPROVAL )  
6 TO ISSUE EVIDENCES OF INDEBTEDNESS)

CASE NO. 2009-\_\_\_\_\_

7  
8 **APPLICATION**

9 Big Rivers Electric Corporation ("Big Rivers") submits this application  
10 (this "Application") to the Public Service Commission ("Commission")  
11 seeking approval to supplement or terminate certain existing evidences of  
12 indebtedness and to issue certain new evidences of indebtedness, all in  
13 connection with the refunding by redemption of \$83,300,000 in aggregate  
14 principal amount of the County of Ohio, Kentucky (the "County"), Pollution  
15 Control Refunding Revenue Bonds, Series 2001A (Big Rivers Electric  
16 Corporation Project) Periodic Auction Reset Securities (PARS<sup>sm</sup>) (the "2001A  
17 Bonds")<sup>1</sup> and the issuance by the County of a like principal amount of the  
18 County's Pollution Control Refunding Revenue Bonds, Series 2010A (Big  
19 Rivers Electric Corporation Project) (the "2010A Bonds"). In support of its  
20 Application, Big Rivers states as follows:

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<sup>1</sup> Issuance by Big Rivers of evidences of indebtedness in connection with the 2001A Bonds was authorized by the Commission in an order dated June 18, 2001, in *In the Matter of: Big Rivers Electric Corporation's Application for Approval to Amend and Issue Evidence of Indebtedness*, P.S.C. Case No. 2001-102, a copy of which is attached to this Application as Exhibit 1.



1           1. Big Rivers is a rural electric generating and transmission  
2 cooperative corporation organized under KRS Chapter 279. Its mailing  
3 address is P.O. Box 24, 201 Third Street, Henderson, Kentucky, 42419.

4           2. Big Rivers owns electric generation and transmission facilities,  
5 and purchases, transmits and sells electricity at wholesale. Big Rivers exists  
6 for the principal purpose of providing the wholesale electricity requirements  
7 of its three distribution cooperative members (the "Members"), which are:  
8 Kenergy Corp., Meade County Rural Electric Cooperative Corporation, and  
9 Jackson Purchase Energy Corporation. The Members in turn provide retail  
10 electric service to approximately 112,000 consumer/members located in 22  
11 Western Kentucky counties: Ballard, Breckenridge, Caldwell, Carlisle,  
12 Crittenden, Daviess, Graves, Grayson, Hancock, Hardin, Henderson,  
13 Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Meade,  
14 Muhlenberg, Ohio, Union and Webster.

15                                   Compliance with Filing Requirements

16           3. A table of each statutory and regulatory requirement for this  
17 filing, cross-referenced to the location in this Application where that  
18 requirement is satisfied, is attached hereto as Exhibit 2.

19                                   History

20           4. Big Rivers financed pollution control facilities at its Wilson  
21 Generating Station, in part, with the proceeds from two issues of pollution  
22 control bonds issued by the County for the benefit of Big Rivers. Those

1 issues were (i) the \$58,800,000 Pollution Control Floating Rate Demand  
2 Bonds, Series 1983,<sup>2</sup> and (ii) the \$83,300,000 Variable Rate Demand  
3 Pollution Control Refunding Bonds, Series 1985 (Big Rivers Electric  
4 Corporation Project) (the "1985 Bonds")<sup>3</sup>. The entire outstanding principal  
5 amount of the 1985 Bonds was refunded by redemption in 2001 through the  
6 issuance by the County of the 2001A Bonds.

7           5. The 2001A Bonds, which mature October 1, 2022, are auction  
8 rate securities. Auction rate securities bear interest at interest rates which  
9 are reset periodically through open market "Dutch auctions." With respect  
10 to the 2001A Bonds, investors can seek to liquidate these securities every 28  
11 days. In 2008, as a number of bond insurers began to be downgraded, the  
12 market for auction rate securities experienced difficulties, the market  
13 eventually began to fail on a routine basis and investors could not liquidate  
14 their holdings of these securities. As a result, auction rate securities,  
15 including the 2001A Bonds, were sometimes forced to bear interest at rates  
16 as high as their maximum rates. The maximum rate of interest which the

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<sup>2</sup> See, *In the Matter of: Application of Big Rivers Electric Corporation, P.S.C.*  
Case No. 7990

<sup>3</sup> See, *In the Matter of: Application of Big Rivers Electric Corporation to  
Amend the Order Issued November 13, 1980, in Case No. 7990 By  
Authorizing Big Rivers Electric Corporation's Borrowing of Proceeds of up to  
\$83,300,000 County of Ohio, Kentucky Variable Rate Demand Pollution  
Control Refunding Bonds, Series 1985 (Big Rivers Electric Corporation  
Project), and Execution of Documents Evidencing Such Debt, P.S.C. Case No.  
9448.*

1 2001A Bonds may bear is 18 percent. The par value of the 2001A Bonds  
2 was \$83.3 million, and they were sold at par. The proceeds of the 2001A  
3 Bonds were used to retire the 1985 Bonds in the same amount. The  
4 expenses incurred by Big Rivers to issue the 2001A Bonds were  
5 \$3,323,471.78. Big Rivers' obligations with respect to the 2001A Bonds are  
6 principally evidenced by the note from Big Rivers to the County for the  
7 principal amount of the 2001A Bonds, plus interest (the "2001A Note"). The  
8 2001A Note is attached for informational purposes as Exhibit 3 to this  
9 Application.

#### 10 Proposed Evidences of Indebtedness

11 6. Big Rivers now proposes to refund the 2001A Bonds through  
12 the issuance by the County of the 2010A Bonds. In connection with the  
13 issuance of the 2010A Bonds, the 2001A Bonds will be called for redemption,  
14 the proceeds of the 2010A Bonds will be used to pay the principal of the  
15 2001A Bonds due on the redemption date, and certain funds of Big Rivers  
16 will be used to pay the interest due on the 2001A Bonds through the  
17 redemption date. In connection with the foregoing, Big Rivers seeks to issue  
18 the evidences of indebtedness described in the following paragraphs 7  
19 through 13.

20 7. Big Rivers proposes to issue the Loan Agreement (the "2010  
21 Loan Agreement"), between the County and Big Rivers, pursuant to which  
22 (1) the County will loan Big Rivers the entire principal amount of the 2010A

1 Bonds in order to pay the principal amount of the 2001A Bonds due on the  
2 redemption date and (2) Big Rivers will agree to repay such loan by paying  
3 all debt service on the 2010A Bonds to maturity. The 2010 Loan Agreement  
4 provides for a maturity date for the 2010A Bonds of no later than August 31,  
5 2031, which is the end of the maximum useful life of the pollution control  
6 facilities according to an engineering estimate made in connection with the  
7 issuance of the 2001A Bonds. The interest rate on the 2010A Bonds will be  
8 fixed to maturity at the time the 2010A Bonds are sold. Big Rivers has  
9 chosen Goldman, Sachs & Co. ("Goldman Sachs") as the underwriter for the  
10 2010A Bonds. Based on information provided by Goldman Sachs to Big  
11 Rivers, Goldman Sachs currently estimates that the interest rate on the  
12 2010A Bonds (based on a maturity date of August 31, 2031, and market  
13 conditions existing at the time such estimates were provided) would be in  
14 the range of 6.75% to 7.25% per annum, assuming Big Rivers' credit is  
15 unenhanced. The 2010A Bonds will be subject to an optional call for  
16 redemption after 10 years. A copy of the 2010 Loan Agreement is attached  
17 as Exhibit 4.

18 8. In order to evidence Big Rivers' obligation to repay the loan  
19 made by the County under the 2010 Loan Agreement, Big Rivers will issue  
20 its First Mortgage Note, Series 2010A (the "2010A Note") in the name of the  
21 trustee for the 2010A Bonds, U.S. Bank National Association (the "2010A  
22 Bond Trustee"), in an amount equal to the aggregate principal amount of the

1 2010A Bonds: \$83.3 million. The 2010A Note will have a maturity date,  
2 interest rate and terms which will match those of the 2010A Bonds, and  
3 payments thereon will be used to pay all debt service on the 2010A Bonds.  
4 A copy of the 2010A Note is attached as Exhibit 5.

5           9. The 2010A Note will be issued pursuant to and secured under  
6 the First Supplemental Indenture (the "Supplemental Indenture") to the  
7 Indenture, dated as of July 1, 2009 (the "Indenture") between Big Rivers  
8 and U. S. Bank National Association, as Trustee (the "Indenture Trustee").  
9 A copy of the Supplemental Indenture is attached as Exhibit 6. The  
10 Indenture is attached as Exhibit 7.

11           10. Goldman Sachs has advised Big Rivers that the cost to Big  
12 Rivers of the 2010A Bonds may be reduced if Big Rivers delivers a guaranty  
13 (the "Guaranty") to the 2010A Bond Trustee of the payment of principal of  
14 and interest on the 2010A Bonds when due, that Guaranty being provided by  
15 National Rural Utilities Cooperative Finance Corporation ("CFC")<sup>4</sup>. Based on  
16 the current bond market, Goldman Sachs estimates that the Guaranty could  
17 result in a net present value savings of approximately \$3.3 million over the  
18 life of the 2010A Bonds when compared to pricing the 2010A Bonds based  
19 solely on the credit of Big Rivers. This savings would lower the net effective  
20 interest rate on the 2010A Bonds to a range of 6.4% to 6.9%. This

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<sup>4</sup> CFC is a privately owned, non-governmental organization that provides financial products to its members.

1 arrangement will require Commission authorization for issuance by Big  
2 Rivers of a note and certain agreements, listed below, which are in the  
3 nature of evidences of indebtedness. Big Rivers will use the Guaranty and  
4 enter into the various arrangements described below in connection with the  
5 marketing of the 2010A Bonds if use of the Guaranty results in an economic  
6 benefit in the pricing and interest rate on the 2010A Bonds as determined by  
7 Big Rivers on or about the time when the 2010A Bonds are sold.

8 a. The Reimbursement Agreement (the "Reimbursement  
9 Agreement") between Big Rivers and CFC relating to the Guaranty will  
10 address, among other things, the fees related to the Guaranty and the  
11 repayment obligations of Big Rivers in the event CFC is ever called upon to  
12 make any payments under the Guaranty. The Guaranty will be structured in  
13 a manner similar to traditional municipal bond insurance policies. At least  
14 one business day prior to any payment date of principal and/or interest on  
15 the 2010A Bonds, the 2010A Bond Trustee will notify CFC if there are  
16 insufficient funds available to make the payment due on such date. CFC will  
17 then send to the 2010A Bond Trustee funds in the amount of any such  
18 insufficiency in order to pay bondholders. Upon any such payment, CFC will  
19 become subrogated to the rights of the bondholders, and the amounts of  
20 principal and/or interest due and owing on such date will become obligations  
21 of Big Rivers to CFC, bearing interest at a rate equal to the higher of (1) the  
22 prevailing per annum rate on the 2010A Bonds, and (2) the rate equal to the

1 per annum rate established by CFC as its standard line of credit rate in effect  
2 from time to time. A copy of the Reimbursement Agreement is attached as  
3 Exhibit 8 to this Application. Big Rivers will only issue the Reimbursement  
4 Agreement if use of the Guaranty results in an economic benefit in the  
5 pricing and interest rate on the 2010A Bonds as determined by Big Rivers on  
6 or about the time when the 2010A Bonds are sold.

7                   b. In connection with delivery of the Guaranty, CFC will  
8 require Big Rivers to purchase interest bearing equity certificates in CFC (the  
9 "Equity Certificates") in the amount of \$11,903,570, which is 14.29%  
10 percent of the principal amount of the 2010A Bonds issued by the County  
11 and guaranteed by CFC. The Equity Certificates will amortize on the same  
12 basis and over the same term as the principal required to be repaid on the  
13 2010A Bonds. The Equity Certificates will yield a return to Big Rivers  
14 pursuant to applicable CFC policies.

15                   c. Big Rivers also proposes to enter into an Equity Loan  
16 Agreement with CFC (the "CFC Loan Agreement"), pursuant to which it will  
17 obtain an unsecured term loan from CFC (the "CFC Loan") to purchase the  
18 Equity Certificates. The CFC Loan Agreement is attached as Exhibit 9 to this  
19 Application. The CFC Loan will be evidenced by an unsecured note from Big  
20 Rivers to CFC (the "CFC Note") matching the term of the 2010A Bonds, with  
21 the other terms fixed on the loan advance date at CFC's standard interest  
22 rates and terms for unsecured terms loans then in effect, as described in

1 Section 3 of the CFC Loan Agreement. The CFC Note form is attached as  
2 Exhibit A to the CFC Loan Agreement. The interest rate applicable if the  
3 advance date were November 11, 2009, would be in the range of 7.0 to  
4 7.5% per annum. Big Rivers will only issue the CFC Loan Agreement and  
5 the CFC Note if use of the Guaranty results in an economic benefit in the  
6 pricing and interest rate on the 2010A Bonds as determined by Big Rivers on  
7 or about the time when the 2010A Bonds are sold.

8 d. The costs of the CFC Guaranty for which Big Rivers is  
9 responsible accumulate from a variety of sources, and are offset by certain  
10 benefits. First, under Section 2.02(a) of the Reimbursement Agreement, Big  
11 Rivers will owe an annual, non-refundable guaranty fee equal to 0.35% of  
12 the aggregate principal amount of the 2010A Bonds outstanding. At a level  
13 of \$83.3 million, the annual fee would be \$291,550. Next, Big Rivers will  
14 owe interest on the principal balance of the CFC Note, at the applicable rate.  
15 These costs will be mitigated by interest earned on the Equity Certificates.  
16 Big Rivers estimates that the net of interest paid on the CFC Note and  
17 interest earned on the Equity Certificates will be an estimated annual cost to  
18 Big Rivers of 0.16% of the aggregate principal amount of the 2010A Bonds  
19 outstanding, or \$133,280. The total estimated annual cost to Big Rivers of  
20 the Guaranty is accordingly \$424,830. This annual cost is offset by the  
21 estimated annual interest rate savings benefit of \$708,050 (0.85% of \$83.3  
22 million), resulting in an estimated annual benefit of \$283,220.



1 e. In addition, Big Rivers will incur a one-time expense  
2 estimated at \$105,000 to cover CFC's expenses associated with  
3 documenting and approving the Guaranty arrangements, whether or not Big  
4 Rivers finally determines to implement the Guaranty. Big Rivers will not  
5 elect to use the Guaranty arrangements unless the present value cost to Big  
6 Rivers of the 2010A Bonds with the Guaranty is less than the present value  
7 cost to Big Rivers of the 2010A Bonds to Big Rivers without the Guaranty  
8 arrangements. A final commitment from CFC on the Guaranty arrangements  
9 has not been obtained at this time.

10 11. Big Rivers further proposes to enter into the "Escrow  
11 Deposit Agreement" among the trustee for the 2001A bonds, Big Rivers and  
12 the County, a copy of which is attached as Exhibit 10 to this Application.  
13 The Escrow Deposit Agreement provides for the deposit of the proceeds of  
14 the 2010A Bonds and certain funds of Big Rivers in order to provide for  
15 payment of the redemption price of the 2001A Bonds, and interest on the  
16 2001A Bonds to the redemption date.

17 12. Big Rivers further proposes to enter into the "Continuing  
18 Disclosure Agreement" between Big Rivers and the 2010A Bond Trustee, a  
19 copy of which is attached as Exhibit 11 to this Application, which provides  
20 that Big Rivers will undertake to provide certain periodic and material  
21 information for use by the holders of the 2010A Bonds, and in the secondary  
22 bond market.

1           13. Big Rivers further proposes to deliver to Goldman Sachs  
2 the "Letter of Representations," a copy of which is attached as Exhibit 12 to  
3 this Application. In the Letter of Representations, Big Rivers will agree to  
4 pay certain costs and expenses in connection with the issuance of the 2010A  
5 Bonds, and will agree to indemnify Goldman Sachs for losses in connection  
6 with certain matters under the Securities Act of 1933, as amended.

7                           Other Documents Filed for Information Purposes

8           14. Several other agreements will be entered into in  
9 connection with the issuance of the 2010A Bonds. While these agreements  
10 are not evidences of indebtedness of Big Rivers, and do not require approval  
11 of the Commission, the documents listed below are provided for  
12 informational purposes:

13                   a. The County and the 2010A Bond Trustee will enter into the  
14 Trust Indenture (the "Trust Indenture"), attached as Exhibit 13 to this  
15 Application, which sets forth the terms and conditions of the 2010A Bonds.  
16 Big Rivers is not a party to this document.

17                   b. Goldman Sachs and the County will enter into the "Bond  
18 Purchase Contract," pursuant to which Goldman Sachs agrees to buy the  
19 2010A Bonds from the County. The Letter of Representation, for which  
20 Commission approval is sought, is Appendix A to the Bond Purchase  
21 Contract. A copy of the Bond Purchase Contract is attached as Exhibit 14 to  
22 this Application.

1           15. The up-front cost to Big Rivers in connection with the  
2 refunding of the 2001A Bonds and the issuance of the 2010A Bonds is  
3 estimated to be \$1,635,000 million.

4           Advantages to Big Rivers of Issuance of 2010A Bonds

5           16. Big Rivers seeks refunding of the 2001A Bonds principally to  
6 eliminate the exposure of Big Rivers to uncertain costs of debt service on the  
7 2001A Bonds resulting from the general turmoil in the world financial  
8 markets, and the specific uncertainties associated with the auction rate  
9 securities market.

10           17. Big Rivers has desired to refund the 2001A Bonds for some  
11 time to reduce the costs and risks of that debt. But Big Rivers' financial  
12 condition prior to the closing on July 16, 2009, of the "unwind transaction,"  
13 approved by the Commission in P.S.C. Case No. 2007-00455<sup>5</sup>, made it  
14 virtually impossible for Big Rivers to do so. With the closing of the unwind  
15 transaction, however, Big Rivers has obtained three investment-grade credit  
16 ratings and is considered a strong credit.

17           18. The refunding of the 2001A Bonds and issuance of the  
18 2010A Bonds with no credit support from Ambac will also eliminate the  
19 exposure Big Rivers had to Ambac for certain fees as set out in the letter

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<sup>5</sup> See order dated March 6, 2009, *In the Matter of: Joint Application of Big Rivers, E.ON, LG&E Energy Marketing, Inc., and Western Kentucky Energy Corporation for Approval to Unwind Lease and Power Purchase Transactions*, PSC Case No. 2007-00455.

1 agreement between Big Rivers and Ambac dated July 16, 2009<sup>6</sup>, that was  
2 required by Ambac as consideration for its consent to the unwind  
3 transaction. The commitments made by Big Rivers in the letter to Ambac  
4 were consistent with Big Rivers' pre-existing plans to seek a refunding of the  
5 2001A Bonds, in any event. A copy of that letter is attached as Exhibit 15.

6           19. Big Rivers is seeking a refunding of the 2001A Bonds to  
7 reduce the risks and potential excess costs to it and its Members of  
8 remaining in the current financing structure. The 2001A Bonds are "auction  
9 rate securities." The rates on the 2001A Bonds are reset by auction every  
10 28 days. If the 2001A Bonds do not sell, Big Rivers is required to pay the  
11 holders of the 2001A Bonds the maximum rate of 18% until the 2001A  
12 Bonds sell on a subsequent auction date. The upheaval in the financial  
13 markets that worsened in 2008 caused investors to shy away from auction  
14 rate securities, which dramatically and adversely affected the rates on the  
15 2001A Bonds. As a number of bond insurers began to be downgraded, the  
16 market for auction rate securities experienced difficulties and eventually  
17 began to fail on a routine basis. As a result, auction rate securities,  
18 including the 2001A Bonds, were sometimes forced to bear interest at rates  
19 as high as their maximum rates. As shown on the chart attached as Exhibit  
20 16 to this Application, Big Rivers paid interest on the 2001A Bonds at an  
21 average rate of 8.95% during 2008, and 11.74% during 2009 (through the

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<sup>6</sup> The July 16, 2009 letter from Big Rivers to Ambac was also filed with the Commission in Case No. 2007-00455 on July 14, 2009.

1 October auction), including rates at or near the maximum rate of 18% for  
2 seven months of 2009.

3           20. Big Rivers takes little comfort from the fact that the  
4 auction rates on the 2001A Bonds during September and October of this  
5 year have returned to a relatively low rate. The size of the auction rate  
6 security market in which the 2001A Bonds are sold has declined by 80%  
7 from its peak in 2008, as is shown on Exhibit 17 to this Application. With  
8 current interest rates for investments being low, Big Rivers believes the  
9 declining number of investors still interested in auction rate securities are  
10 purchasing those bonds because they know they can either liquidate their  
11 investments in 28 days, or receive the maximum interest rate of 18% on  
12 their investments until the bonds do sell.

13           21. Because the 2001A Bonds are exposed to the market  
14 every 28 days, any adverse credit event affecting Big Rivers can be reflected  
15 almost immediately in the interest rates on the 2001A Bonds. Ambac's  
16 credit support no longer has value<sup>7</sup>, and will not mitigate any adverse credit  
17 event. While Big Rivers currently enjoys investment grade ratings from  
18 three ratings agencies, those ratings can be negatively affected by factors  
19 beyond Big Rivers' control such as environmental legislation, load reduction

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<sup>7</sup> Ambac Assurance Corporation ("Ambac"), the bond insurer for the 2001A Bonds, has been downgraded a number of times since mid-2008. On June 19, 2009, Moody's Investor's Services ("Moody's") downgraded Ambac to "Aa3." Most recently, on July 29, 2009, Moody's downgraded Ambac to "Caa2."

1 or notice of closure by an aluminum smelter on the Big Rivers system and  
2 the continuing depressed state of the wholesale power market, on which Big  
3 Rivers currently relies for most of its margins.

4           22. Each 1% change in the interest rate on the 2001A Bonds  
5 costs Big Rivers \$833,000 on an annual basis. With currently-projected  
6 margins of \$6.20 million for 2010, and \$4.79 million for 2011, Big Rivers  
7 cannot prudently risk a fluctuation in rates that would damage or eliminate  
8 its admittedly thin margins and its ability to meet the margins for interest  
9 ratio requirement in the Indenture.<sup>8</sup>

10           23. The considerations that make Big Rivers seek to refund the  
11 2001A Bonds auction rate securities also support Big Rivers' decision to  
12 eliminate market interest rate exposure by seeking fixed rates for the 2010A  
13 Bonds. Variable rate bonds, one alternative considered by Big Rivers, would  
14 expose Big Rivers to market interest rates every 6 to 12 months, and  
15 require bank credit support that Big Rivers has been unable to find on  
16 acceptable terms. The option of "put bonds," which allow the investor to  
17 require repurchase of the bonds by Big Rivers after a fixed period, does not  
18 offer projected interest rate savings that would offset the risk Big Rivers  
19 sees in refinancing. For example, assuming all other factors being the same  
20 as exist today, Goldman Sachs forecasts the range of rates for repricing

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<sup>8</sup> Big Rivers' Indenture, attached as Exhibit 7 to this Application, provides in Section 13.14 that Big Rivers must maintain a margins for interest ratio of 1.10.

1 (unenhanced) put bonds in three years at 5.75%-6.25%; in four years at  
2 5.875%-6.375%; and in five years at 6.0%-6.5%. Put bonds do not  
3 eliminate Big Rivers' concern about exposure to market interest rate  
4 volatility, because the actual rates for repricing can obviously increase if  
5 unanticipated events have an adverse impact on the credit markets.

6           24. Both variable rate and put bonds would potentially have  
7 Big Rivers in the finance markets with its pollution control debt at the same  
8 time it has other debt to sell. Big Rivers is required by the Maximum  
9 Allowed Balance provisions in its Series A Note to the Rural Utilities Service  
10 ("RUS"), attached as Exhibit 18 to this Application, to refinance \$60 million  
11 by October 1, 2012, and an additional \$200 million by the first business day  
12 in 2016. Big Rivers believes it would be a disadvantage to increase its  
13 market interest rate exposure during that period with the refinancing or  
14 repricing of \$83.3 of its pollution control debt.

15           25. The maturity date of the 2010A Bonds can be as late as  
16 August 31, 2031, compared with the maturity date of October 1, 2022, for  
17 the 2001A Bonds. This gives Big Rivers the opportunity to avoid having to  
18 refinance the 2001A Bonds in late 2022, approximately one year before the  
19 December 31, 2023, due date of the RUS 2009 Promissory Note Series B in  
20 the amount of approximately \$243 million.

21  
22

1 *Two Agreements*, PSC Case No. 2005-00532, and are incorporated by  
2 reference.

3           29. The relief sought by Big Rivers in this Application is  
4 authorized by KRS 278.300, and related sections, and 807 KAR 5:001,  
5 Section 11, and related sections.

6           30. A general description of Big Rivers' property and the field  
7 of its operation, together with a statement of the original cost of the same  
8 and the cost to Big Rivers are attached as Exhibit 19.

9           31. Big Rivers will issue no stock or bonds in connection with  
10 the issuances of indebtedness described in this Application.

11           32. None of the proceeds from the issuances of evidence of  
12 indebtedness will be used to acquire property, construct, complete, extend,  
13 or improve facilities, or improve or maintain service; and Big Rivers has not  
14 entered into any contracts for the acquisition, construction, extension or  
15 improvement of property or facilities.

16           33. A financial exhibit is attached hereto as Exhibit 20.

17           34. This Application is signed on behalf of Big Rivers by C.  
18 William Blackburn, its Chief Financial Officer and Senior Vice President,  
19 Financial and Energy Services. It has been prepared by or under his  
20 supervision, and he has knowledge of the matters stated herein.

21           WHEREFORE, Big Rivers respectfully requests that the Commission  
22 make orders granting Big Rivers the following relief:




1 a. Authority pursuant to issue the evidences of indebtedness  
2 attached as Exhibits 4, 5, 6, 8, 9, 10, 11 and 12 to this Application;

3 b. A finding pursuant to KRS 278.300(3) that the proposed  
4 issuance by Big Rivers of these evidences of indebtedness is for a lawful  
5 object within the corporate purposes of the utility, is necessary or appropriate  
6 for or consistent with the proper performance by the utility of its service to  
7 the public and will not impair its ability to perform that service, and is  
8 reasonably necessary and appropriate for such purpose; and

9 c. All other relief to which Big Rivers may appear to be  
10 entitled.


11 Respectfully submitted,  
12  
13 Sullivan, Mountjoy, Stainback & Miller,  
14 PSC

15  
16  
17 By:   
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24  
25 Counsel for Big Rivers Electric  
26 Corporation  
27

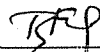
**VERIFICATION**

I, C. William Blackburn, Chief Financial Officer and Senior Vice President, Financial and Energy Services, for Big Rivers Electric Corporation, hereby state that I have read the foregoing Application and that the statements contained therein are true and correct to the best of my knowledge and belief, on this the 11<sup>th</sup> day of November, 2009.

  
C. William Blackburn  
Chief Financial Officer and Senior Vice  
President, Financial and Energy  
Services  
Big Rivers Electric Corporation

COMMONWEALTH OF KENTUCKY)  
COUNTY OF HENDERSON )

The foregoing verification statement was SUBSCRIBED AND SWORN to before me by C. William Blackburn, as Chief Financial Officer and Senior Vice President, Financial and Energy Services, for Big Rivers Electric Corporation, on this the 11<sup>th</sup> day of November, 2009.

  
Notary Public, Ky., State at Large  
My commission expires: 2/21/2010



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<u>Exhibit</u>	<u>Document</u>
1	Order dated June 18, 2001, in <i>In the Matter of: Big Rivers Electric Corporation's Application for Approval to Amend and Issue Evidence of Indebtedness</i> , P.S.C. Case No. 2001-102
2	Table of References for Compliance with Statutory and Regulatory Filing Requirements
3	July 16, 2009 Big Rivers Electric Corporation PCB Series 2001A Note
4	Loan Agreement between County of Ohio, Kentucky, and Big Rivers Electric Corporation
5	Big Rivers Electric Corporation First Mortgage Note, Series 2010A Note
6	First Supplemental Indenture (to that certain Indenture dated as of July 1, 2009) dated as of ____, 2010, from Big Rivers Electric Corporation to U.S. Bank National Association, Trustee
7	Indenture dated as of July 1, 2009, from Big Rivers Electric Corporation to U.S. Bank National Association, Trustee, First Mortgage Obligations
8	Reimbursement Agreement between National Rural Utilities Cooperative Finance Corporation and Big Rivers Electric Corporation
9	Equity Loan Agreement between Big Rivers Electric Corporation and National Rural Utilities Cooperative Finance Corporation (including Note)
10	Escrow Deposit Agreement among County of Ohio, Kentucky, U.S. Bank National Association, as Trustee and Escrow Deposit Trustee and Big Rivers Electric Corporation
11	Continuing Disclosure Agreement

- 12 Letter of Representation from Big Rivers Electric Corporation to Fiscal Court of the County of Ohio and Goldman, Sachs & Co.
- 13 Trust Indenture between County of Ohio, Kentucky and U.S. Bank National Association, as Trustee dated as of \_\_\_\_\_, 2010 Authorizing \$83,300,000 COUNTY OF OHIO, KENTUCKY Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)
- 14 Bond Purchase Contract between Goldman, Sachs & Co. and Fiscal Court of Ohio County
- 15 Letter dated July 16, 2009, from Mark A. Bailey, Big Rivers Electric Corporation, to Michael T. Saggas, Ambac Assurance Corporation
- 16 Table of 2001A Bonds Interest Rate History
- 17 Size of the Tax-Exempt Municipal ARS Market-Chart
- 18 July 16, 2009 RUS 2009 Promissory Note Series A
- 19 General Description of Applicant's Property
- 20 Financial Exhibit



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION'S	)	
APPLICATION FOR APPROVAL TO AMEND AND	)	CASE NO.
ISSUE EVIDENCES OF INDEBTEDNESS	)	2001-102

O R D E R

On June 6, 2001, Big Rivers Electric Corporation ("Big Rivers") filed its application<sup>1</sup> requesting approval to issue new evidences of indebtedness in connection with the refunding of its \$83.3 million Variable Rate Demand Pollution Control Refunding Bonds, Series 1985 ("1985 Series Bonds")<sup>2</sup> and to amend existing evidences of indebtedness previously approved by the Commission in Case No. 2000-486.<sup>3</sup> By refunding the 1985 Series Bonds, Big Rivers will:

- 1) Eliminate the \$5.0 million annual mandatory sinking fund installments commencing on October 1, 2001;

---

<sup>1</sup> Big Rivers submitted its application to the Commission on April 19, 2001; however, the application was found to be deficient. Big Rivers corrected the deficiencies and the application was declared filed as of June 6, 2001.

<sup>2</sup> The 1985 Series Bonds are one of two pollution control bond issues sold by the County of Ohio, Kentucky, to finance pollution control facilities at Big Rivers' D. B. Wilson Generating Station. The other pollution control bond issue is identified as the \$58.8 million Pollution Control Floating Rate Demand Bonds, Series 1983 ("1983 Series Bonds").

<sup>3</sup> Case No. 2000-486, Big Rivers Electric Corporation's Application for Approval to Amend Evidences of Indebtedness, final Orders dated November 28, 2000 and December 21, 2000.

- 2) Extend the maturity date of its obligations on the 1985 Series Bonds from October 1, 2015 to October 1, 2022; and
- 3) Use cash made available by the deferral of the principal payments on the 1985 Series Bonds to accelerate the amortization of the 5.75 percent New Rural Utilities Service ("RUS") Note.<sup>4</sup>

Big Rivers has estimated that the refunding of the 1985 Series Bonds and the selling of the 2001A Series Bonds will result in a net nominal benefit to it, through October 1, 2022, of \$15.9 million. The accelerated amortization of the 5.75 percent New RUS Note is expected to have a present value benefit to Big Rivers of \$5.7 million. The costs of the proposed transaction are estimated by Big Rivers to be \$3.6 million.<sup>5</sup>

Big Rivers proposes to refund the 1985 Series Bonds through the issuance of Pollution Control Refunding Revenue Bonds, Series 2001A -- Big Rivers Electric Corporation Project ("2001A Series Bonds"), Periodic Auction Reset Securities ("PARS") by Ohio County, Kentucky. The 1985 Series Bonds will be called for redemption, and the proceeds of the 2001A Series Bonds will be used to pay the principal amount of the 1985 Series Bonds due on the redemption date. The principal amount of the 2001A Series Bonds will be \$83.3 million, the same as that of the 1985 Series Bonds. Big Rivers will utilize its own funds to pay the interest due on the 1985 Series Bonds through the redemption date.

---

<sup>4</sup> Specifically, the cash made available by the elimination of the \$5.0 million annual mandatory sinking fund installments on the 1985 Series Bonds will be used to accelerate the amortization of the 5.75 percent New RUS Note. See Supplemental Filing of Big Rivers filed June 13, 2001 at 2.

<sup>5</sup> Application at 8.



The 2001A Series Bonds are to be issued under a Trust Indenture ("Indenture") between Ohio County and U. S. Bank Trust National Association ("U. S. Bank Trust"). The 2001A Series Bonds will bear variable rates of interest set from time to time through open market auctions conducted in accordance with procedures set forth in the Indenture. The procedures set forth in the Indenture are typical for PARS, and the Indenture provides that the maximum interest rate will not exceed 18 percent. Bankers Trust Company ("Bankers Trust") will conduct each periodic auction as auction agent for the 2001A Series Bonds, and Goldman, Sachs & Company ("Goldman Sachs") will act as the broker-dealer. Payment of principal and interest on the 2001A Series Bonds when due will be guaranteed by a financial guaranty insurance policy issued by Ambac Assurance Corporation ("Ambac").

Ohio County will loan the proceeds of the 2001A Series Bonds to Big Rivers pursuant to a Financing and Loan Agreement. To evidence its obligations under this agreement, Big Rivers will execute a mortgage note ("2001 Note") which will obligate Big Rivers to pay all principal and interest on the 2001A Series Bonds when due. To successfully market the 2001A Series Bonds, Big Rivers has been advised that these bonds must have a rating from a nationally recognized rating agency. In order to obtain this rating, Big Rivers has been advised by a rating agency that the 2001 Note must be secured under Big Rivers' mortgage. Accordingly, the Third Restated Mortgage and Security Agreement ("Third Restated Mortgage") has been drafted to include U. S. Bank Trust, the trustee for the 2001A Series Bonds, as a secured party. The 2001 Note, providing for Big Rivers' payment of the 2001A Series Bonds, is also secured under the Third Restated Mortgage. As the 1985 Series Bonds will be paid off by the 2001A

Series Bonds, Ambac and Credit Suisse First Boston ("Credit Suisse"), the liquidity provider for the 1985 Series Bonds, will be removed from the Third Restated Mortgage.<sup>6</sup>

The proposed refunding of the 1985 Series Bonds and selling of the 2001A Series Bonds will require amendments to certain existing evidences of indebtedness previously approved by the Commission, as well as Commission approval of new evidences of indebtedness. The affected documents are:

1. Third Restated Mortgage – Replaces the Second Restated Mortgage and Security Agreement. Revisions acknowledge the replacement of the 1985 Series Bonds by the 2001A Series Bonds; deletes the secured status of Ambac and Credit Suisse in connection with the 1985 Series Bonds; adds U. S. Bank Trust as a secured party relative to its association with the 2001A Series Bonds; and adds references to the Financing and Loan Agreement.
2. Third Amended and Restated Subordination, Nondisturbance, Attornment, and Intercreditor Agreement ("Third Amended Nondisturbance Agreement") – Replaces the Second Amended and Restated Subordination, Nondisturbance, Attornment, and Intercreditor Agreement; recognizes the Third Restated Mortgage; reflects the replacement of the 1985 Series Bonds with the 2001A Series Bonds; and reflects the establishment of the Financing and Loan Agreement.
3. Financing and Loan Agreement – New document governing the borrowing of \$83.3 million from Ohio County by Big Rivers relating to the 2001A Series Bonds.
4. 2001 Note – Exhibit A to the Financing and Loan Agreement – New document evidencing the borrowing of \$83.3 million from Ohio County by Big Rivers from the issuance of the 2001A Series Bonds.
5. Indemnification Agreement – Amended to reflect the establishment of the Third Restated Mortgage and the Third Amended Nondisturbance Agreement.

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<sup>6</sup> Ambac and Credit Suisse are also secured parties with respect to the 1983 Series Bonds. Ambac and Credit Suisse retain their positions in the Third Restated Mortgage relative to the 1983 Series Bonds.

6. Broker-Dealer Agreement – New document between Bankers Trust, Goldman Sachs, and Big Rivers establishing the auction procedures for the 2001A Series Bonds and the duties and responsibilities of Bankers Trust as auction agent.
7. Second Agreement to Amend Promissory Note – New document between RUS and Big Rivers; reflects Big Rivers' agreement to pay to RUS as permanent prepayments on the 5.75 percent New RUS Note amounts equal to the annual mandatory sinking fund installments previously required under the 1985 Series Bonds; recognizes the Third Restated Mortgage; reflects the impact of the permanent prepayments on the amortization schedule for the 5.75 percent New RUS Note; and includes the revised amortization schedule.

Based on the evidence of record and being otherwise advised, the Commission finds that the proposal to refund the 1985 Series Bonds with the proceeds from the sale of the 2001A Series Bonds is reasonable and should be approved. The extension of the maturity date on the 1985 Series Bonds by 7 years and the acceleration of the amortization of the 5.75 percent New RUS Note will provide an ongoing benefit to Big Rivers, its member cooperatives, and their ratepayers. The Commission further finds that the revisions to the existing Big Rivers' evidences of indebtedness and the new evidences of indebtedness required by the refunding transaction, as filed, are reasonable and should be approved.

The Commission's approval of the various evidences of indebtedness is based upon the substance of the documents as filed by Big Rivers in its supplemental filing of June 13, 2001. Big Rivers believes the version of those documents contained in that filing reflects all the comments and corrections required by its creditors.<sup>7</sup> However, should these documents undergo further revision, Big Rivers must file the changes with

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<sup>7</sup> Supplemental Filing of Big Rivers filed June 13, 2001 at 1.

the Commission for review and possible modification of this Order. In the event such revisions occur, Big Rivers should provide the Commission with the revised form of the documents, with each revision clearly referenced and explained. Any further revisions should be provided to the Commission in a timely manner, reflecting changes agreed to by all the parties.

IT IS THEREFORE ORDERED that:

1. Big Rivers is authorized to refund the 1985 Series Bonds in the manner set forth in its application.

2. The Third Restated Mortgage, Third Amended Nondisturbance Agreement, and the amended Indemnification Agreement, as filed with and described in the June 13, 2001 Supplemental Filing, are approved.

3. The Financing and Loan Agreement, the 2001 Note, the Broker-Dealer Agreement, and the Second Agreement to Amend Promissory Note including the revised amortization schedule for the 5.75 percent New RUS Note, as filed with and described in the June 13, 2001 Supplement Filing, are approved.

4. In the event that any further revisions are made to the evidences of indebtedness approved herein, Big Rivers shall file the revised documents within 7 days of obtaining concurrence by all parties and shall reference each revision and include an explanation for each.

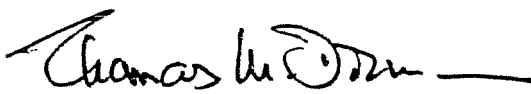
5. Big Rivers shall notify the Commission in writing within 15 days of its completion of the refunding of the 1985 Series Bonds.

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

Done at Frankfort, Kentucky, this 18th day of June, 2001.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas W. O'Brien", followed by a horizontal line.

Executive Director



<b>REFERENCES FOR COMPLIANCE WITH STATUTORY AND REGULATORY FILING REQUIREMENTS</b>		
<u>Law/Regulation</u>	<u>Filing Requirement</u>	<u>Location in Application</u>
<b>IN GENERAL</b>		
807 KAR 5:001 Section 8(1)	The full name and post office address of the Applicant	page 1; ¶ 1
807 KAR 5:001 Section 8(1)	A request for the order, authorization, permission or certificate desired	page 19
807 KAR 5:001 Section 8(1)	A reference to the particular provision of law authorizing the relief requested	¶ 29
807 KAR 5:001 Section 8(2)	An original and 10 copies of the application with an additional copy for any party named therein as an interested party	original and 10 copies provided
807 KAR 5:001 Section 8(3)	The Articles of Incorporation for the Applicant, or reference to case in which they were filed	¶ 28
KRS 278.300(2)	Application made under oath, signed on behalf of the utility by its president, or other designated executive officer	page 20; ¶ 34
<b>APPROVAL TO ISSUE EVIDENCES OF INDEBTEDNESS</b>		
807 KAR 5:001 Section 11(1)(a)	A general description of applicant's property and the field of its operation, together with a statement of the original cost of the same and the cost to the applicant	Exhibit 19
807 KAR 5:001 Section 11(1)(b)	The amount and kinds of stock to be issued, and, if preferred, the nature and extent of the preference; the amount of notes, bonds or other evidences of indebtedness, to be issued, with terms, rate of interest and whether and how to be secured	¶¶ 6-13, 31; Exhibits 4-6, 8-12
807 KAR 5:001 Section 11(1)(c)	The use to be made of the proceeds of the issue, with a statement indicating how much is to be used for the acquisition of property, the construction, completion, extension or improvement of facilities, the improvement of service, the maintenance of service and the discharge or refunding obligations	¶¶ 5-6, 32
807 KAR 5:001 Section 11(1)(d)	A detailed description of the property to be acquired, constructed, improved or extended as well as the cost, with a statement indicating whether any contracts for the acquisition, construction, extension or improvement of property or facilities, or any contracts for the disposition of any of the securities have been	N/A; see ¶ 32

	made; and copies of any such contracts	
807 KAR 5:001 Section 11(1)(e)	If the proceeds are proposed to discharge or refund obligations, a statement of the nature and description of such obligations including their par value, the amount for which they were actually sold, the expenses associated therewith, and the application of the proceeds from such sales. If notes are to be refunded, a statement showing the date, amount, time, rate of interest, and the payee of each and the purpose for which their proceeds were expended	¶¶ 4-6
807 KAR 5:001 Section 11(1)(f)	Such other facts as may be pertinent to the application	pages 1-19; Exhibits 1-20
807 KAR 5:001 Section 11(2)(a)	Financial exhibit	See below
807 KAR 5:001 Section 11(2)(b)	Copies of trust deeds or mortgages, or reference to case in which they were filed	Exhibit 7 (the Indenture is the only trust deed or mortgage)
807 KAR 5:001 Section 11(2)(c)	Maps and plans of the proposed property and construction together with detailed estimates arranged according to the uniform system of accounts	N/A; see ¶ 32
807 KAR 5:001 Section 6	Financial exhibit -Amount and kinds of stock authorized -Amount and kinds of stock issued and outstanding -Terms of preference of preferred stock -Brief description of each existing mortgage of property -Amount of bonds authorized and amount issued giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year - Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year -Other indebtedness giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been	Exhibit 20



	<p>transferred, together with amount of interest paid thereon during the last fiscal year</p> <ul style="list-style-type: none"><li>- Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year</li><li>- Detailed income statement and balance sheet which cover operations for a twelve month period, said period ending not more than 90 days prior to the date the Application is filed.</li></ul>	
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COPY

**THIS NOTE IS NONTRANSFERABLE EXCEPT AS MAY BE  
REQUIRED TO EFFECT THE ASSIGNMENT TO THE TRUSTEE  
UNDER THE TRUST INDENTURE DATED AS OF  
AUGUST 1, 2001 BETWEEN U.S. BANK TRUST NATIONAL ASSOCIATION,  
AS TRUSTEE, AND THE TRANSFER TO ANY SUCCESSOR TRUSTEE  
THEREUNDER.**

**BIG RIVERS ELECTRIC CORPORATION PCB SERIES 2001A NOTE**

**BIG RIVERS ELECTRIC CORPORATION**, a nonprofit rural electric cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky ("Big Rivers"), for value received and in consideration of the issuance by the County of Ohio, Kentucky, (the "County") of \$83,300,000 in aggregate principal amount of the County's Pollution Control Refunding Revenue Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the "Bonds"), promises to pay to the **COUNTY OF OHIO, KENTUCKY** (the "County") for endorsement to U.S. Bank Trust National Association, as Trustee (the "Bond Trustee"), under the Trust Indenture dated as of August 1, 2001 (the "Bond Indenture"), between the County and said Bond Trustee, or its successor in trust, the principal sum of \$83,300,000, together with interest thereon as provided in this Note.

This Note is issued under and subject to the Financing And Loan Agreement dated as of August 1, 2001 between the County and Big Rivers (the "Agreement") and is secured by that certain Indenture, dated as of July 1, 2009 (the "Indenture"), made by and between Big Rivers and U.S. Bank National Association. Under the Agreement, the County has loaned Big Rivers the proceeds received from the sale of the Bonds for the purposes specified in the Agreement. Big Rivers has agreed to repay such loan by making payments at the times and in the amounts set forth in this Note for application to the payment of the principal of and interest on the Bonds as and when due, computed and payable in accordance with the terms of the Bond Indenture. The Bonds and this Note mature on October 1, 2022.

To provide funds to pay the principal of and interest on the Bonds as and when due, Big Rivers hereby agrees to and shall make payments by 11:00 a.m. (Bond Trustee principal corporate trust office time) on each Note Payment Date in an amount equal to the principal of and interest due on the Bonds on such Note Payment Date.

All payments required pursuant hereto shall be made to the Bond Trustee at its principal corporate trust office in St. Paul, Minnesota, in lawful money of the United States of America. As set forth in Section 5.7 of the Agreement, the obligations of Big Rivers to make the payments required here under shall be absolute and unconditional. To the extent permitted by law, interest on any overdue payment required hereby shall be paid at the rate of interest per annum from time to time borne by the Bonds.

COPY

This Note may and shall be prepaid upon the terms and conditions set forth in Article IX of the Agreement.

Big Rivers shall be entitled to credits against payments required hereby as provided in Section 5.2 of the Agreement and payments so credited shall, to the extent made, satisfy the payment obligations of Big Rivers required by this Note.

If the Bond Trustee shall accelerate payment on the Bonds for any reason, the principal of this Note shall become due and payable in the same amount as the corresponding accelerated payment on the Bonds. Such accelerated payment on this Note shall be due and payable by 11:00 a.m. (Bond Trustee principal corporate trust office time) on the day on which corresponding payments on the Bonds shall be due. The Agreement provides that, under certain conditions, the acceleration of the Bonds may be rescinded by the Bond Trustee with the result that the acceleration of this Note will be rescinded.

No recourse shall be had for the payments required hereby or for any claim based hereon or on the Agreement or the Indenture against any officer, director or stockholder, past, present or future, of Big Rivers.

If any date for making any payment on this Note shall not be a Business Day, any payment due on such date shall be made on the next succeeding Business Day with the same force and effect as if made on the nominal date provided in this Note, and no interest shall accrue for the period after such nominal date.

COPY

All terms used in this Note which are not defined herein shall have the meanings assigned to them in the Agreement.

**IN WITNESS WHEREOF**, Big Rivers has caused this Note to be duly executed, attested and delivered on the 16<sup>th</sup> day of July, 2009.

**BIG RIVERS ELECTRIC CORPORATION**

By: Mark A. Bosley  
President and Chief Executive Officer

Attest:

\_\_\_\_\_  
Secretary-Treasurer

**ENDORSEMENT**

Pay to the order of U.S. Bank Trust National Association, as Trustee under the Trust Indenture dated as of August 1, 2001 with the County of Ohio, Kentucky, without recourse against the County of Ohio, Kentucky.

**COUNTY OF OHIO, KENTUCKY**

By: David Jones  
County Judge/Executive

Attest:

Bess J. Ralph  
County Court Clerk

COPY

This is one of the Existing Obligations referred to in the Indenture, dated as of July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

U.S. Bank National Association  
as Trustee  
By: [Signature]  
Authorized Signatory



**LOAN AGREEMENT**

**Between**

**COUNTY OF OHIO, KENTUCKY**

**and**

**BIG RIVERS ELECTRIC CORPORATION**

**Dated as of [\_\_\_\_], 2010**

**Relating to**

**\$83,300,000**

**COUNTY OF OHIO, KENTUCKY  
Pollution Control Refunding Revenue Bonds, Series 2010A  
(Big Rivers Electric Corporation Project)**

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## LOAN AGREEMENT

This **LOAN AGREEMENT** (this "Agreement"), dated as of [\_\_\_\_], 2010, between **COUNTY OF OHIO, KENTUCKY**, a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky (together with any successor to its duties and functions, the "County") acting by and through its Fiscal Court which is the governing body of the County, and **BIG RIVERS ELECTRIC CORPORATION**, a nonprofit rural electric cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky ("Big Rivers"),

### WITNESSETH:

**WHEREAS**, the County is a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky and is authorized and empowered by law, including particularly the provisions of the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended (such Act, and collectively with all future acts supplemental thereto or amendatory thereof, the "Act"), to issue bonds and loan the proceeds thereof to a rural electric cooperative corporation to refund bonds previously issued by the County to finance the acquisition of pollution control facilities; and

**WHEREAS**, by a resolution adopted by the Fiscal Court of the County on September 9, 1980, the County agreed to finance the Facilities for Big Rivers; and

**WHEREAS**, the County initially financed the Facilities by issuing the 1982 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to pay a portion of the costs of the Facilities; and

**WHEREAS**, the County financed the refunding of the 1982 Bonds by issuing the 1985 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to retire the 1982 Bonds; and

**WHEREAS**, the County financed the refunding of the 1985 Bonds by issuing the 2001 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to retire the 1985 Bonds; and

**WHEREAS**, Big Rivers has requested the County to issue \$83,300,000 aggregate principal amount of its "Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)" (the "Bonds") and to loan the proceeds thereof to Big Rivers for the purpose of providing funds to refund by redemption the 2001 Bonds; and

**WHEREAS**, the County and Big Rivers propose that the County so refund the 2001 Bonds by depositing into escrow the proceeds of the Bonds and certain other funds provided by Big Rivers in sufficient amounts to effect such refunding by redemption of the 2001 Bonds [on [\_\_\_\_]] in accordance with the terms of the 2001 Indenture and an Escrow Deposit Agreement, dated as of [\_\_\_\_] 2010 (the “Escrow Deposit Agreement”), among the County, Big Rivers and the trustee named therein; and

**WHEREAS**, the County will issue the Bonds under the Indenture and loan the proceeds thereof to Big Rivers under this Agreement, and the Bonds shall be secured by, among other things, a pledge of this Agreement, certain revenues of the County received pursuant to this Agreement and a note issued to evidence Big Rivers’ payment obligations hereunder (the “Note”), which Note will be issued pursuant to the First Supplemental Indenture, dated as of [\_\_\_\_], 2010, supplemental to the Indenture, dated as of July 1, 2009, between Big Rivers and U.S. Bank National Association, as trustee (the “Big Rivers Indenture”), and secured on a parity basis with all other obligations secured thereunder; and

**WHEREAS**, Big Rivers has entered into the Guaranty Agreement (the “Guaranty”) with the National Rural Utilities Cooperative Finance Corporation (the “Guarantor”), pursuant to which the Guarantor will guarantee, subject to certain limitations, the payment of principal of and interest on the Bonds when due; and

**WHEREAS**, the execution and delivery of this Agreement and the Indenture and the issuance of the Bonds have been in all respects duly and validly authorized by an ordinance of the Fiscal Court of the County; and

**WHEREAS**, the Kentucky Department of Natural Resources and Environmental Protection has certified that the Facilities, as designed, are in furtherance of the purposes of abating or controlling atmospheric pollutants or contaminants or water pollution; and

**WHEREAS**, the County makes the following findings and determinations: (a) the Facilities constitute “pollution control facilities” within the meaning of Section 103.246 of the Act, (b) the acquisition and financing of the Facilities inures to the public interest and constitutes the performance of a proper governmental purpose with the result that atmospheric, solid waste and water pollution in the Commonwealth may be abated and controlled to the maximum possible extent, (c) the issuance of the Bonds is and will be for a public purpose and tends to further the purpose of the Act and, in addition, aids in the retention of existing industry through the control of pollution, (d) the Facilities are located wholly within the geographic boundaries of the County, (e) title to the Facilities is held by Big Rivers and will not be acquired by the County, (f) the statutory mortgage lien provided for by Section 103.250 of the Act shall not apply to the Facilities, (g) the principal amount of the Bonds (together with funds provided and to be provided by Big Rivers) is necessary to effect the refunding of the 2001 Bonds and to pay all premiums, expenses and commissions required to be paid in connection with the issuance of the Bonds and the refunding of the 2001 Bonds, and (h) the issuance of the Bonds, the refunding of the 2001 Bonds, the loan of the proceeds of the Bonds to Big Rivers for this purpose and the execution, delivery and performance of the Bonds, the Indenture and this Agreement are, in all respects, permitted by the Act and conform to the requirements of the Act.

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto formally covenant, agree and bind themselves as follows:

## **ARTICLE I**

### **DEFINITIONS**

**SECTION 1.1.** Definitions. In addition to terms otherwise defined in this Agreement, when used in this Agreement, the following capitalized terms shall have, except where the context indicates otherwise, the respective meanings set forth below.

“*Act*” means the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended, and all acts supplemental thereto or amendatory thereof.

“*Administration Expenses*” shall mean the reasonable and necessary expenses incurred by the County with respect to this Agreement, the Indenture and any transaction or event contemplated by this Agreement or the Indenture, including the compensation and expenses paid to the Bond Trustee.

“*Agreement*” shall mean this Loan Agreement and any amendments and supplements hereto.

“*Big Rivers*” shall mean Big Rivers Electric Corporation, a nonprofit rural electric cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky, and its lawful successors and assigns.

“*Big Rivers Indenture*” shall mean the Indenture, dated as of July 1, 2009, between Big Rivers and U.S. Bank National Association, as trustee, as supplemented or amended from time to time, including as supplemented by the First Supplemental Indenture, providing for the issuance of the Note, and as also amended and supplemented by any alternate indenture or mortgage.

“*Big Rivers Representative*” shall mean any one of the following officers and/or employees of Big Rivers: (i) the President and Chief Executive Officer, (ii) the Senior Vice President, Financial and Energy Services and Chief Financial Officer or (iii) any other officer or employee of Big Rivers at the time designated to act on behalf of Big Rivers by a written certificate furnished to the County and the Bond Trustee containing the specimen signature of such person and signed on behalf of Big Rivers by any one of the above-described officers and/or employees. Such certificate may designate one or more alternates.

“*Bond Fund*” shall mean the fund created by Section 4.01 of the Indenture.

“*Bond Trustee*” shall mean the trustee under the Indenture, or any successor corporate trustee.

“*Bonds*” shall mean the County’s “Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)” authorized under the Indenture.

“*Business Day*” shall mean any day on which (i) banks located in New York, New York, and the cities in which the principal offices of both the Bond Trustee and the Guarantor are located are not required or authorized to be closed and (ii) The New York Stock exchange is open.

“*County Representative*” shall mean the County Judge/Executive of the County or any other person at the time designated to act on behalf of the County by written certificate furnished to Big Rivers and the Bond Trustee containing the specimen signature of such person and signed on behalf of the County by the County Judge/Executive. Such certificate may designate one or more alternates.

“*Escrow Deposit Agreement*” shall mean the Escrow Deposit Agreement dated as of [\_\_\_\_], 2010 among Big Rivers, the County and the Escrow Deposit Trustee.

“*Escrow Deposit Trustee*” shall mean U.S. Bank National Association, in its capacity as trustee under the Escrow Deposit Agreement.

“*Facilities*” shall mean those air and water pollution control and sewage and solid waste disposal facilities located at the Plant which were financed with the proceeds of the 1982 Bonds. The Facilities are listed on Exhibit A hereto.

“*First Supplemental Indenture*” shall mean the First Supplemental Indenture, dated as of [\_\_\_\_], 2010; between Big Rivers and U.S. Bank National Association, as trustee under the Big Rivers Indenture.

“*Fiscal Court*” shall mean the Fiscal Court of the County or any successor governing body of the County.

“*Guarantor*” shall mean the National Rural Utilities Cooperative Finance Corporation, a District of Columbia cooperative association.

“*Guaranty*” shall mean the Guaranty Agreement, dated as of [\_\_\_\_], 2010, between the Guarantor and the Bond Trustee, guaranteeing when due the timely payment of scheduled principal of and interest on the Bonds as provided therein.

“*Indenture*” shall mean the Trust Indenture for the Bonds, dated as of [\_\_\_\_], 2010, between the County and the Bond Trustee, including any indentures supplemental thereto or amendatory thereof.

“*Interest Payment Date*” shall have the meaning set forth in the Indenture.

“*1954 Code*” shall mean the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder.

“*1982 Bonds*” shall mean the \$82,500,000 aggregate principal amount of the County’s “Pollution Control Interim Bonds, Series 1982 (Big Rivers Electric Corporation Project)” previously issued by the County to finance a portion of the cost of the Facilities. The 1982 Bonds were retired with the proceeds of the 1985 Bonds and are no longer outstanding.

“1985 Bonds” shall mean the \$83,300,000 aggregate principal amount of the County’s “Variable Rate Demand Pollution Control Refunding Bonds, Series 1985 (Big Rivers Electric Corporation Project)” previously issued by the County to refund the 1982 Bonds. The 1985 Bonds were retired with the proceeds of the 2001 Bonds and are no longer outstanding.

“1986 Act” means the Tax Reform Act of 1986.

“1986 Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Note” shall mean the first mortgage note issued by Big Rivers under the First Supplemental Indenture and this Agreement, which Note is secured by the Big Rivers Indenture on a parity with all other notes secured by the Big Rivers Indenture.

“Opinion of Bond Counsel” shall mean an opinion in writing signed by an attorney or firm of attorneys experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds and who is acceptable to the Bond Trustee.

“Outstanding,” when used with respect to the Bonds, shall have the meaning set forth in the Indenture.

“Plant” shall mean the D.B. Wilson Plant Unit No. 1, a coal-fired steam electric generating plant located within the geographic boundaries of the County and wholly-owned by Big Rivers.

“Tax Certificate and Agreement” shall mean the Tax Certificate and Agreement by and between the County and Big Rivers.

“2001 Bonds” shall mean the \$83,300,000 aggregate principal amount of the County’s “Pollution Control Refunding Revenue Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS)”.

“2001 Indenture” shall mean the Trust Indenture dated as of August 1, 2001 between the County and U.S. Bank Trust National Association, as trustee, under which the 2001 Bonds were issued and secured.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**SECTION 2.1.** *Representations And Warranties By The County.* The County represents and warrants that:

(a) The County is a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and the laws of the Commonwealth.

(b) The County has the corporate power to execute, deliver and perform this Agreement and the Indenture and to make the loan to Big Rivers hereunder, and has taken all



necessary corporate action to authorize such loan on the terms and conditions hereof and to authorize the execution, delivery and performance of this Agreement and the Indenture, and the issuance, execution and delivery of the Bonds.

(c) The County is not in default under any of the provisions of the laws of the Commonwealth which would affect its existence, or its powers referred to in the preceding paragraph (b), and the execution, delivery and performance by the County of this Agreement and the Indenture (i) to the best knowledge of the County, will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority, and (ii) will not violate any provision of, or constitute a default under, or (except as provided in the Indenture) result in the creation or imposition of any lien on any of the assets of the County pursuant to the provisions of, any mortgage, indenture, contract, agreement or other undertaking to which the County is a party or which, to the best knowledge of the County, purports to be binding upon the County or upon any of its assets.

(d) Under existing statutes and decisions, no Federal, state or local taxes on income or profits are imposed on the County.

(e) The Facilities constitute and will constitute "pollution control facilities" within the meaning of Section 103.246 of the Act.

**SECTION 2.2.** *Representations And Warranties By Big Rivers.* Big Rivers represents and warrants that:

(a) Big Rivers is a nonprofit rural electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth, and has the corporate power to own its assets and to transact the business in which it is engaged, and the conduct of Big Rivers' business does not make necessary the qualification or licensing of Big Rivers as a foreign corporation in any other state or jurisdiction.

(b) Big Rivers has the corporate power to enter into, and to perform and observe the covenants and agreements on its part contained in, this Agreement, the Big Rivers Indenture, the First Supplemental Indenture, the Escrow Deposit Agreement and the Note, and by proper corporate action has duly authorized the execution and delivery of this Agreement, the Big Rivers Indenture, the First Supplemental Indenture, the Escrow Deposit Agreement and the Note. The execution and delivery of this Agreement, the Big Rivers Indenture, the First Supplemental Indenture and the Escrow Deposit Agreement do not, and the execution and delivery of the Note and the consummation of the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof will not, conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which Big Rivers is now a party or by which it is bound, or constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Big Rivers under the terms of any instrument or agreement.

(c) Synchronization of the Plant was completed on September 24, 1984.

(d) The Facilities (i) are designed to meet or exceed applicable federal, Commonwealth and local requirements now in effect for the control of air and water pollution and are used to abate or control air and water pollution or contamination by removing, altering, disposing of or storing pollutants, contaminants, wastes or heat and the Facilities as designed constitute “air or water pollution control facilities” within the meaning of Section 103(b)(4)(F) of the 1954 Code or (ii) are used for the collection, storage, treatment, utilization, processing or final disposal of sewage or solid waste and constitute “sewage or solid waste disposal facilities” within the meaning of Section 103(b)(4)(E) of the 1954 Code.

(e) The Facilities consist of either land or property subject to the allowance for depreciation under Section 167 of the 1986 Code.

(f) The Facilities constitute “pollution control facilities” within the meaning of Section 103.246 of the Act.

(g) The Commonwealth’s Department of National Resources and Environmental Protection (predecessor of National Resources and Environmental Protection Cabinet), having appropriate jurisdiction, has certified that the Facilities, as designed, are in furtherance of the purposes of abating or controlling atmospheric pollutants or contaminants or water pollution.

(h) The information furnished by Big Rivers and filed by the County with the Internal Revenue Service pursuant to Section 103(1) of the 1954 Code was true and correct as of the date of filing of said information.

### ARTICLE III

#### TERM OF AGREEMENT

**SECTION 3.1.** *Term of This Agreement.* This Agreement shall remain in full force and effect from the date of delivery hereof until such time as all of the Bonds shall have been fully paid or provision made for such payment pursuant to the Indenture, and all reasonable and necessary Administration Expenses and fees and expenses of the Bond Trustee and any paying agent accrued and to accrue through final payment of the Bonds and all other Administration Expenses and other liabilities of Big Rivers accrued and to accrue through final payment of the Bonds hereunder have been paid.

### ARTICLE IV

#### ISSUANCE OF BONDS AND LOAN OF PROCEEDS

**SECTION 4.1.** *Issuance of the Bonds; Loan of Proceeds to Big Rivers; Prepayment of 2001 Note and Redemption of 2001 Bonds; Use of Proceeds.*

(a) The County agrees to deposit with the Escrow Deposit Trustee pursuant to the Escrow Deposit Agreement funds necessary, together with funds provided by Big Rivers, to refund by redemption the 2001 Bonds on [\_\_\_\_], resulting in a prepayment of the 2001 Note relating to the 2001 Bonds. In order to provide funds for such purpose, the County agrees to sell and cause to be delivered to the initial purchasers thereof the Bonds.

(b) The County will deposit such amount of the proceeds of the Bonds with the Escrow Deposit Trustee in accordance with the 2001 Indenture and the Escrow Deposit Agreement.

(c) Simultaneously with the issuance and delivery of the Bonds to the purchasers thereof, Big Rivers will cause to be transferred to the Escrow Deposit Trustee such amounts as Big Rivers shall be required to provide to effect the refunding of the 2001 Bonds.

**SECTION 4.2.** *Agreement as to Ownership and Use of the Facilities.* The County and Big Rivers agree that title to the Facilities shall be in and remain in Big Rivers and that the Facilities shall be the sole property of Big Rivers in which the County shall have no interest.

**SECTION 4.3.** *Investment of Moneys.* All moneys held as a part of the Bond Fund shall be invested or reinvested and transferred to other funds by the Bond Trustee as provided in Article V of the Indenture.

## ARTICLE V

### PROVISION FOR REPAYMENT OF LOAN BY BIG RIVERS

**SECTION 5.1.** *Repayments By Big Rivers.* Big Rivers agrees to repay the loan made by the County to Big Rivers hereunder of the proceeds of the Bonds by paying to the County an amount sufficient to pay, when due, all principal of and interest on the Bonds, which obligation will be evidenced by the Note. In satisfaction of its obligation under this Section 5.1, Big Rivers agrees to pay to the Bond Trustee for the account of the County all payments when due on the Note; provided, however, that if for any reason the amounts paid to the Bond Trustee by Big Rivers on the Note, together with any other amounts available in the Bond Fund, are not sufficient to pay the principal of or interest on the Bonds when due, Big Rivers agrees to pay the amount required to make up such deficiency.

**SECTION 5.2.** *Credits.* Any amounts which are in the Bond Fund at the close of business of the Bond Trustee on the Business Day immediately preceding any payment date on the Note shall be credited against the payments due by Big Rivers on such payment date on the Note.

If any or all of the Bonds then Outstanding are called for redemption, any amounts contained in the Bond Fund on such redemption date shall be credited against the payments due by Big Rivers on the Note.

The principal amount of any Bonds held by the Bond Trustee on the maturity date of the Note which are to be applied by the Bond Trustee as a credit against the next required sinking fund redemption pursuant to the Indenture shall, to the extent not previously credited as provided for in this paragraph, be credited against the obligation of Big Rivers with respect to payment of principal of the Note due on such maturity date.

**SECTION 5.3.** *Execution And Delivery Of The Note.* Concurrently with the sale and delivery by the County of the Bonds, in order to evidence the obligation of Big Rivers to pay an amount sufficient to pay the principal of and interest on the Bonds when due, Big Rivers

shall execute and deliver to the Bond Trustee the Note substantially in the form attached as Exhibit [B] to the First Supplemental Indenture. The Note shall be nontransferable by the Bond Trustee except as required to effect assignment thereof to any successor Bond Trustee under the Indenture.

**SECTION 5.4.** *Payment Of Certain Fees And Expenses.* Big Rivers agrees to pay the reasonable fees and actual out-of-pocket expenses (including counsel fees) necessarily incurred by the County in connection with the Bonds, the issuance and sale thereof and the transactions contemplated by the Indenture, the Big Rivers Indenture, the Note and this Agreement and in connection with the services of the Bond Trustee and any co-paying agents designated pursuant to Sections 9.19 and 9.20 of the Indenture (except those incurred as a result of the negligence or bad faith of the County or the Bond Trustee or co-paying agent), as and when the same become due, upon submission by the Bond Trustee or any paying agent of a statement therefor; provided, however, that Big Rivers may, without creating a default hereunder, contest in good faith the necessity for and reasonableness of any such fees or expenses.

**SECTION 5.5.** *Payees Of Payments.* The payments to be made on the Note pursuant to Section 5.1 hereof shall be paid directly to the Bond Trustee for the account of the County and shall be deposited into the Bond Fund in accordance with this Agreement, the Note and the Indenture. The payments to be made to the Bond Trustee or any paying agent pursuant to Section 5.4 hereof shall be paid directly to the Bond Trustee or such paying agent for its own use.

**SECTION 5.6.** *Taxes And Other Governmental Charges.* Big Rivers will pay promptly, as the same become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Facilities. Compliance by Big Rivers with the provisions of the Big Rivers Indenture shall constitute compliance with this Section 5.6.

**SECTION 5.7.** *Obligations Of Big Rivers Unconditional.* The obligations of Big Rivers to make the payments pursuant to this Agreement and the Note shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of setoff, counterclaim or recoupment arising out of any breach by the County of any obligation to Big Rivers, whether hereunder or otherwise, or out of any indebtedness or liability at any time owed to Big Rivers by the County. Until such time as the principal of and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, Big Rivers (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payment provided for herein or in the Note, (ii) will perform and observe all of its other agreements contained in this Agreement and in the Note and (iii) except as provided in Section 5.8 hereof, will not terminate this Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Facilities, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the Commonwealth of Kentucky or any political subdivision of either, or any failure of the County to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or

connected with this Agreement, whether express or implied. Nothing contained in this Section 5.7 shall be construed to release the County from the performance of any agreements on its part herein contained; and in the event the County shall fail to perform any such agreement, Big Rivers may institute such action against the County as it deems necessary to compel performance, provided that no such action shall violate the agreements on the part of Big Rivers contained herein. Big Rivers may, however, at its own cost and expense prosecute or defend any action or proceeding or take any other action involving third persons which it deems reasonably necessary in order to secure or protect its right of possession, occupancy and use of the Facilities or the Plant, and in such event the County hereby agrees to cooperate fully with Big Rivers.

**SECTION 5.8.** *Termination Of Obligations Under Note.* At the time when all of the Bonds cease to be Outstanding under the Indenture, the Note issued in connection with the issuance of the Bonds shall become void and shall be returned to Big Rivers.

## ARTICLE VI

### MAINTENANCE; INSURANCE; CONDEMNATION

**SECTION 6.1.** *Maintenance; Improvements; Disposition.* During the term of this Agreement, Big Rivers will, at its own expense, cause the Facilities to be maintained, preserved and kept in good repair, working order and condition and will from time to time cause to be made all proper repairs, renewals and replacements thereof. Big Rivers may also, at its own expense, make from time to time any modifications or improvements to the Facilities, provided such modifications or improvements do not impair the character of the Facilities as a “project” within the meaning of the Act or impair the exclusion of interest on the Bonds from gross income for federal income tax purposes. All such modifications and improvements shall become a part of the Facilities.

Big Rivers may sell or otherwise dispose of its interest in any element of the Facilities (in whole or in part), upon compliance with the provisions of the Big Rivers Indenture to the extent it is applicable to the Facilities. In the event that the Bond Trustee receives any moneys pursuant to the Big Rivers Indenture as the result of any such sale or disposition, upon compliance with the provisions of the Big Rivers Indenture, such moneys shall be deposited by the Bond Trustee into the Bond Fund and applied in accordance with the Indenture.

**SECTION 6.2.** *Insurance.* Big Rivers will, at its own expense, provide or cause to be provided insurance against loss or damage, less appropriate deductibles, to its interest in the Facilities. Compliance with Section 13.8 of the Big Rivers Indenture shall be deemed compliance with this Section 6.2.

**SECTION 6.3.** *Use of Insurance and Condemnation Proceeds.* Any moneys received by the Bond Trustee pursuant to the Big Rivers Indenture from any payment in respect of any insurance described in Section 6.2 hereof or condemnation award, upon compliance with the Big Rivers Indenture, shall be forthwith deposited into the Bond Fund and applied in accordance with the Indenture.

## ARTICLE VII

### SPECIAL COVENANTS

**SECTION 7.1.** *No Warranty Of Condition Or Suitability By The County.* The County makes no warranty, either express or implied, as to the Facilities or that they will be suitable for Big Rivers' purposes or needs.

**SECTION 7.2.** *Further Assurances.* The County and Big Rivers agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement.

**SECTION 7.3.** *Authority Of Big Rivers Representative.* Whenever under the provisions of this Agreement the approval of Big Rivers is required or the County is required to take some action at the request of Big Rivers, such approval or such request shall be made by the Big Rivers Representative unless otherwise specified in this Agreement, and the County or the Bond Trustee are each authorized to act on any such approval or request. Big Rivers shall have no complaint against the County or the Bond Trustee as a result of any such action taken.

**SECTION 7.4.** *Authority Of County Representative.* Whenever under the provisions of this Agreement the approval of the County is required, or Big Rivers is required to take some action at the request of the County, such approval or such request shall be made by the County Representative unless otherwise specified in this Agreement, and Big Rivers or the Bond Trustee are each authorized to act on any such approval or request. The County shall have no complaint against Big Rivers or the Bond Trustee as a result of any such action taken.

**SECTION 7.5.** *Use of Facilities.* So long as Big Rivers operates the Facilities, the Facilities shall be used for the purpose of air or water pollution control as described in Section 103(b)(4)(F) of the 1954 Code or the disposal of sewage or solid waste within the meaning of Section 103(b)(4)(E) of the 1954 Code.

**SECTION 7.6.** *No Abatement Of Note Payments.* It is understood and agreed that Big Rivers shall be obligated to continue to pay the amounts specified in Article V hereof and in the Note whether or not the Facilities are damaged, destroyed, taken in condemnation or become obsolete (including economic obsolescence) and that there shall be no abatement or postponement of any such payments by reason thereof.

**SECTION 7.7.** *Amendments To Indenture.* The County shall not execute or permit any amendment or supplement to the Indenture which affects any rights, powers and authority of Big Rivers under this Agreement or under the Note or requires a revision of this Agreement, the Note or the Big Rivers Indenture without the prior written consent of Big Rivers.

**SECTION 7.8.** *Tax Covenants.*

(a) Big Rivers covenants that it will not take any action which would adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes

pursuant to Section 103(a) of the 1954 Code, and will take, or require to be taken, such acts as may from time to time be required under applicable law or regulation to continue the exclusion of the interest on the Bonds from gross income for federal income tax purposes. In furtherance of those covenants, Big Rivers agrees to comply with the Tax Certificate and Agreement.

(b) Big Rivers covenants that it will not take any action or fail to take any action with respect to the Bonds which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the 1986 Code, as incorporated into the 1954 Code by the 1986 Act.

(c) Big Rivers covenants that it will not use or permit the use of any property financed or refinanced with the proceeds of the Bonds by any person (other than the Commonwealth or local governmental unit) in such manner or to such extent as would result in loss of the exclusion of the interest on the Bonds from gross income for federal income tax purposes (other than during the period the Bonds are held by a “substantial user” of the facilities financed or refinanced with the proceeds of the Bonds or a “related person” within the meaning of Section 103(b)(6)(C) of the 1954 Code).

Notwithstanding any other provisions of this Agreement to the contrary, so long as necessary in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes under Section 103(a) of the 1954 Code, the covenants in this Section shall survive the payment for the Bonds and the interest thereon, including any payment or defeasance thereof pursuant to the Indenture.

**SECTION 7.9.** *The Guaranty.* If the Guaranty is in effect and the Guarantor is not in breach of any of the provisions thereof, (i) Big Rivers will permit the Guarantor to discuss the affairs, finances and accounts of Big Rivers or any information the Guarantor may reasonably request regarding the security for the Bonds with appropriate officers of Big Rivers, (ii) as soon as practicable following the end of each fiscal year, Big Rivers will furnish to the Guarantor a copy of its annual report (which shall include its annual audited financial statements) accompanied by a balance sheet of Big Rivers as at the end of such fiscal year and the related statements of operations, patronage capital, changes in financial position and changes in components of working capital for such fiscal year, (iii) as soon as practicable following the end of each month of each fiscal year, Big Rivers will furnish to the Guarantor a copy of its monthly unaudited financial reports, (iv) Big Rivers will forward to the Guarantor a copy of any notices or certificates which it shall give to the Bond Trustee, the County or any Bondowner pursuant to the provisions of the Indenture or this Agreement, and (v) Big Rivers will permit the Guarantor to have access to the Plant at reasonable times; provided, that Big Rivers reserves the right to restrict access to the Plant in accordance with reasonable procedures relating to safety and security.

## ARTICLE VIII

### ASSIGNMENT

**SECTION 8.1.** *Assignment By Big Rivers.* This Agreement may be assigned by Big Rivers without the necessity of obtaining the consent of either the County or the Bond Trustee, subject, however, to each of the following conditions:

(a) No assignment shall relieve Big Rivers from primary liability for any of its obligations hereunder, and in the event of any such assignment Big Rivers shall continue to remain primarily liable for payments of the amounts specified in the Note and in Article V hereof and for performance and observance of the other agreements on its part herein provided to be performed and observed by it to the same extent as though no assignment had been made.

(b) The assignee shall assume the obligations of Big Rivers hereunder to the extent of the interest assigned.

(c) Big Rivers shall, within fifteen (15) days after the delivery thereof, furnish or cause to be furnished to the County, [Standard & Poor's, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc.], or their respective successors, and to the Bond Trustee a true and complete copy of each such assignment and assumption of obligation.

**SECTION 8.2.** *Assignment And Pledge By County; Indenture Provisions.* Solely pursuant to the Indenture, the County shall assign its interest in and pledge any moneys receivable under Section 5.1 of this Agreement and the Note, including the right of possession of the Note, to the Bond Trustee as security for payment of the principal of and premium, if any, and interest on the Bonds, but each such assignment or pledge shall be subject to this Agreement. Big Rivers consents to such assignment and pledge. Big Rivers also agrees to be bound by, observe, and perform its obligations under, the provisions in the Indenture referring to Big Rivers or imposing conditions, obligations or requirements on Big Rivers under this Agreement, the Note or the Big Rivers Indenture.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 9.1.** *Events Of Default Defined.* The following shall be "events of default" under this Agreement and the term "event of default" shall mean, whenever used in this Agreement, any one of the following events:

(a) Failure by Big Rivers to pay when due any amount required to be paid under the Note to the Bond Trustee for deposit into the Bond Fund.

(b) Acceleration of payment of any Obligation (as defined in the Big Rivers Indenture) secured by the Big Rivers Indenture pursuant to an "event of default" as such term is defined in Article VIII of the Big Rivers Indenture.

(c) Big Rivers files a petition in bankruptcy or is adjudicated as bankrupt or insolvent, or makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, or proceedings instituted by others for its reorganization are not dismissed within thirty (30) days after the institution thereof, or a receiver or liquidator of Big Rivers or of any substantial portion of its property is appointed and the order appointing such receiver or liquidator shall not be vacated within thirty days after the entry thereof.



**SECTION 9.2.** *Remedies On Default.* Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, the County, or the Bond Trustee as provided in the Indenture:

(a) shall, by written notice to Big Rivers, upon the acceleration of maturity of the Bonds as provided in Section 8.01 of the Indenture, declare an amount equal to the principal of and accrued interest on the Note to have matured and therefore to be immediately due and payable, whereupon the same shall mature and become immediately due and payable; and

(b) may take whatever action at law or in equity may appear necessary or desirable to collect the amounts payable by Big Rivers hereunder and under the Note, then due and thereafter to be due, or to enforce performance and observance of any obligation, agreement or covenant of Big Rivers under this Agreement or under the Note, whether for specific performance of any covenant or agreement contained herein or therein or in aid of the execution of any power herein granted.

Any amounts collected pursuant to action taken under this Section 9.2 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

**SECTION 9.3.** *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the County or the Bond Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute, subject to the provisions of the Indenture. No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it in this Article IX, it shall not be necessary to give any notice, other than notice required herein. Such rights and remedies given the County hereunder shall also extend to the Bond Trustee and the holders of the Bonds, subject to the provisions of the Indenture and the Big Rivers Indenture.

**SECTION 9.4.** *Agreement To Pay Attorneys' Fees And Expenses.* In the event Big Rivers should default under any of the provisions of this Agreement and the County or the Bond Trustee or their agents should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of the performance or observance of any obligation or agreement on the part of Big Rivers herein or in the Note contained, Big Rivers will on demand therefor pay to the County or the Bond Trustee, as the case may be, the reasonable fee of such attorneys and such other reasonable expenses incurred by the County or the Bond Trustee.

**SECTION 9.5.** *Waiver And Rescission Of Acceleration Under Indenture.* In the event any agreement contained in this Agreement or in the Note should be breached by Big Rivers or the County and thereafter waived by the other party, such waiver shall be limited to the particular breach waived and shall not be deemed to waive any other breach hereunder or thereunder. Notwithstanding the foregoing, a waiver of an Event of Default under the Indenture or a rescission of a declaration of acceleration of the Bonds and a rescission and annulment of

its consequences shall constitute a waiver of the corresponding event of default under this Agreement and a rescission and annulment of its consequences, including any acceleration of maturity of principal of and interest on the Note; provided, that no such waiver or rescissions shall extend to or affect any subsequent or other default hereunder or impair any right consequent thereon.

**SECTION 9.6.** *Remedial Rights Assigned To Bond Trustee.* All rights and remedies conferred upon or reserved to the County in this Article IX, including the right to waive events of default, shall upon the execution and delivery of the Indenture be deemed to have been assigned to the Bond Trustee and the Bond Trustee shall have the exclusive right to exercise such rights and remedies in the same manner and under the limitations and conditions that the Bond Trustee is entitled to exercise rights and remedies upon the occurrence of an Event of Default pursuant to Article VIII of the Indenture.

**SECTION 9.7.** *Rescission Of Acceleration Required By Big Rivers Indenture.*

(a) If at any time following a declaration of acceleration pursuant to an Event of Default under Section 8.01(c) of the Indenture, and prior to payment of the Bonds pursuant to such acceleration, the Bond Trustee shall receive written notice that the acceleration of the Obligations under the Big Rivers Indenture has been rescinded, then the Bond Trustee shall rescind any declaration of acceleration of the maturity of principal of and interest on the Bonds. In the event of such rescission of a declaration of acceleration of the Bonds, the Bond Trustee shall also rescind any declaration of acceleration of the maturity of the Note.

(b) In case of any such rescission, then and in every such case the County, the Bond Trustee and Big Rivers shall be restored to their former positions and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or event of default, or impair any right consequent thereon, nor shall such rescission extend to any instance in which the holder of any note secured by the Big Rivers Indenture other than the Note has subsequent to a request for rescission declared all unpaid principal of and accrued interest on such other note to be due and payable immediately.

## ARTICLE X

### PREPAYMENT OF THE NOTE

**SECTION 10.1.** *Optional Prepayments.* Big Rivers shall have, and is hereby granted, subject to the provisions of the Big Rivers Indenture, the option to prepay all or any portion of the unpaid balance of the Note at any time by taking the actions required by the Indenture (a) to discharge the lien thereof through the redemption of all or part of the Bonds under Section 3.01 of the Indenture, or (b) to effect the partial redemption of all or a part of such Bonds under Section 3.01 of the Indenture.

**SECTION 10.2.** *Exercise Of Optional Prepayment.* To exercise an option granted in Section 10.1 hereof to prepay the Note and thereby redeem some or all of the Bonds, Big Rivers shall give written notice to the County and the Bond Trustee at any time during the period beginning with (and including) the 45th day prior to the date of redemption and ending

with (and including) the 30th day prior to the date of redemption. Such notice shall specify (i) that the Bonds are being redeemed pursuant to Section 3.01 of the Indenture, (ii) the principal amount of Bonds to be redeemed and the premium, if any, payable on such redemption, and (iii) the date such Bonds are to be redeemed (which must be a date permitted by Section 3.01 of the Indenture). If, at the time Big Rivers gives this notice, the Bond Trustee does not have on deposit sufficient available funds to pay the principal of, premium, if any, and interest accrued and to accrue through the redemption date on the Bonds so called for redemption, then Big Rivers' notice of redemption is conditional and revocable, that is, Big Rivers is under no obligation to provide, or cause to be provided, to the Bond Trustee funds to effect such redemption and, if it does not elect to do so by 12:00 noon, New York City time, on the redemption date, then the Bonds called for redemption shall not be redeemed pursuant to the above-mentioned notice of redemption or the notice of redemption given by the Bond Trustee pursuant to subsection (b) of Section 3.03 of the Indenture. Neither Big Rivers nor the County shall be liable to any Bondowner if Big Rivers does not provide, or cause to be provided, funds sufficient to effect redemption of any such Bonds with the result that such Bonds are not redeemed on the redemption date specified in such notices. If, at the time Big Rivers gives this notice, the Bond Trustee has on deposit sufficient funds to effect such redemption, then Big Rivers' notice is unconditional and irrevocable and the Bonds specified in the notice of Big Rivers and given by the Bond Trustee pursuant to subsection (b) of Section 3.03 of the Indenture shall become due and payable at the specified redemption price (plus accrued interest) on the specified redemption date.

Upon receipt of a notice furnished pursuant to this Section 10.2, the County and the Bond Trustee, as provided in the Indenture, shall forthwith take or cause to be taken all actions necessary under the Indenture to discharge the lien of the Indenture or effect the redemption of Bonds in accordance with such notice, as the case may be.

**SECTION 10.3.** *Mandatory Prepayments.* Big Rivers shall prepay all or a portion of the Note at the time or times and in the principal amount required to redeem all or such portions of the applicable Bonds required to be redeemed pursuant to Section 3.01 of the Indenture.

## ARTICLE XI

### MISCELLANEOUS

**SECTION 11.1.** *Notices.* All notices, certificates, requests or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, addressed as follows: if to the County, to: Ohio County Fiscal Court, 301 South Main, Hartford, Kentucky 42347, Attention: County Judge/Executive; if to Big Rivers, to: Big Rivers Electric Corporation, 201 Third Avenue, Henderson, Kentucky 42420, Attention: President and Chief Executive Officer; and if to the Bond Trustee, to: U.S. Bank National Association, Corporate Trust Services, 225 Asylum Street, 23rd Floor, Hartford, Connecticut 06103, Attention: Philip G. Kane, Jr. (Big Rivers 2010 Indenture); if to the Guarantor: National Rural Utilities Cooperative Finance Corporation, 2201 Cooperative Way, Herndon, Virginia 20171, Attention: General Counsel. A duplicate copy of each notice, certificate, request or other communication given hereunder by the County or Big Rivers shall

also be given to the Bond Trustee, the County and Big Rivers. A party may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

**SECTION 11.2.** *Binding Effect.* This Agreement shall inure to the benefit of and shall be binding upon the County, Big Rivers and their respective successors and assigns.

**SECTION 11.3.** *Severability.* In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 11.4.** *Amounts Remaining In Funds.* It is agreed by the parties hereto that any amounts remaining in the Bond Fund upon expiration or sooner termination of this Agreement, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture), the fees, charges and expenses of the Bond Trustee and any paying agent in accordance with the Indenture and all other amounts required to be paid under this Agreement and the Indenture, shall belong to and be paid to Big Rivers by the Bond Trustee.

**SECTION 11.5.** *Bond Trustee Powers Under Big Rivers Indenture.* The Bond Trustee is authorized in connection with the Big Rivers Indenture to execute and deliver all such further instruments as may be required by the provisions thereof and to exercise all the rights of a holder of the Note as it in its sole discretion deems to be in the best interests of the Bondowners and without the prior consent of the Bondowners or the County.

**SECTION 11.6.** *Amendments, Changes And Modifications.* Except as otherwise provided in this Agreement or in the Indenture, subsequent to the initial issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Agreement and the Note may not be effectively amended, changed, modified, altered or terminated without the written consent of the Bond Trustee, given in accordance with the Indenture.

**SECTION 11.7.** *Execution In Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**SECTION 11.8.** *Governing Law.* THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REFERENCE TO THE CHOICE OF LAWS PROVISIONS OF THE COMMONWEALTH OF KENTUCKY.

**SECTION 11.9.** *Captions.* The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**SECTION 11.10.** *Pecuniary Liability Of The County.* No provision, covenant or agreement contained in this Agreement or any obligations herein imposed upon the County, or the breach thereof, shall constitute or give rise to a pecuniary liability of the County or a charge

against its general credit or taxing powers. In making the agreements, provisions and covenants set forth in this Agreement, the County has not obligated itself except with respect to this Agreement and the application of the revenues, income and all other property therefrom, as hereinabove provided. The Bonds shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the County be subject to any liability thereon. No holder or holders of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the County to pay any such Bonds or the interest thereon, nor to enforce payment thereon against any property of the County. The Bonds shall not constitute a charge, lien nor encumbrance, legal or equitable, upon any property of the County.

**SECTION 11.11.** *Payments Due On Holidays.* If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement or the Note, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Bond Trustee are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed with the same force and effect as if done on the nominal date provided in this Agreement or the Note and no interest shall accrue for the period after such nominal date.

**SECTION 11.12.** *Guarantor As Third Party Beneficiary.* To the extent that this Agreement confers upon or gives or grants to the Guarantor any right, remedy or claim under or by reason of this Agreement, the Guarantor is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

IN WITNESS WHEREOF, the County and Big Rivers have caused this Agreement to be executed in their respective corporate names by their duly authorized officers [and have caused their corporate seals to be hereunto affixed] and attested by their duly authorized officers, all as of the date first above written.

[(SEAL)]

COUNTY OF OHIO, KENTUCKY

By: \_\_\_\_\_  
County Judge/Executive

Attest:

By: \_\_\_\_\_  
County Court Clerk

[(SEAL)]

BIG RIVER ELECTRIC CORPORATION

By: \_\_\_\_\_  
[ ]

Attest:

By: \_\_\_\_\_  
[ ]

**THE FACILITIES**

The following are the air and water pollution control facilities, sewage and solid waste disposal facilities and other facilities installed at or in connection with the Plant:

1. Electrostatic Precipitator System - designed to remove flyash from the flue gases emitted from Unit 1's boiler. Such facilities consist of two precipitators and transitional ducting.
2. Sulphur Dioxide Removal Facility - consists of a "wet spray type scrubber" system to remove sulphur from the flue gases emitted from Unit 1's boiler. Such facilities consist of sulphur dioxide spray absorbers, lime and limestone receiving, storage, conveying and handling facilities, flue gas reheat facilities, and transitional ducting.
3. Run-off Retention Ponds - designed to provide settling of rain water suspended solids prior to discharge through normal drainage system.
4. Waste Water Treatment Facility - consists of pH trim tank and clarifier to treat and process liquids from the following Items 6, 7, and 8.
5. Coal Pile Run-off Pond - designed to collect acidic water run-off from the station's coal storage area. The facility includes a pond and pumping equipment.
6. Waste Water Pond - designed to collect various Plant waste streams. The facility includes a pond and pumping equipment.
7. Waste Impoundment Pond - designed to collect highly contaminated liquid wastes. The facility includes a pond and pumping equipment.
8. Solid Waste Treatment Facility - designed to concentrate and process waste slurry from the dewatering system of the Sulphur Dioxide Removal Facility by addition of flyash and lime to produce a suitable landfill material.
9. Sanitary Waste System - designed to process station sanitary wastes.
10. Solid Waste Landfill Area - land required for placement of all plant solid wastes.
11. Flyash Collection Facility - designed to transport ash collected by the Electrostatic Precipitator System and consists of blowers, air locks and an ash transport and silo vent piping system.



STATE OF [NEW YORK] )  
 ) ss  
COUNTY OF ]NEW YORK])

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that on the \_\_\_ day of [\_\_\_\_], 2010, the foregoing instrument was produced to me in said County by [\_\_\_\_] and [\_\_\_\_], personally known to me and personally known by me to be [\_\_\_\_] and [\_\_\_\_], respectively, of BIG RIVERS ELECTRIC CORPORATION, a nonprofit rural electric cooperative corporation incorporated under the laws of the Commonwealth of Kentucky, who being by me duly sworn, did say that [the seal affixed to said instrument is the corporate seal of said corporation, and that] said instrument was signed [and sealed] in behalf of said corporation by authority of its Board of Directors and said respective persons acknowledged before me said instrument to be the free act and deed of said corporation and to be their free act and deed as such officers of such corporation.

WITNESS my hand and seal this \_\_\_ day of [\_\_\_\_], 2010. My commission expires \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_, [New York]

COMMONWEALTH OF KENTUCKY )  
 ) ss  
 COUNTY OF OHIO )

I, the undersigned Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that on the \_\_\_\_ day of [\_\_\_\_], 2010, the foregoing instrument was produced to me in said County by [\_\_\_\_] and [\_\_\_\_], personally known to me and personally known by me to be the County Judge/Executive and County Court Clerk, respectively, of the COUNTY OF OHIO, KENTUCKY, and acknowledged before me by them and each of them to be their free act and deed as County Judge/Executive and County Court Clerk of such County, and the free act and deed of such County, as authorized by an ordinance of the Fiscal Court of such County.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2010. My commission expires \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
 Notary Public  
 \_\_\_\_\_, Kentucky



THIS FIRST MORTGAGE NOTE, SERIES 2010A IS NONTRANSFERABLE EXCEPT AS MAY BE REQUIRED TO EFFECT ANY TRANSFER TO ANY SUCCESSOR TRUSTEE UNDER THE TRUST INDENTURE, DATED AS OF [\_\_\_\_], 20[09], BETWEEN THE COUNTY OF OHIO, KENTUCKY AND U.S. BANK NATIONAL ASSOCIATION, AS BOND TRUSTEE.

No. R-

[\$83,300,000]

**BIG RIVERS ELECTRIC CORPORATION  
FIRST MORTGAGE NOTE, SERIES 2010A**

**BIG RIVERS ELECTRIC CORPORATION** ("Big Rivers"), a cooperative corporation organized under the laws of the Commonwealth of Kentucky, for value received, promises to pay to U.S. Bank National Association, as trustee (the "Bond Trustee"), or its successors in trust, the principal sum of [\$83,300,000] and interest thereon as follows: Big Rivers shall pay, during the term of the Loan Agreement, dated as of [\_\_\_\_], 2010 (the "Financing Agreement"), between the County of Ohio, Kentucky (the "County") and Big Rivers, for deposit into the Bond Fund, (i) on or prior to each date on which interest is due on the County's Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project), (the "Series 2010A Bonds") issued by the County under the Trust Indenture, dated as of [\_\_\_\_], 2010 (the "Bond Indenture"), between the County and the Bond Trustee, as the same may be amended and supplemented from time to time, the amount of interest due on the Series 2010A Bonds on such date, computed in the manner described in the Bond Indenture, (ii) on the stated maturity date of the Series 2010A Bonds (or earlier date to which the maturity of the Series 2010A Bonds has been accelerated as a result of an event of default), a sum which will equal the principal amount of the Series 2010A Bonds which will become due on such date and (iii) on or prior to any redemption date for the Series 2010A Bonds, an amount equal to the principal of (premium, if any) and interest on the Series 2010A Bonds which are to be redeemed on such date.

This First Mortgage Note, Series 2010A is issued under, is described in and is subject to the Financing Agreement, and is secured by an Indenture, dated as of July 1, 2009 (the "Big Rivers Indenture"), between Big Rivers and U.S. Bank National Association, as trustee (the "Indenture Trustee"), as supplemented and amended.

All payments required pursuant hereto shall be made to the Bond Trustee at its principal office in [\_\_\_\_], in lawful money of the United States of America. As set forth in Section 5.7 of the Financing Agreement, the obligation of Big Rivers to make the payments required hereunder shall be absolute and unconditional.

This First Mortgage Note, Series 2010A may be prepaid upon the terms and conditions set forth in Article X of the Financing Agreement.

Big Rivers shall be entitled to credits against payments required hereby as provided in Section 5.2 of the Financing Agreement.

If the maturity date of the Series 2010A Bond shall be accelerated as a result of an event of default, the principal of this First Mortgage Note, Series 2010A shall become due and payable in the manner and with the effect provided in the Financing Agreement. The Financing Agreement provides that, under certain conditions, such acceleration shall be rescinded.

No recourse shall be had for the payments required hereby or for any claim based herein or on the Financing Agreement or on the Big Rivers Indenture against any officer, director or stockholder, past, present or, future, of Big Rivers as such, either directly or through Big Rivers, or under any constitution and provision, statute or rule of law or by the enforcement of any assessment or by any legal or equitable proceedings or otherwise.

This First Mortgage Note, Series 2010A shall not be entitled to any benefit under the Big Rivers Indenture and shall not become valid or obligatory for any purpose until the Indenture Trustee shall have signed the form of authentication certificate endorsed hereon.

All terms use in this First Mortgage Note, Series 2010A which are not defined herein shall have the meanings assigned to them in the Financing Agreement or the Bond Indenture.

IN WITNESS WHEREOF, Big Rivers has caused this First Mortgage Note, Series 2010A to be duly executed, attested and delivered the \_\_ day of [\_\_\_\_], 2010.

(SEAL)

**BIG RIVERS ELECTRIC CORPORATION**

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[ ]  
[ ]

Attest:

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[ ]  
[ ]

This is one of the Obligations of the series designated therein referred to in within-mentioned Big Rivers Indenture.

U.S. BANK NATIONAL ASSOCIATION, as  
Indenture Trustee

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

Date of Authentication: [\_\_\_\_\_] \_\_, 2010

1           Timing of Sale of Bonds; Documents in "Substantially Complete" Form

2           26.    The closing date for sale of the 2010A Bonds will be set  
3 following receipt by Big Rivers of the authority from the Commission to issue  
4 the evidences of indebtedness proposed in this Application. To advance the  
5 review process and to assure that the necessary approvals will be obtained in  
6 time for the Commission's Order to become final and non-appealable before  
7 the 2010A Bonds are sold, the documents for which approval is sought are  
8 presented in substantially complete form, still subject to comment by the  
9 parties to the documents. Once final comments have been received from all  
10 creditors, if a document changes Big Rivers will submit a revision of the  
11 document showing those changes. Big Rivers does not expect substantial  
12 changes in the forms of documents submitted.

13                           Miscellaneous Filing Requirements

14           27.    Big Rivers is filing an original and ten copies of this  
15 Application, and has served a copy of this Application on the Kentucky  
16 Attorney General, Division of Rate Intervention.

17           28.    The articles of incorporation of Big Rivers, and all  
18 amendments thereto, are attached as Exhibit 1 to the Application of Big  
19 Rivers in *In the Matter of: Application of Big Rivers Electric Corporation,*  
20 *LG&E Energy Marketing Inc., Western Kentucky Energy Corp., WKE Station*  
21 *Two Inc., and WKE Corp., Pursuant to the Public Service Commission Orders*  
22 *in Case Nos. 99-450 and 2000-095, for Approval of Amendments to Station*



MS PS

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**FIRST SUPPLEMENTAL INDENTURE**  
(to that certain Indenture dated as of July 1, 2009)  
dated as of [\_\_\_\_], 2010

Relating to the Big Rivers Electric Corporation  
First Mortgage Note, Series 2010A  
Authorized by this First Supplemental Indenture

**BIG RIVERS ELECTRIC CORPORATION**

to

**U.S. BANK NATIONAL ASSOCIATION,  
TRUSTEE**

**FIRST MORTGAGE OBLIGATIONS**

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- THIS INSTRUMENT IS A MORTGAGE.
- THIS INSTRUMENT GRANTS A SECURITY INTEREST IN A TRANSMITTING UTILITY.
- BIG RIVERS ELECTRIC CORPORATION IS A TRANSMITTING UTILITY.
- THIS INSTRUMENT CONTAINS PROVISIONS THAT COVER REAL AND PERSONAL PROPERTY, AFTER-ACQUIRED PROPERTY, FIXTURES AND PROCEEDS.
- FUTURE ADVANCES AND FUTURE OBLIGATIONS ARE SECURED BY THIS INSTRUMENT.
- THE MAXIMUM ADDITIONAL INDEBTEDNESS WHICH MAY BE SECURED HEREUNDER IS \$3,000,000,000.
- THE TYPES OF PROPERTY COVERED BY THIS INSTRUMENT ARE DESCRIBED ON PAGES [2 THROUGH 4] AND EXHIBIT A.
- THE ADDRESSES AND THE SIGNATURES OF THE PARTIES TO THIS INSTRUMENT ARE STATED ON PAGES 1, S-1 AND S-2.

STATE TAXPAYER'S IDENTIFICATION NUMBER: 25757

FEDERAL TAXPAYER'S IDENTIFICATION NUMBER: 61-0597287

THIS INDENTURE WAS PREPARED BY JAMES M. MILLER OF SULLIVAN, MOUNTJOY,  
STAINBACK & MILLER, P.S.C., 100 ST. ANN BUILDING, OWENSBORO, KENTUCKY 42303,  
ATTORNEY FOR BIG RIVERS ELECTRIC CORPORATION.

Signed: \_\_\_\_\_

**THIS FIRST SUPPLEMENTAL INDENTURE**, dated as of [\_\_\_\_], 2010 (this "First Supplemental Indenture"), is between **BIG RIVERS ELECTRIC CORPORATION**, a cooperative corporation organized under the laws of the Commonwealth of Kentucky, as Grantor (hereinafter called the "Company"), whose post office address is 201 Third Street, Henderson, Kentucky 42420, and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as trustee (in such capacity, the "Trustee"), whose post office address is 225 Asylum Street, Hartford, Connecticut 06103;

**WHEREAS**, the Company has heretofore executed and delivered to the Trustee an Indenture, dated as of July 1, 2009 (the "Original Indenture"), for the purpose of securing its Existing Obligations and providing for the authentication and delivery of Additional Obligations (capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Original Indenture) by the Trustee from time to time under the Original Indenture, which Original Indenture is filed of record as shown on Exhibit A hereto;

**WHEREAS**, the Company is the owner of the D.B. Wilson Plant Unit No. 1, a coal-fired steam electric generating plant (the "Plant") located within the geographical limits of the County of Ohio, Kentucky (the "County"), and pursuant to a resolution adopted by the Fiscal Court of the County on September 9, 1980 and the provisions of the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended (the "Act"), the County agreed to finance the air and water pollution and sewage and solid waste facilities located at the Plant (the "Facilities") as an authorized project under the Act, by issuing its "Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)" (the "Series 2010A Bonds") pursuant to a Trust Indenture, dated as of [\_\_\_\_], 2010, between the County and U.S. Bank National Association, as trustee (the "2010 Indenture") and loaning the proceeds thereof to the Company pursuant to the Loan Agreement, dated as of [\_\_\_\_], 2010, between the County and the Company (the "2010 Financing Agreement"); and

**WHEREAS**, in order to evidence its obligation to repay the loan of the proceeds of the Series 2010A Bonds, the Company will issue to the County its note (the "First Mortgage Note, Series 2010A"), which First Mortgage Note, Series 2010A will be secured under the Indenture; and

**WHEREAS**, the Company desires to execute and deliver this First Supplemental Indenture, in accordance with the provisions of the Original Indenture, for the purpose of providing for the creation and designation of the First Mortgage Note, Series 2010A as an Additional Obligation and specifying the form and provisions of the First Mortgage Note, Series 2010A;

**WHEREAS**, Section 12.1 of the Original Indenture provides that, without the consent of the Holders of any of the Obligations at the time Outstanding, the Company, when authorized by a Board Resolution, and the Trustee, may enter into Supplemental

Indentures for the purposes and subject to the conditions set forth in said Section 12.1; and

**WHEREAS**, all acts and proceedings required by law and by the Articles of Incorporation and Bylaws of the Company necessary to secure the payment of the principal of and interest on the First Mortgage Note, Series 2010A, to make the First Mortgage Note, Series 2010A issued hereunder, when executed by the Company, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal obligation of the Company, and to constitute the Indenture a valid and binding lien for the security of the First Mortgage Note, Series 2010A, in accordance with its terms, have been done and taken; and the execution and delivery of this First Supplemental Indenture has been in all respects duly authorized;

**NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSES**, that, to secure the payment of the principal of (and premium, if any) and interest on the Outstanding Secured Obligations, including, when issued, the First Mortgage Note, Series 2010A, to confirm the lien of the Indenture upon the Trust Estate, including property purchased, constructed or otherwise acquired by the Company since the date of execution of the Original Indenture, to secure performance of the covenants therein and herein contained, to declare the terms and conditions on which the First Mortgage Note, Series 2010A is secured, and in consideration of the premises thereof and hereof, the Company by these presents does grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to (and does create a security interest in favor of) the Trustee, in trust with power of sale, all property, rights, privileges and franchises of the Company (except any Excepted Property) of the character described in the Granting Clauses of the Original Indenture, including all such property, rights, privileges and franchises acquired since the date of execution of the Original Indenture subject to all exceptions, reservations and matters of the character therein referred to, and subject in all cases to Sections 5.2 and 11.2 B of the Original Indenture and to the rights of the Company under the Original Indenture, including the rights set forth in Article V thereof; but expressly excepting and excluding from the lien and operation of the Indenture all properties of the character specifically excepted as "Excepted Property" in the Original Indenture to the extent contemplated thereby.

**PROVIDED, HOWEVER**, that if, upon the occurrence of an Event of Default under the Indenture, the Trustee, or any separate trustee or co-trustee appointed under Section 9.14 of the Original Indenture or any receiver appointed pursuant to statutory provision or order of court, shall have entered into possession of all or substantially all of the Trust Estate, all the Excepted Property described or referred to in Paragraphs A through H, inclusive, of "Excepted Property" in the Original Indenture then owned or thereafter acquired by the Company, shall immediately, and, in the case of any Excepted Property described or referred to in Paragraphs I, J and L of "Excepted Property" in the Original Indenture, upon demand of the Trustee or such other trustee or receiver, become subject to the lien of the Indenture to the extent permitted by law, and

the Trustee or such other trustee or receiver may, to the extent permitted by law, at the same time likewise take possession thereof, and whenever all Events of Default shall have been cured and the possession of all or substantially all of the Trust Estate shall have been restored to the Company, such Excepted Property shall again be excepted and excluded from the lien of the Indenture to the extent and otherwise as hereinabove set forth and as set forth in the Indenture.

The Company may, however, pursuant to the Granting Clause Third of the Original Indenture, subject to the lien of the Indenture any Excepted Property, whereupon the same shall cease to be Excepted Property.

**TO HAVE AND TO HOLD** all such property, rights, privileges and franchises hereby and hereafter (by Supplemental Indenture or otherwise) granted, bargained, sold, alienated, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, set over or confirmed (or in which a security interest is granted) as aforesaid, together with all the tenements, hereditaments and appurtenances thereto appertaining (said properties, rights, privileges and franchises, including any cash and securities hereafter deposited or required to be deposited with the Trustee (other than any such cash which is specifically stated in the Original Indenture not to be deemed part of the Trust Estate) being part of the Trust Estate), unto the Trustee, and its successors and assigns in the trust herein created, forever.

**SUBJECT, HOWEVER,** to (i) Permitted Exceptions and (ii) to the extent permitted by Section 13.6 of the Original Indenture as to property hereafter acquired (a) any duly recorded or perfected Prior Lien that may exist thereon at the date of the acquisition thereof by the Company and (b) purchase money mortgages, other purchase money liens, chattel mortgages, conditional sales agreements or other title retention agreements created by the Company at the time of acquisition thereof.

**BUT IN TRUST, NEVERTHELESS,** with power of sale, for the equal and proportionate benefit and security of the Holders from time to time of all the Outstanding Secured Obligations without any priority of any Outstanding Secured Obligation over any other Outstanding Secured Obligation and for the enforcement of the payment of Outstanding Secured Obligations in accordance with their terms.

**UPON CONDITION** that, until the happening of an Event of Default under the Indenture and subject to the provisions of Article V of the Original Indenture, and not in limitation of the rights elsewhere provided in the Original Indenture, including the rights set forth in Article V of the Original Indenture, the Company shall have the right to (i) possess, use, manage, operate and enjoy the Trust Estate (other than cash and securities constituting part of the Trust Estate that are deposited with the Trustee), (ii) explore for, gather, cut, mine and produce crops, timber, coal, ore, gas, oil, minerals or other natural resources and products, and to use, consume and dispose of any thereof, and (iii) collect, receive, use, make payments from, transfer, invest, otherwise utilize or employ amounts constituting or derived from the rents, issues, tolls, earnings, profits,

revenues, products and proceeds from the Trust Estate or the operation of the property constituting part of the Trust Estate.

Should the indebtedness secured by the Indenture be paid according to the tenor and effect thereof when the same shall become due and payable and should the Company perform all covenants therein and herein contained in a timely manner, then the Indenture shall be canceled and surrendered.

**AND IT IS HEREBY COVENANTED AND DECLARED** that the First Mortgage Note, Series 2010A is to be authenticated and delivered and the Trust Estate is to be held and applied by the Trustee, subject to the covenants, conditions and trusts set forth herein and in the Original Indenture, and the Company does hereby covenant and agree to and with the Trustee, for the equal and proportionate benefit of all Holders of the Outstanding Secured Obligations, as follows:

## **ARTICLE I**

### **THE FIRST MORTGAGE NOTE, SERIES 2010A AND CERTAIN PROVISIONS RELATING THERETO**

#### **SECTION 1.01. Definitions.**

All words and phrases defined in Article I of the Original Indenture shall have the same meaning in this First Supplemental Indenture, including any exhibit hereto, except as otherwise appears herein or unless the context clearly requires otherwise.

#### **SECTION 1.02. Authorization and Terms of the First Mortgage Note, Series 2010A.**

There shall be established an Additional Obligation in the form of the promissory note known as and entitled the "First Mortgage Note, Series 2010A" (hereinafter referred to as the "First Mortgage Note, Series 2010A"), the form, terms and conditions of which shall be substantially as set forth in this Section and Section 1.03. The First Mortgage Note, Series 2010A is the same Note described and defined in the 2010 Indenture and the 2010 Financing Agreement as the "Note." The aggregate principal face amount of the First Mortgage Note, Series 2010A which shall be authenticated and delivered and Outstanding at any one time is limited to \$83,300,000.

The First Mortgage Note, Series 2010A shall be dated the date of its authentication and shall mature on [\_\_\_\_\_]. The First Mortgage Note, Series 2010A shall bear interest computed in the same manner and payable at the same time as the interest on the Series 2010A Bonds is computed and paid as described and computed in accordance with the terms of the 2010 Indenture. The First Mortgage Note, Series 2010A shall be subject to optional prepayment as more particularly set forth in such First Mortgage Note, Series 2010A. The First Mortgage Note, Series 2010A shall be authenticated and delivered to, and made payable to, U.S. Bank National Association,

as trustee for the Series 2010A Bonds (in such capacity, the "Bond Trustee"), as assignee and pledgee of the County pursuant to the 2010 Indenture.

All payments made on the First Mortgage Note, Series 2010A shall be made to the Bond Trustee at its principal office in [ ] in lawful money of the United States of America which will be immediately available on the date payment is due.

**SECTION 1.03. Form of the First Mortgage Note, Series 2010A.**

The First Mortgage Note, Series 2010A and the Trustee's authentication certificate to be executed on the First Mortgage Note, Series 2010A shall be substantially in the form of Exhibit B attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted in the Original Indenture.

**SECTION 1.04. Payments on First Mortgage Note, Series 2010A.**

Payments by the Company on the First Mortgage Note, Series 2010A shall be used to make payments required under the 2010 Financing Agreement.

**ARTICLE II**

**MISCELLANEOUS**

**SECTION 2.01. Supplemental Indenture.**

This First Supplemental Indenture is executed and shall be construed as an indenture supplemental to the Original Indenture, and shall form a part thereof, and the Original Indenture, as hereby supplemented, is hereby confirmed. Except to the extent inconsistent with the express terms of this First Supplemental Indenture, the 2010 Indenture, the 2010 Financing Agreement and the Series 2010A Bonds, all of the provisions, terms, covenants and conditions of the Original Indenture shall be applicable to the First Mortgage Note, Series 2010A to the same extent as if specifically set forth herein.

**SECTION 2.02. Recitals.**

All recitals in this First Supplemental Indenture are made by the Company only and not by the Trustee; and all of the provisions contained in the Original Indenture, in respect of the rights, privileges, immunities, powers and duties of the Trustee shall be applicable in respect hereof as fully and with like effect as if set forth herein in full.

**SECTION 2.03. Successors and Assigns.**

Whenever in this First Supplemental Indenture any of the parties hereto is named or referred to, this shall, subject to the provisions of Articles IX and XI of the Original Indenture, be deemed to include the successors and assigns of such party, and all the

covenants and agreements in this First Supplemental Indenture contained by or on behalf of the Company, or by or on behalf of the Trustee shall, subject as aforesaid, bind and inure to the respective benefits of the respective successors and assigns of such parties, whether so expressed or not.

**SECTION 2.04. No Rights, Remedies, Etc.**

Nothing in this First Supplemental Indenture, expressed or implied, is intended, or shall be construed, to confer upon, or to give to, any person, firm or corporation, other than the parties hereto and the Holders of the Outstanding Secured Obligations, any right, remedy or claim under or by reason of this First Supplemental Indenture or any covenant, condition, stipulation, promise or agreement hereof, and all the covenants, conditions, stipulations, promises and agreements in this First Supplemental Indenture contained by or on behalf of the Company shall be for the sole and exclusive benefit of the parties hereto, and of the Holders of Outstanding Secured Obligations.

**SECTION 2.05. Counterparts.**

This First Supplemental Indenture may be executed in several counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts, or as many of them as the Company and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

**SECTION 2.06. Security Agreement; Mailing Address.**

To the extent permitted by applicable law, this First Supplemental Indenture shall be deemed to be a security agreement and financing statement whereby the Company grants to the Trustee a security interest in all of the Trust Estate that is personal property or fixtures under the Uniform Commercial Code.

The mailing address of the Company, as debtor is:

Big Rivers Electric Corporation  
201 Third Street  
Henderson, Kentucky 42420

and the mailing address of the Trustee, as secured party is:

U.S. Bank National Association  
225 Asylum Street  
Hartford, Connecticut 06103

Additionally, this First Supplemental Indenture shall, if appropriate, be an amendment to the financing documents originally filed in connection with the Original Indenture. The Company is authorized to execute and file as appropriate instruments under the



Uniform Commercial Code to either create a security interest or amend any security interest heretofore created.

[Signatures on Next Page.]

**IN WITNESS WHEREOF**, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the day and year first above written.

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

(SEAL)

Attest: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

COMMONWEALTH OF KENTUCKY    )  
  )  
COUNTY OF [                             ]    )

THE FOREGOING instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by [ ], [ ] of Big Rivers Electric Corporation, a corporation, for and on behalf of said corporation.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public's Signature

(Notarial Seal)

Trustee:

**U.S. BANK NATIONAL ASSOCIATION, as  
Trustee**

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

COMMONWEALTH OF KENTUCKY    )  
  )  
COUNTY OF [                       ]    )

THE FOREGOING instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by [ ], [ ] of U.S. Bank National Association, a national banking association, for and on behalf of said association.

WITNESS my hand and official seal.

\_\_\_\_\_

(Notarial Seal)

## EXHIBIT A

[Filing and recording information for the Original Indenture on a county by county basis]

**EXHIBIT B**

THIS FIRST MORTGAGE NOTE, SERIES 2010A IS NONTRANSFERABLE EXCEPT AS MAY BE REQUIRED TO EFFECT ANY TRANSFER TO ANY SUCCESSOR TRUSTEE UNDER THE TRUST INDENTURE, DATED AS OF [\_\_\_\_], 20[09], BETWEEN THE COUNTY OF OHIO, KENTUCKY AND U.S. BANK NATIONAL ASSOCIATION, AS BOND TRUSTEE.

No. R-

\$[\_\_\_\_\_]

**BIG RIVERS ELECTRIC CORPORATION  
FIRST MORTGAGE NOTE, SERIES 2010A**

**BIG RIVERS ELECTRIC CORPORATION** ("Big Rivers"), a cooperative corporation organized under the laws of the Commonwealth of Kentucky, for value received, promises to pay to U.S. Bank National Association, as trustee (the "Bond Trustee"), or its successors in trust, the principal sum of \$[\_\_\_\_\_] and interest thereon as follows: Big Rivers shall pay, during the term of the Loan Agreement, dated as of [\_\_\_\_], 2010 (the "Financing Agreement"), between the County of Ohio, Kentucky (the "County") and Big Rivers, for deposit into the Bond Fund, (i) on or prior to each date on which interest is due on the County's Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project), (the "Series 2010A Bonds") issued by the County under the Trust Indenture, dated as of [\_\_\_\_], 2010 (the "Bond Indenture"), between the County and the Bond Trustee, as the same may be amended and supplemented from time to time, the amount of interest due on the Series 2010A Bonds on such date, computed in the manner described in the Bond Indenture, (ii) on the stated maturity date of the Series 2010A Bonds (or earlier date to which the maturity of the Series 2010A Bonds has been accelerated as a result of an event of default), a sum which will equal the principal amount of the Series 2010A Bonds which will become due on such date and (iii) on or prior to any redemption date for the Series 2010A Bonds, an amount equal to the principal of (premium, if any) and interest on the Series 2010A Bonds which are to be redeemed on such date.

This First Mortgage Note, Series 2010A is issued under, is described in and is subject to the Financing Agreement, and is secured by an Indenture, dated as of July 1, 2009 (the "Big Rivers Indenture"), between Big Rivers and U.S. Bank National Association, as trustee (the "Indenture Trustee"), as supplemented and amended.

All payments required pursuant hereto shall be made to the Bond Trustee at its principal office in [\_\_\_\_], in lawful money of the United States of America. As set forth in Section 5.7 of the Financing Agreement, the obligation of Big Rivers to make the payments required hereunder shall be absolute and unconditional.

This First Mortgage Note, Series 2010A may be prepaid upon the terms and conditions set forth in Article X of the Financing Agreement.

Big Rivers shall be entitled to credits against payments required hereby as provided in Section 5.2 of the Financing Agreement.

If the maturity date of the Series 2010A Bond shall be accelerated as a result of an event of default, the principal of this First Mortgage Note, Series 2010A shall become due and payable in the manner and with the effect provided in the Financing Agreement. The Financing Agreement provides that, under certain conditions, such acceleration shall be rescinded.

No recourse shall be had for the payments required hereby or for any claim based herein or on the Financing Agreement or on the Big Rivers Indenture against any officer, director or stockholder, past, present or, future, of Big Rivers as such, either directly or through Big Rivers, or under any constitution and provision, statute or rule of law or by the enforcement of any assessment or by any legal or equitable proceedings or otherwise.

This First Mortgage Note, Series 2010A shall not be entitled to any benefit under the Big Rivers Indenture and shall not become valid or obligatory for any purpose until the Indenture Trustee shall have signed the form of authentication certificate endorsed hereon.

All terms use in this First Mortgage Note, Series 2010A which are not defined herein shall have the meanings assigned to them in the Financing Agreement or the Bond Indenture.

IN WITNESS WHEREOF, Big Rivers has caused this First Mortgage Note, Series 2010A to be duly executed, attested and delivered the \_\_ day of [\_\_\_\_], 2010.

(SEAL)

**BIG RIVERS ELECTRIC CORPORATION**

---

[\_\_\_\_]  
[\_\_\_\_]

Attest:

---

[\_\_\_\_]  
[\_\_\_\_]

This is one of the Obligations of the series designated therein referred to in within-mentioned Big Rivers Indenture.

U.S. BANK NATIONAL ASSOCIATION, as  
Indenture Trustee

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

Date of Authentication: [\_\_\_\_\_] \_\_, 2010





---

BIG RIVERS ELECTRIC CORPORATION,  
GRANTOR,

to

U.S. BANK NATIONAL ASSOCIATION,  
TRUSTEE

INDENTURE

Dated as of July 1, 2009

FIRST MORTGAGE OBLIGATIONS

---

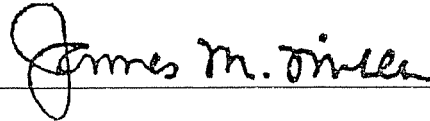
- THIS INSTRUMENT IS A MORTGAGE.
- THIS INSTRUMENT GRANTS A SECURITY INTEREST IN A TRANSMITTING UTILITY.
- BIG RIVERS ELECTRIC CORPORATION IS A TRANSMITTING UTILITY.
- THIS INSTRUMENT CONTAINS PROVISIONS THAT COVER REAL AND PERSONAL PROPERTY, AFTER-ACQUIRED PROPERTY, FIXTURES AND PROCEEDS.
- FUTURE ADVANCES AND FUTURE OBLIGATIONS ARE SECURED BY THIS INSTRUMENT.
- THE MAXIMUM ADDITIONAL INDEBTEDNESS WHICH MAY BE SECURED HEREUNDER IS \$3,000,000,000.
- THE TYPES OF PROPERTY COVERED BY THIS INSTRUMENT ARE DESCRIBED ON PAGES 1 THROUGH 7 AND EXHIBIT A.
- THE ADDRESSES AND THE SIGNATURES OF THE PARTIES TO THIS INSTRUMENT ARE STATED ON PAGES 21, 33, 142 AND 143.

STATE TAXPAYER'S IDENTIFICATION NUMBER: 25757

FEDERAL TAXPAYER'S IDENTIFICATION NUMBER: 61-0597287

THIS INDENTURE WAS PREPARED BY JAMES M. MILLER OF SULLIVAN, MOUNTJOY,  
STAINBACK & MILLER, P.S.C., 100 ST. ANN BUILDING, OWENSBORO, KENTUCKY 42303,  
ATTORNEY FOR BIG RIVERS ELECTRIC CORPORATION.

Signed: \_\_\_\_\_



AFTER READING RETURN TO:  
B. R. Reynolds  
100 St. Ann Street  
Owensboro, KY 42303

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THIS INDENTURE, dated as of July 1, 2009 (hereinafter called the "Indenture"), is between BIG RIVERS ELECTRIC CORPORATION, a cooperative corporation organized under the laws of the Commonwealth of Kentucky, as Grantor (hereinafter called the "Company"), and U.S. BANK NATIONAL ASSOCIATION, as Trustee (hereinafter called the "Trustee").

#### RECITALS OF THE COMPANY

The Company duly authorized and issued the Existing Obligations and has duly authorized the creation, execution and delivery from time to time after the date hereof of its notes, bonds and other obligations for the payment of money as hereinafter provided, issuable in one or more series (hereinafter called the "Additional Obligations"; the Existing Obligations and the Additional Obligation hereinafter called, collectively; the "Obligations"); and to secure the Obligations and provide for the authentication of the Existing Obligations on the date hereof and the authentication and delivery of the Additional Obligations by the Trustee from time to time, the Company has duly authorized the execution and delivery of this Indenture.

All things have been done which are necessary to make the Existing Obligations, and when duly executed and issued by the Company and authenticated and delivered by the Trustee hereunder, the Additional Obligations, the valid obligations of the Company, and to constitute this Indenture a valid indenture of mortgage, security agreement and financing statement and contract for the security of the Obligations, in accordance with the terms of the Obligations and this Indenture.

#### GRANTING CLAUSES

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that, to secure the payment of the principal of (and premium, if any) and interest on the Outstanding Secured Obligations and the performance of the covenants therein and herein contained and to declare the terms and conditions on which the Outstanding Secured Obligations are secured, and in consideration of the premises and of the purchase of, or loans and other obligations evidenced by, the Obligations, the Company by these presents does grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over, hypothecate and confirm to (and does create a security interest in favor of) the Trustee, and its successors and assigns in the trust created hereby, in trust with power of sale, all property, rights, privileges and franchises of the Company (except any Excepted Property) of every kind and description, real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired by the Company, wherever located, and including all and singular the following described property, subject in all cases to Sections 5.2 and 11.2B and to the rights of the Company under this Indenture, including the rights set forth in Article V:

#### GRANTING CLAUSE FIRST

A. All fee and leasehold estates and other interests in real property described in Exhibit A attached hereto, subject in each case to the restrictions, exceptions, reservations, terms,

conditions, agreements, leases, subleases, covenants, limitations, interests and other matters of record on the date hereof;

B. All fixtures, easements, permits, licenses and rights-of-way constituting real property and all other interests in real property of the Company; and

C. All rights and interests of the Company in all contracts (i) that relate to the ownership, operation or maintenance of any electric generation, transmission or distribution facility owned, whether solely or jointly, by the Company, (ii) that constitute Qualified EPC Contracts, (iii) for the management or operation of all or substantially all of the System, (iv) for the purchase or sale of electric power and energy by the Company and having an original term in excess of one (1) year, (v) for the transmission of electric power and energy by or on behalf of the Company and having an original term in excess of one (1) year, and (vi) for pooling or other power supply arrangements and having an original term in excess of one (1) year, including the contracts listed on Exhibit B attached hereto, and including any amendments, supplements, restatements, consolidations and replacements of any such contracts, but excluding any such contracts (a) for the purchase of electric power or energy by the Company for which the seller has no recourse, directly or indirectly, to the general credit of the Company, or (b) for the resale of the electric power or energy purchased pursuant to a contract described in the immediately preceding clause (a).

#### **GRANTING CLAUSE SECOND**

All other property, rights, privileges and franchises of the Company of every kind and description, real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired by the Company, wherever located, including, without limitation, goods (including equipment, materials and supplies, but excluding electricity), accounts, general intangibles (but excluding contracts, contract rights and associated general intangibles (except contracts of the type subjected to the lien of this Indenture by Subdivision C of Granting Clause First and those described in Exhibit B), Trust Moneys, and real property and interests in real property located in any of the states and counties in which any property described in Subdivision A or B of Granting Clause First is located, but excluding Excepted Property, it being the intention hereof that all of such property, rights, privileges and franchises now owned by the Company or acquired by the Company after the date hereof (other than Excepted Property) shall be as fully embraced within and subjected to the lien hereof as if such property were specifically described herein.

#### **GRANTING CLAUSE THIRD**

Also any Excepted Property that may, from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien hereof by the Company or by anyone on its behalf; and the Trustee is hereby authorized to receive the same at any time as additional security hereunder. Such subjection to the lien hereof of any Excepted Property as additional security may be made subject to any reservation, limitation or condition which shall be set forth in a written instrument executed by the Company or the person so acting on its behalf or by the Trustee respecting the ownership, use and disposition of such property or the proceeds thereof.

## GRANTING CLAUSE FOURTH

Together with the following (other than Excepted Property): all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders and all the rents, issues, profits, revenues and other income, products and proceeds of the property subjected or required to be subjected to the lien of this Indenture, all buildings, improvements, plants, systems, works, structures, electric power plants, stations and substations, powerhouses, electric transmission and distribution lines and systems, conduits, towers, poles, wires, cables, meters, office buildings, warehouses, garages, sheds, shops, and all other structures and buildings, machinery, engines, boilers, dynamos, generators, turbines, fuel handling and transportation facilities and devices, air and water pollution control and sewage and solid waste disposal facilities, transformers, electric and mechanical appliances, tools and other equipment, apparatus, appurtenances, and all other property of any nature appertaining to any of the electric utility plants, systems, business or operations of the Company, whether or not affixed to realty, used in the operation of any of the premises or plants or the System, or otherwise, which are now owned or hereafter acquired by the Company, and all the estate, right, title and interest of every nature whatsoever, at law as well as in equity, of the Company in and to the same and every part thereof including, without limitation, the aforementioned property located in the Counties of Ballard, Breckinridge, Caldwell, Crittenden, Daviess, Graves, Grayson, Hancock, Henderson, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Union and Webster in the Commonwealth of Kentucky.

## EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the foregoing Granting Clauses and the lien and operation of this Indenture the following described property of the Company, now owned or hereafter acquired (herein sometimes referred to as "Excepted Property"):

A. all cash on hand or in banks or other financial institutions (excluding such cash to the extent it constitutes proceeds of the Trust Estate in which the security interest created by this Indenture is perfected pursuant to the Uniform Commercial Code, for so long as such perfection continues, and also excluding cash deposited or required to be deposited with the Trustee pursuant to this Indenture) claims, choses in action and judgments, all contracts, contract rights and associated general intangibles (except to the extent subjected to the lien of this Indenture pursuant to Granting Clause Second), Stock (including any interest of the Company in the CFC or in CoBank, allowances for emissions or similar rights granted by any governmental authority, bonds, notes, repurchase agreements, evidences of indebtedness and other securities and instruments, bills, patents, patent licenses and other patent rights, patent applications, service marks, trade names and trademarks, other than (i) Pledged Securities and any other property referred to in this paragraph A which is specifically described in Granting Clause First or is by the express provisions of this Indenture subjected or required to be subjected to the lien hereof;

B. all automobiles, buses, trucks, truck cranes, tractors, trailers, rolling stock, railcars and similar vehicles and movable equipment, and all parts, tools, accessories and supplies used in connection with any of the foregoing;

C. all vessels, boats, barges and other marine equipment, all airplanes, airplane engines and other flight equipment, and all parts, tools, accessories and supplies used in connection with any of the foregoing;

D. all goods, inventory, wares and merchandise acquired or produced for the purpose of resale in the ordinary course of business, all materials and supplies and other personal property which are consumable (otherwise than by ordinary wear and tear) in their use in the operation of the business of the Company, and all hand and other portable tools, equipment and fuel;

E. all office furniture, equipment and supplies and all data processing, accounting and other computer equipment, software and supplies;

F. all leasehold interests of the Company as lessee (other than for the purposes set forth in paragraph G hereof) under leases for an original term (including any period for which the Company shall have a right of renewal) of less than five (5) years;

G. all leasehold interests of the Company as lessee for office purposes including, but not limited to, leasehold interests of the Company as lessee in connection with the Excepted Property enumerated in paragraphs B, C and E hereof;

H. all timber separated from the land included in the Trust Estate and all coal, ore, gas (natural or otherwise), oil, minerals and other natural resources, mined, extracted or otherwise separated from the land included in the Trust Estate and all electric energy, gas, steam, water and other products generated, produced or purchased;

I. the last day of the term of each leasehold estate (oral or written) and any agreement therefor, now or hereafter enjoyed by the Company and whether falling within a general or specific description of property herein; **PROVIDED, HOWEVER**, that the Company covenants and agrees that it will hold each such last day in trust for the use and benefit of the Holders of the Outstanding Secured Obligations;

J. all permits, licenses, franchises, interests of the Company in leases, as lessee or lessor, contracts, agreements, contract rights and other rights not specifically subjected or required to be subjected to the lien hereof by the express provisions of this Indenture, whether now owned or hereafter acquired by the Company, which by their terms or by reason of applicable law would become void or voidable if granted, conveyed, mortgaged, transferred, assigned or pledged hereunder by the Company or which cannot be granted, conveyed, mortgaged, transferred, assigned or pledged by this Indenture without the consent of other parties whose consent is not secured, or without subjecting the Trustee to a liability not otherwise contemplated by the provisions of this Indenture, or the granting, conveying, mortgaging, transferring, assigning or pledging of which would result in a breach or a default thereof or would permit the termination or cancellation thereof, or which otherwise may not be hereby lawfully and effectively granted, conveyed, mortgaged, transferred, assigned and pledged by the Company;

- K. all property, real, personal and mixed, which is:
- (i) located outside the Commonwealth of Kentucky;
  - (ii) not specifically described in the Granting Clauses;
  - (iii) not specifically subjected or required to be subjected to the lien of this Indenture by any provision hereof; and
  - (iv) not part of or used or for use in connection with any property specifically subjected or required to be subjected to the lien hereof by the express provisions of this Indenture;

L. all personal property located outside the Commonwealth of Kentucky in which a security interest cannot be perfected solely by the filing of a financing statement under the Uniform Commercial Code;

M. any personal property in which a security interest cannot be lawfully perfected under the laws of the United States or of any state or in which the grant of a security interest would in the Opinion of Counsel be prohibited by applicable law; and

N. All property released from the lien of this Indenture without being sold, exchanged or otherwise disposed of by the Company, as provided in Section 5.2.

**PROVIDED, HOWEVER,** that if, upon the occurrence of an Event of Default, the Trustee, or any separate trustee or co-trustee appointed under Section 9.14 or any receiver appointed pursuant to statutory provision or order of court, shall have entered into possession of all or substantially all of the Trust Estate, all the Excepted Property described or referred to in the foregoing paragraphs A through H, inclusive, then owned or thereafter acquired by the Company, shall immediately, and, in the case of any Excepted Property described or referred to in paragraphs I, J and L, upon demand of the Trustee or such other trustee or receiver, become subject to the lien hereof to the extent permitted by law, and the Trustee or such other trustee or receiver may, to the extent permitted by law, at the same time likewise take possession thereof, and whenever all Events of Default shall have been cured and the possession of all or substantially all of the Trust Estate shall have been restored to the Company, all such Excepted Property shall again be excepted and excluded from the lien hereof to the extent and otherwise as hereinabove set forth.

The Company may, however, pursuant to Granting Clause Third, subject to the lien of this Indenture any Excepted Property, whereupon the same shall cease to be Excepted Property.

**TO HAVE AND TO HOLD** all such property, rights, privileges and franchises hereby and hereafter (by Supplemental Indenture or otherwise) granted, bargained, sold, alienated, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, set over or confirmed (or in which a security interest is granted) as aforesaid, together with all the tenements, hereditaments and appurtenances thereto appertaining (said properties, rights, privileges and franchises, including any cash and securities hereafter deposited or required to be deposited with the Trustee (other than any such cash which is specifically stated herein not to be

deemed part of the Trust Estate) being herein collectively called the "Trust Estate ), unto the Trustee, and its successors and assigns in the trust herein created, forever.

**SUBJECT, HOWEVER,** to (i) Permitted Exceptions and (ii) to the extent permitted by Section 13.6 as to property hereafter acquired (a) any duly recorded or perfected Prior Lien that may exist thereon at the date of the acquisition thereof by the Company and (b) purchase money mortgages, other purchase money liens, chattel mortgages, conditional sales agreements or other title retention agreements created by the Company at the time of acquisition thereof.

**BUT IN TRUST, NEVERTHELESS,** with power of sale, for the equal and proportionate benefit and security of the Holders from time to time of all the Outstanding Secured Obligations without any priority of any Outstanding Secured Obligation over any other Outstanding Secured Obligation and for the enforcement of the payment of Outstanding Secured Obligations in accordance with their terms.

**UPON CONDITION** that, until the happening of an Event of Default and subject to the provisions of Article V, and not in limitation of the rights elsewhere provided in this Indenture, including the rights set forth in Article V, the Company shall have the right to (i) possess, use, manage, operate and enjoy the Trust Estate (other than cash and securities constituting part of the Trust Estate that are deposited with the Trustee), (ii) explore for, gather, cut, mine and produce crops, timber, coal, ore, gas, oil, minerals or other natural resources and products, and to use, consume and dispose of any thereof, and (iii) collect, receive, use, make payments from, transfer, invest, otherwise utilize or employ amounts constituting or derived from the rents, issues, tolls, earnings, profits, revenues, products and proceeds from the Trust Estate or the operation of the property constituting part of the Trust Estate.

Should the indebtedness secured by this Indenture be paid according to the tenor and effect thereof when the same shall become due and payable and should the Company perform all covenants herein contained in a timely manner, then this Indenture shall be canceled and surrendered.

**AND IT IS HEREBY COVENANTED AND DECLARED** that the Existing Obligations are to be authenticated and delivered, the Additional Obligations are to be secured and the Trust Estate is to be held and applied by the Trustee, subject to the covenants, conditions and trusts herein set forth, and the Company does hereby covenant and agree to and with the Trustee, for the equal and proportionate benefit of all Holders of the Outstanding Secured Obligations, as follows:



## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

#### Section 1.1 Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

A. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

B. At any time at which this Indenture is qualified or required to be qualified under the TIA, all other terms used herein which are defined in the TIA either directly or by reference therein, have the meanings assigned to them therein.

C. All accounting terms not otherwise defined herein have the meanings assigned to them, and all determinations and computations herein provided for shall be made, in accordance with Accounting Requirements, and the express reference to "Accounting Requirements" with respect to some accounting terms, determinations or computations shall not imply that other accounting terms, determinations and computations shall not be defined or made in accordance with "Accounting Requirements."

D. All references herein to "Accounting Requirements" refer to such requirements as are in use in the United States at the time of the determination of any computation required or permitted hereunder or, at the option of the Company, such requirements in use on the date of this Indenture.

E. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless specifically so stated.

F. The words "include" and "including" shall not be terms of limitation, and shall in all cases, whether or not expressly stated, be read to be "include, without limitation," and "including, without limitation," respectively.

G. All references in this instrument to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed, unless such Article, Section or other subdivision of this instrument shall have been amended, in which case the reference shall be to such Article, Section or other subdivision as so amended.

H. A definition of or reference to any document, instrument or agreement includes any amendment to, or supplement to, or restatement, replacement, modification or novation of, any such document, instrument or agreement unless otherwise specified in such definition or in the context in which such reference is used.

Certain terms used principally in Article X are defined in that Article.

“**Accountant** means a Person engaged in the practice of accounting who (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company and who need not be independent, certified, licensed or public.

“**Accounting Requirements** means the requirements of any system of accounts prescribed by RUS so long as RUS is the Holder of any Outstanding Secured Obligation; provided, however, that if the Company is specifically required by FERC to employ the system of accounts prescribed by FERC, then “Accounting Requirements means the system of accounts prescribed by FERC; provided, further, however, that if RUS is not a Holder of any Outstanding Secured Obligation or, if such a Holder, RUS does not prescribe a system of accounts applicable to the Company, and the Company is not specifically required by FERC to employ the system of accounts prescribed by FERC, or FERC does not prescribe a system of accounts applicable to the Company, then “Accounting Requirements means the requirements of a regulatory authority having jurisdiction over the Company or, in the absence thereof, the requirements of generally accepted accounting principles applicable to similar Persons conducting businesses similar to that of the Company. Generally accepted accounting principles refers to a common set of accounting standards and procedures that are either promulgated by an authoritative accounting rulemaking body or accepted as appropriate due to widespread application in the United States.

“**acquire** means to acquire by lease, purchase, exchange, construction, merger, consolidation, conveyance, transfer or otherwise. The terms “**acquired**, “**acquiring** and “**acquisition** have meanings correlative to the foregoing.

“**Acquired Facility** means any property which, within six (6) months prior to the date of its acquisition by the Company, has been used or operated by a Person or Persons other than the Company for a purpose similar to that in which such property has been or is to be used or operated by the Company.

“**Act** when used with respect to any Holder or Holders has the meaning stated in Section 1.2.

“**Additional Obligations** has the meaning stated in the first recital of this Indenture and includes any Obligation executed, issued, authenticated and delivered hereunder after the date hereof.

“**Affiliate** of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “**control** of any specified Person means the power to direct the management and policies of such specified Person, directly or indirectly, whether through the ownership of Stock, by contract or otherwise; and the terms “**controlling** and “**controlled** have meanings correlative to the foregoing.

“**Amount of Property Additions** or “**Amount** as applied to any Property Additions means the Cost to the Company of such Property Additions or the Fair Value to the Company of such Property Additions, whichever is less.

“**Application** means an application for the authentication and delivery of Additional Obligations, the advance or issuance of any unadvanced or unissued amount or portion of any

Conditional Obligation or series of Conditional Obligations, the release of any part of the Trust Estate, the withdrawal of Deposited Cash or Trust Moneys under any provision of this Indenture and shall consist of, and shall not be deemed complete until there shall have been delivered to the Trustee, such cash, Obligations, securities and documents as are required by such provision to establish the right of the Company to the action applied for. The date of a particular Application shall be deemed to be the date of completion of all such deliveries to the Trustee and not the date on which any particular document is delivered.

“**Appraiser** means a Person engaged in the business of appraising property of the nature subject to appraisal or otherwise qualified to pass upon the Fair Value to the Company of property or any other valuation of property that may be required pursuant to the provisions of this Indenture who (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company.

“**Authenticating Agent** when used with respect to any particular series of Obligations means any Person named as Authenticating Agent for such series in the provisions of this Indenture creating such series until a successor Authenticating Agent therefor becomes such pursuant thereto, and thereafter “**Authenticating Agent** shall mean such successor.

“**Available Margins Certificate** means an Officers’ Certificate, dated not more than thirty (30) days prior to the date of the related Application, and signed by a Person who is an Accountant (who may be one of the two signing Officers), stating that:

A. the Margins for Interest Ratio is not less than 1.10 for one of the following periods of time: (i) the fiscal year of the Company immediately preceding the fiscal year in which the Application is made, or (ii) if the Application is made within ninety (90) days after the end of a fiscal year, the second preceding fiscal year of the Company or (iii) any twelve (12) consecutive calendar months during the period of fifteen (15) calendar months immediately preceding the first day of the calendar month in which the Application is made **PROVIDED, HOWEVER**, that if any such period of time is one in which this Indenture has not been in effect for the full period of time, then, in lieu of a statement as to the Margins for Interest Ratio, such Available Margins Certificate shall state that the Times Interest Earned Ratio (as defined in the Existing Mortgage) is not less than 1.05 for such period of time; and

B. the Margins for Interest Ratio has been calculated in accordance with the definitions contained in this Indenture **PROVIDED, HOWEVER**, that if the Available Margins Certificate makes a statement as to the Times Interest Earned Ratio and not the Margins for Interest Ratio, stating that the Times Interest Earned Ratio has been calculated in accordance with the provisions of the Existing Mortgage.

If any period of twelve (12) months referred to in an Available Margins Certificate has been a period with respect to which an annual report is required to be filed by the Company pursuant to Section 10.4, such Certificate shall be accompanied by a report of an Independent Accountant stating in substance that nothing came to the attention of such Accountant in connection with the audit of such period that would lead such Accountant to believe that there was any incorrect or inaccurate statement in such Available Margins Certificate; **PROVIDED, HOWEVER**, that if

the Application is made prior to the date on which an annual report is required to be filed by the Company pursuant to Section 10.4, such Certificate shall not be accompanied by such Independent Accountant's report. Each such report of an Independent Accountant shall include the statement as to independence required by the definition of the term "Independent.

**"Board of Directors** means either the board of directors of the Company or any duly authorized committee of such board.

**"Board Resolution** means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

**"Bondable Additions** means the excess of (i) the Amount of Property Additions over (ii) the amount of Retirements (less credits thereto), computed in accordance with Section 4.2 and certified as Bondable Additions in the Summary of Certificate as to Bondable Additions then being filed in accordance with Section 4.2.

**"Bondable Property** means all Property Additions, and all property owned by the Company on the Cut-Off Date which would constitute Property Additions if acquired after that date (except for the requirement to deliver Title Evidence with respect to such property).

**"Book-Entry System** means that system whereby the clearance and settlement of transactions in Obligations held in such system is made through electronic book-entry changes, thereby eliminating the need for physical movement of Obligations, certificates or other instruments.

**"Capital Assets Lease** has the meaning stated in Section 6.6.

**"Cede & Co.** means Cede & Co., as nominee for DTC, and any successor nominee of DTC.

**"Certificate as to Bondable Additions** means an Officers' Certificate, dated not more than thirty (30) days prior to the date of the related Application, complying with the requirements of Section 4.2 and signed by a Person who is an Engineer or an Appraiser (who may be one of the two signing Officers) and a Person who is an Accountant (who may be one of the two signing Officers); provided, however, that, unless a Person signing as an Engineer, Appraiser or Accountant is also one of the two signing Officers, a Person signing as one of such experts may state that he is signing only with respect to the particular portions of the Certificate as to Bondable Additions that are within his expertise; provided further, however, that all portions of the Certificate as to Bondable Additions must be within the expertise of one of such signing experts.

**"Certified Progress Payments** means payments, made by the Company under a Qualified EPC Contract, for generation, transmission and related facilities that will constitute Property Additions upon the performance of such Qualified EPC Contract, that are certified by the Company to the Trustee as the basis for (i) loans or advances under Conditional Obligations under Section 4.6 or (ii) the authentication and delivery of Obligations under Section 4.9.

“CFC means National Rural Utilities Cooperative Finance Corporation and its successors and assigns.

“CoBank means CoBank, ACB and its successors and assigns.

“Commission means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or if at any time after the execution of this instrument such Commission is not existing and performing the duties theretofore assigned to it under the TIA, then the body performing such duties at such time.

“Company means the Person named as the “Company in the first paragraph of this instrument until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, except to the extent otherwise contemplated by Section 11.2B, “Company shall mean such successor Person.

“Company Consent, “Company Order and “Company Request mean, respectively, a written consent, order or request signed in the name of the Company by an Officer of the Company, and delivered to the Trustee.

“Conditional Obligations has the meaning stated in Section 4.6.

“Cost to the Company of Property Additions means the actual cost of acquisition thereof by the Company determined in accordance with Accounting Requirements. Such cost of acquisition shall include capitalized interest and other expenses (including taxes, engineering costs and expenses, legal costs and expenses, allocated administrative charges, insurance, casualties and supervisory fees and expenses) relating to such acquisition and properly chargeable to the Company’s property accounts in accordance with Accounting Requirements. When the consideration for Property Additions consists (in whole or in part) of property or securities, the fair market value of such consideration (as of the date of the transfer and delivery thereof) shall be deemed the equivalent of cash in the determination of cost. The Cost to the Company of any Property Additions acquired as an Acquired Facility shall include the cost to the Company of any franchises, contracts, operating agreements and other rights and Non-Bondable Property simultaneously acquired with, and related to, such Property Additions, for which no separate or distinct consideration shall have been paid or apportioned; and, except in such case, the Cost to the Company of any property, only part of which constitutes Property Additions and all of which is acquired for a single consideration, shall be properly allocated to Property Additions in the Certificate as to Bondable Additions in which such Property Additions are certified to the Trustee. In the case of Property Additions consisting of property owned by a successor corporation at the time it shall have become such by consolidation, merger, conveyance or transfer as provided in Article XI, or acquired by it by such consolidation, merger, conveyance or transfer, the Cost to the Company shall be the gross amount at which such property is recorded in the plant or property accounts (exclusive of any amounts carried in plant or property adjustment accounts) on the books of such successor corporation, or the constituent or predecessor corporation from which such property was acquired, immediately prior to such consolidation, merger, conveyance or transfer, less related reserves for depreciation, depletion, obsolescence, retirements and amortization as of that date. Notwithstanding anything else in this definition, the Cost to the Company of any Property Additions acquired from Western Kentucky

Energy Company in the transactions approved by the Kentucky Public Service Commission in Case No. 2007-00455 and consisting of (i) the flue gas desulphurization system and associated equipment at the Company's Coleman Generating Plant, shall be \$98,500,000 and (ii) property, other than that described in clause (i) of this sentence, shall be the actual costs of acquisition thereof by Western Kentucky Energy Company, assuming the property accounts of Western Kentucky Energy Company constitute "the Company's property accounts" for purposes of the second sentence of this definition.

**"Credit Enhancement"** means, with respect to any Obligation, the provision of an insurance policy, letter of credit, surety bond or any other undertaking whereby the provider thereof becomes unconditionally obligated to pay when due, to the extent not paid by the Company or otherwise, the principal of and interest on such Obligation or on another obligation the payment on which is (i) secured by such Obligation or (ii) credited against the principal and interest due on such Obligation.

**"Credit Enhancement Obligations"** has the meaning stated in Section 4.7.

**"Credit Enhancer"** means any Person that, pursuant to this Indenture or a Supplemental Indenture, is designated as a Credit Enhancer and which provides Credit Enhancement.

**"Cut-Off Date"** means December 31, 2008.

**"Defaulted Interest"** has the meaning stated in Section 3.9.

**"Defeasance Securities"** means and includes any of the following securities, if and to the extent the same are not subject to redemption or call prior to maturity by anyone other than the holder thereof and are at the time legal for investment of the Company's funds:

A. any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America; and

B. any certificates or any other evidences of an ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the interest thereon) of the character described in paragraph A above.

**"Deposited Cash"** has the meaning stated in Section 4.4.

**"Distribution"** has the meaning stated in Section 13.15.

**"DTC"** means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

**"DTC Participant"** means a broker-dealer, bank or other financial institution for which DTC holds Obligations.

**"Engineer"** means a Person engaged in the engineering profession who (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company and who need not be independent, certified or licensed.

**“Event of Default** has the meaning stated in Section 8.1 or in any Supplemental Indenture. An Event of Default shall “exist if an Event of Default shall have occurred and be continuing.

**“Excepted Property** has the meaning stated in the Granting Clauses hereof.

**“Existing Mortgage** means the Third Restated Mortgage and Security Agreement made by and among the Company, United States of America, Ambac Assurance Corporation, Credit Suisse First Boston, U.S. Bank Trust National Association, CFC, PBR-1 Statutory Trust, PBR-2 Statutory Trust, PBR-3 Statutory Trust, FBR-1 Statutory Trust, FBR-2 Statutory Trust and Ambac Credit Products, LLC, dated as of August 1, 2001 as amended by the First Amendment to Third Restated Mortgage and Security Agreement dated as of July 15, 2003.

**“Existing Obligations** means the Series 1983 Revenue Bond Obligations, the Series 2001A Revenue Bond Obligations and the RUS Obligations, identified on Exhibit C attached hereto and authenticated by the Trustee pursuant to Section 3.1, and any amendments, supplements, extensions, replacements or restatements consistent with Section 3.1.

**“Fair Value to the Company** means, when used with respect to any particular Property Additions, the fair value thereof to the Company, determined as of the date of the Company’s acquisition of such Property Additions and in accordance with the provisions of this Indenture; PROVIDED, HOWEVER, that the “Fair Value to the Company of Property Additions that would not constitute Property Additions but for satisfaction of the conditions set forth in clauses (i) and (ii) of paragraph (C) of the definition of “Property Additions set forth below shall not exceed the product obtained by multiplying the Fair Value to the Company of such Property Additions (determined as if the remaining term of the leasehold interest to which such property relates were equal to the remaining useful economic life of such property) by a fraction, the numerator of which shall be the remaining term of the leasehold interest to which such property relates (including any periods for which the Company has the option to extend or renew such leasehold interest) as of the date of the Application and the denominator of which is the useful economic life of such Property Additions; and PROVIDED, FURTHER, that the “Fair Value to the Company of Property Additions that would not constitute Property Additions but for satisfaction of the conditions set forth in clause (ii) of paragraph C of the definition of “Property Additions shall take into account any irrevocable deposit by the Company of cash or securities (which securities must be rated by any nationally recognized statistical rating organization the higher of (1) “A or (2) as high as any series of Obligations are rated) in a fund or funds for the exclusive purposes of discharging or securing the Company’s obligations to make rental payments and payments of a fixed price purchase option under any such lease. The Fair Value to the Company of any particular Property Additions subject to a lien constituting a Permitted Exception or permitted by the proviso to Section 5.2D(2), shall be determined as if such property were free of such lien.

**“FERC”** shall mean the Federal Energy Regulatory Commission, or any agency or other governmental body succeeding to the functions thereof.

**“Holder** when used with respect to any Obligation means the Person in whose name such Obligation is registered in the Obligation Register.

“**Indenture** means this instrument as originally executed or as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental hereto (including Supplemental Indentures) entered into pursuant to the applicable provisions hereof or otherwise.

“**Independent** when used with respect to any specified Person means such a Person who (i) is in fact independent, (ii) does not have any direct financial interest or any material indirect financial interest in the Company or in any other obligor upon the Obligations or in any Affiliate of the Company or of such other obligor and (iii) is not connected with the Company or such other obligor as an officer, employee, promoter, underwriter, trustee, member, partner, director or person performing similar functions, and (iv) is licensed or certified to the extent required by law and in accordance with standards applicable to the profession in which such Person is engaged. Whenever it is herein provided that any Independent Person’s opinion, report or certificate shall be furnished to the Trustee, such opinion, report or certificate shall state that the signer has read this definition and that the Person furnishing such opinion, report or certificate is Independent within the meaning thereof

“**Interest Charges** for any period means the total interest charges (whether capitalized or expensed) for such period (determined in accordance with Accounting Requirements) related to (i) Outstanding Secured Obligations of the Company, or (ii) outstanding Prior Lien Obligations of the Company, in all cases including amortization of debt discount and premium on issuance, but excluding all interest charges related to Obligations that have actually been paid by another Person that has agreed to be primarily liable for such Obligation pursuant to an assumption agreement or similar undertaking, provided such assumption agreement or similar undertaking is not a mechanism by which the Company continues to make payments to such Person based on payments made by such Person on account of its assumed liability or by which the Company otherwise seeks to avoid having interest related to such Obligations included in the definition of Interest Charges without the economic substance of an assumption of liability on the part of such Person; **PROVIDED, HOWEVER**, that with respect to any calculation of Interest Charges for any period prior to the date hereof, “Interest Charges means the total interest charges (whether capitalized or expensed) of the Company for such period (determined in accordance with Accounting Requirements) with respect to interest related to indebtedness the obligation for the payment of which was secured under the Existing Mortgage or by a lien against property subject to the Existing Mortgage prior to or on a parity with the lien of the Existing Mortgage, other than “Permitted Encumbrances (as defined in the Existing Mortgage), in all cases including amortization of debt discount and premium on issuance.

“**Interest Payment Date** means the Stated Maturity of an installment of interest on the Obligations.

“**Leased Assets** has the meaning stated in Section 6.6.

“**Margins for Interest** means, for any period, the sum of (i) net margins of the Company for such period (which, except as otherwise provided in this definition, shall be determined in accordance with Accounting Requirements), which shall include revenues of the Company, subject to possible refund at a future date, but which shall exclude provisions for any (a) non-recurring charge to income, whether or not recorded as such on the Company’s books, of



whatever kind or nature (including the non-recoverability of assets or expenses), except to the extent the Board of Directors determines to recover such non-recurring charge in Rates, (b) refund of revenues collected or accrued by the Company in any prior year subject to possible refund; plus (ii) the amount, if any, included in the computation of net margins for accruals for federal and state income and other taxes imposed on income after deduction of interest expense for such period; plus (iii) the amount, if any, included in the computation of net margins for any losses incurred by any Subsidiary or Affiliate of the Company; plus (iv) the amount, if any, the Company actually receives in such period as a dividend or other distribution of earnings or profits of any Subsidiary or Affiliate (whether or not such earnings were for such period or any earlier period or periods); minus (v) the amount, if any, included in the computation of net margins for any earnings or profits of any Subsidiary or Affiliate of the Company; and minus (vi) the amount, if any, the Company actually contributes to the capital of, or actually pays under a guarantee by the Company of an obligation of, any Subsidiary or Affiliate in such period to the extent of any accumulated losses incurred by such Subsidiary or Affiliate (whether or not such losses were for such period or any earlier period or periods), but only to the extent such losses have not otherwise caused other contributions or guarantee payments to be included in net margins for purposes of computing Margins for Interest for a prior period and such amount has not otherwise been included in net margins.

“**Margins for Interest Ratio** means, for any period, (i) the sum of (a) Margins For Interest plus (b) Interest Charges, divided by (ii) Interest Charges.

“**Maturity** means, when used with respect to any Obligation, the date on which the principal of such Obligation, or any installment thereof, becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration or acceleration or call for redemption, purchase or prepayment or otherwise; **PROVIDED, HOWEVER**, any obligation to purchase or otherwise acquire any Additional Obligation from its Holder shall not constitute an obligation to pay the principal of such Obligation if so provided in the Supplemental Indenture creating such Additional Obligation.

“**Member Cooperative** means any cooperative or other entity that is a member of the Company and any electric distribution cooperative that is a member of a member of the Company.

“**Non-Bondable Property** means any property owned by the Company other than Bondable Property.

“**Obligation Register** and “**Obligation Registrar** have the respective meanings stated in Section 3.7.

“**Obligations** has the meaning stated in the first recital of this Indenture.

“**Officer** for purposes of any consent, order, certificate, opinion, request or other writing to be delivered hereunder or other action hereunder means the President, Chief Executive Officer, any Executive Vice President, any Senior Vice President, the senior financial officer of the Company or any other officer or employee of the Company authorized by a Board Resolution to

give such consent, order, certificate, opinion or other writing, or to make such request or to perform such action.

“**Officers’ Certificate** means a certificate signed by any two Officers of the Company. Wherever this Indenture requires that an Officers’ Certificate be signed also by an Engineer or an Accountant or other expert, such Engineer, Accountant or other expert may (except as otherwise expressly provided in this Indenture) be employed by the Company and may be one of the two signing Officers.

“**Opinion of Counsel** means a written opinion (or, in the case of matters relating to title, real or personal property records or the existence or priority of liens, a written certificate) of counsel who may (except as otherwise expressly provided in this Indenture) be employed by, or be outside counsel to, the Company and who shall be reasonably acceptable to the Trustee. The acceptance without objection by the Trustee of any Opinion of Counsel shall be conclusive evidence that such counsel is acceptable to the Trustee.

“**Original Issue Discount Obligation** means any Obligation declared to be an “Original Issue Discount Obligation in the Supplemental Indenture establishing the series to which such Obligation belongs.

“**Outstanding** when used with respect to Obligations means, as of the date of determination, all Existing Obligations authenticated under this Indenture and all Additional Obligations authenticated and delivered under this Indenture, except:

A. Obligations, or any portion thereof, theretofore canceled by the Trustee or delivered to the Trustee for cancellation or delivered to the Trustee marked surrendered, canceled, satisfied or otherwise evidenced to the Trustee’s satisfaction as paid; (and which amount may not be readvanced)

B. Obligations for whose payment or redemption money, or Defeasance Securities in the necessary amount (such amount to be sufficient in the opinion of a nationally recognized firm of Independent Accountants expressed in a certificate signed by such firm and delivered to the Trustee) has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust, for the Holders of such Obligations, **PROVIDED** that, if such Obligations are to be redeemed or prepaid, irrevocable notice of such redemption or prepayment has been duly given or other provision therefor satisfactory to the Trustee has been made;

C. Obligations which have been paid or replaced pursuant to Section 3.8 or in exchange for or in lieu of which other Obligations have been authenticated and delivered pursuant to this Indenture, other than any such Obligations in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Obligations are held by a bona fide purchaser in whose hands such Obligations are valid obligations of the Company; and

D. Additional Obligations which have not been sold, pledged or subjected to a security interest and have been surrendered to the Trustee, or which a portion thereof has not been advanced and with respect to such portion any commitment to advance thereunder has terminated, as provided in the last paragraph of Section 4.1.

**PROVIDED, HOWEVER**, that in determining whether the Holders of the requisite principal amount of Obligations Outstanding or the Obligations Outstanding of a series, as the case may be, have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Obligations owned by the Company or any other obligor upon the Obligations or any Affiliate of the Company or of such other obligor (unless the Company, such obligor and such Affiliate or Affiliates own all Obligations Outstanding under this Indenture or, as to matters relating solely to a particular series, all Obligations Outstanding of such series, as the case may be, determined without regard to this proviso) shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Obligations which are registered in the name of the Company or an Affiliate of the Company of which the Trustee has been given written notice shall be so disregarded; Obligations so owned which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledge establishes to the satisfaction of the Trustee the pledgee's right to act with respect to such Obligations and that the pledgee is not the Company or any other obligor upon the Obligations or any Affiliate of the Company or of such other obligor. For purposes of the definition of "Outstanding, any Credit Enhancer shall not be an obligor upon any Obligation.

**"Outstanding Secured Obligations** means, as of the date of determination, (i) all Obligations then Outstanding other than Obligations then owned by the Company or any wholly-owned Subsidiary and held in its treasury and (ii) all Obligations, if any, alleged to have been destroyed, lost or stolen which have been replaced or paid as provided in Section 3.8 but whose ownership and enforceability by the Holder thereof have been established by a court of competent jurisdiction or other competent tribunal or otherwise established to the satisfaction of the Company and the Trustee.

**"Paying Agent** means the Company and any Person authorized by the Company to pay the principal of (and premium, if any) or interest on any Obligations on behalf of the Company.

**"Performance Agreement"** means a surety or other agreement that guarantees the performance of the party other than the Company under a Qualified EPC Contract or indemnifies the Company and the Trustee against any loss or damage resulting from such other party's default or non-performance under such contract, which is in the form of a performance or supply bond or other agreement for the purpose of so guaranteeing performance or indemnifying against loss.

**Periodic Offering** means an offering of Additional Obligations of a series from time to time any or all of the specific terms of such Additional Obligations, including the rate or rates of interest, if any, thereon, the Stated Maturity or Maturities thereof and the redemption provision, if any, with respect thereto, are to be determined by the Company or its agents at or about the time of the issuance of such Additional Obligations.

**"Permitted Exceptions** means:

A. as to the property described in subdivisions A and B of Granting Clause First, the restrictions, exceptions, reservations, terms, conditions, agreements, leases, subleases, covenants, limitations, interests and other matters which are of record on the date hereof, **PROVIDED** that

such matters do not materially impair the use of such property for the purposes for which it is held by the Company;

B. as to property which the Company may hereafter acquire, any restriction, exception, reservation, term, condition, agreement, lease, sublease, covenant, limitation, interest or other matter which is of record on the date of such acquisition or expressed or provided in the deeds or other instruments under which the Company shall acquire the same, **PROVIDED** that such matters do not materially impair the use of such property for the purposes for which it is held by the Company;

C. liens for taxes, assessments and other governmental charges not delinquent, and ordinances establishing assessments for sewer, lighting or other local improvement districts;

D. liens for taxes, assessments and other governmental charges already delinquent which are currently being contested in good faith by appropriate proceedings and with respect to which the Company shall have set aside on its books adequate reserves;

E. mechanics', workmen's, repairmen's, materialmen's, warehousemen's, contractors', subcontractors' and carriers' liens and other similar liens arising in the ordinary course of business or incident to current construction for charges which (i) are not delinquent or (ii) are being contested in good faith and have not proceeded to judgment and with respect to which the Company shall have set aside on its books adequate reserves;

F. liens in respect of judgments or awards (i) with respect to which there exists a stay of execution pending such appeal or proceedings for review and with respect to which the Company shall in good faith currently be prosecuting an appeal or proceedings for review and shall have set aside on its books adequate reserves, or (ii) which are fully covered by insurance;

G. easements, rights-of-way, licenses and permits granted by the Company under Section 5.1D and similar rights granted by any predecessor in title of the Company;

H. easements, leases, restrictions, rights-of-way, exceptions, reservations or other rights of others in any property of the Company for streets, roads, expressways, bridges, pipes, pipe lines, railroads, towers, poles, wires, conduits, mains, metering stations, electric, electronic, optical, or other power or signal transmission and distribution lines, telecommunications and telephone lines, the removal of oil, gas, coal, minerals or other natural resources, and other similar purposes, flood rights, river control and development rights, sewage and drainage rights, restrictions against pollution and zoning laws and defects and irregularities in the record evidence of title of any property of the Company, to the extent that such easements, leases, restrictions, rights-of-way, exceptions, reservations, other rights, laws, defects and irregularities do not in the aggregate materially impair the use of the Trust Estate taken as a whole for the purposes for which it is held by the Company;

I. liens upon lands over which easements, licenses, permits or rights-of-way are acquired by the Company for any of the purposes specified in paragraph H of this definition, securing indebtedness neither created, assumed nor guaranteed by the Company nor on account of which it customarily pays interest;

J. leases to, or permits for occupancy by, other Persons existing at the date of this instrument affecting property owned by the Company at said date (and future modifications, renewals and extensions thereof);

K. leases to, and permits for occupancy by, other Persons entered into after the date of this instrument affecting property owned by the Company, whether acquired before or after the date of this instrument, (i) for a term of not more than ten (10) years (including any extensions or renewals) or (ii) if for a term of more than ten (10) years which do not materially impair the Company's use of the property in the conduct of its business;

L. any lien or privilege vested in any lessor, landlord, licensor, permittor or other Person for rent to become due from, or for other obligations or acts to be performed by, the Company, the payment of which rent or the performance of which other obligations or acts is required under leases, usufructs, subleases, licenses or permits, so long as the payment of such rent or the performance of such other obligations or acts is (i) not delinquent or (ii) being contested in good faith and has not proceeded to judgment and with respect to which the Company shall have set aside on its books adequate reserves;

M. liens or privileges of any employees of the Company for salary or wages earned but not yet payable;

N. the burdens of any law or governmental regulation, license or permit requiring the Company to maintain certain facilities or perform certain acts as a condition of the carrying on of the System or the occupancy of or interference with any public lands or any river or stream or navigable waters;

O. any restrictions, covenants, defects or irregularities in or other deficiencies of title to any easement or rights-of-way of or used by the Company for pipe lines, telephone lines, telecommunications lines, power lines, towers, poles, wires, conduits, mains, electric transmission lines and distribution lines, substations, metering stations, signal transmission and distribution lines or for similar purposes or appurtenances thereto, or other improvements thereon, and to any real estate of or used or to be used by the Company primarily for such easement or right-of-way purposes, if (i) the Company shall have obtained from the apparent owner of the lands or estates therein covered by any such easement or right-of-way a sufficient right, by the terms of the instrument granting such right-of-way, to the use thereof for the construction, operation or maintenance of the lines, appurtenances or improvements for which the same are used or are to be used, (ii) the Company has power under eminent domain, or similar statutes, to remove such deficiencies, or (iii) such deficiencies may be otherwise remedied without undue effort or expense;

P. rights reserved to, or vested in, any municipality or governmental or other public authority to control or regulate any property of the Company or the use thereof, or to use such property in any manner, **PROVIDED** that such rights do not materially impair the use of such property for the purposes for which it is held by the Company;

Q. any obligations or duties, affecting the property of the Company, to or established by any municipality or governmental or other public authority in connection with any franchise, grant, license or permit;

R. any right which any municipal or governmental authority may have by virtue of any franchise, license, contract or statute;

S. any restrictions, including restrictions on transfer, liens or other matters arising from, permitted by, or required by, any law or governmental regulation relating to environmental matters, **PROVIDED** that such restrictions, liens or other matters do not materially impair the use of such property for the purposes for which it is held and as to any liquidated liens, the Company shall have set aside on its books adequate reserves with respect thereto;

T. reservations contained in U.S. patents;

U. slope and drainage reservations;

V. the interests of other Persons, if any, in, or the requirement to make, deposits to secure duties or public or statutory obligations, deposits to secure, or in lieu of, surety, performance, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or similar charges;

W. any lien or other matter required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Company to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with worker's compensation, unemployment insurance, retirement pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

X. any lien or other encumbrance created or assumed by the Company in connection with the issuance of debt securities the interest on which is excludable from gross income of the holder of such security pursuant to the Internal Revenue Code, as amended, for the purposes of financing or refinancing, in whole or in part, the acquisition or construction of property used or to be used by the Company to the extent such lien covers only such acquired or constructed property and the proceeds upon the sale, transfer or exchange thereof;

Y. the pledge of current assets, in the ordinary course of business, to secure current liabilities;

Z. liens or other encumbrances securing indebtedness for the payment of which money or Defeasance Securities, maturing as to principal and interest in such amounts and at such times, as are sufficient to provide for the full and timely payment of such indebtedness shall have been irrevocably deposited in trust or escrow with the trustee or other holder of such lien, and liens on such deposited money or Defeasance Securities, **PROVIDED** that if such indebtedness is to be redeemed or otherwise prepaid prior to the stated maturity thereof, any notice requisite to such redemption or prepayment shall have been irrevocably given in accordance with the mortgage or other instrument creating such lien or other encumbrance or irrevocable instructions to give such notice shall have been given to such trustee or other holder;

AA. the undivided or other interests of other owners, and liens on such interests, in property owned in common or jointly with the Company or in which the Company has an executory or future interest, and all rights of such co-owners or joint owners in such property, including the rights of such owners in and to such property pursuant to ownership contracts or otherwise;

BB. any lien or other encumbrances of any Person arising on account of the ownership in common or jointly with the Company of an undivided or other interest in property which relate to amounts which are not due and payable, or which are being contested by the Company in good faith, and with respect to which the Company shall have set aside on its books adequate reserves; and

CC. liens which have been bonded for the full amount of the obligations secured by such lien or for the payment of which the Company has deposited with the Trustee or with an escrow agent cash or other property with a value equal to the full amount of the obligations secured by such lien.

“**Person** means any individual, corporation, cooperative, partnership, joint-venture, association, joint-stock company, limited liability company or partnership, trust, unincorporated organization or government or any agency or political subdivision thereof.

“**Place of Payment** when used with respect to the Obligations of any series means a city or any political subdivision thereof in which the Company is by this Indenture required to maintain an office or agency for the payment of the principal of or interest on the Obligations of such series.

“**Pledged Securities** has the meaning stated in Section 15.1.

“**Pledged Subsidiary** means a Subsidiary of the Company at least a majority of whose outstanding Voting Stock shall at the time be deposited and pledged or required to be deposited and pledged with the Trustee.

“**Pledged Wholly-Owned Subsidiary** means any Subsidiary of the Company, all Stock of all classes of which (other than directors’ qualifying shares required to be owned by directors under any applicable law) shall at the time be owned directly by the Company and deposited and pledged or required to be deposited and pledged with the Trustee.

“**Predecessor Obligations** of any particular Obligation means every previous Obligation evidencing all or a portion of the same debt as that evidenced by such particular Obligation; and, for purposes of this definition, any Obligation authenticated and delivered under Section 3.8 in lieu of a lost, destroyed or stolen Obligation shall be deemed to evidence the same debt as the lost, destroyed or stolen Obligation.

“**Principal Corporate Trust Office** means the location of the Trustee for administration under the Indenture which is 225 Asylum Street, Hartford, CT 06103, or such other location as the Trustee may provide in writing.

**“Prior Lien** means any mortgage, lien, security title, charge or encumbrance on or pledge of or security interest in any of the Trust Estate prior to or on a parity with the lien of this Indenture, other than Permitted Exceptions.

**“Prior Lien Obligation** means any indebtedness and the evidence thereof, if any, secured by a Prior Lien.

**“Property Additions** means property as to which the Company shall provide Title Evidence (which, as to Retired property, may be dated as of a date immediately prior to the Retirement) and which shall be (or, if Retired, shall have been) subject to the lien of this Indenture, which shall be properly chargeable to the Company’s fixed plant accounts under Accounting Requirements (including property acquired to replace property Retired and credited to such accounts) and which shall be acquired by the Company after the Cut-Off Date, including property in the process of construction, insofar as not reflected on the books of the Company with respect to periods on or prior to the Cut-Off Date. For purposes of this definition, property reflected as construction work in progress on the books of the Company on the Cut-Off Date shall be deemed to have been acquired by the Company after the Cut-Off Date. Property Additions need not consist of a specific or completed development, plan, betterment, addition, extension, improvement or enlargement, but may include construction work in progress and property in the process of purchase insofar as the Company owns such property.

**“Property Additions** shall also include:

A. easements and rights-of-way that are useful for the conduct of the business of the Company;

B. property located or constructed (i) on, over or under public highways, rivers or other public property under permits, licenses or franchises granted by a governmental body having jurisdiction or by the law of the state in which such property is located or (ii) on, over or under other property subject to easements and rights-of-way described in paragraph A above, if the Company has the right under such permits, licenses, franchises or law under such easements or rights-of-way to maintain and operate such property for an unlimited, indeterminate or indefinite period or for the period, if any, specified in such permit, license, franchise, law, easement or right-of-way and to remove such property at the expiration of the period covered by such permit, license, franchise, law, easement or right-of-way, or if the terms of any such permit, license franchise or law require any public authority having the right to take over such property to pay fair consideration therefor;

C. tangible property, which would be properly chargeable to the Company’s fixed plant accounts under Accounting Requirements (including property acquired to replace property Retired and credited to such accounts) if title were vested in the Company, if (i) such property itself (in addition to the Company’s leasehold interest in such property) is subject to the lien of this Indenture and (ii) such property is leased to the Company; and

D. tangible property acquired by the Company from Western Kentucky Energy Company in the transactions approved by the Kentucky Public Service Commission in Case No. 2007-00455, including, without limitation, the flue gas desulphurization system and associated



equipment at the Company Coleman Generating Plant, regardless of whether the Company has title to such property on the Cut-Off Date.

**“Property Additions** shall not include:

(1) good will, going concern value, contracts, agreements, franchises, licenses or permits, whether acquired as such, separate and distinct from the property operated in connection therewith, or acquired as an incident thereto;

(2) any Stock or indebtedness or certificates or evidences of interest therein or other securities;

(3) any property that is to remain subject to a Prior Lien (except to the extent permitted by the proviso to Section 5.2D(2)) after the granting of the related Application or such Lien is described in the Permitted Exception described in paragraph X of the definition of “Permitted Exceptions ; or

(4) except as provided in paragraph C above, any plant or system or other property in which the Company shall acquire only a leasehold interest, or any betterments, extensions, improvements or additions (other than movable physical personal property which the Company has the right to remove), of, upon or to any plant or system or other property in which the Company shall own only a leasehold interest unless (i) the term of the leasehold interest in the property to which such betterment, extension, improvement or addition relates shall extend for at least 75% of the estimated useful economic life of such betterment, extension, improvement or addition and (ii) the lessor shall have agreed to give the Trustee reasonable notice and opportunity to cure any default by the Company under such lease and not to disturb the Trustee’s possession of such leasehold estate in the event the Trustee succeeds to the Company’s interest in such lease upon the Trustee’s exercise of any remedies under this Indenture so long as there is no default in the performance of the tenant’s covenants contained therein.

**“Qualified EPC Contract** means any contract providing for the engineering, procurement or construction of generation or related facilities (including electric transmission and fuel supply facilities) intended to be owned by the Company, progress payments under which are used as the basis for (i) loans or advances under Conditional Obligations under Section 4.6 or (ii) the authentication and delivery of Obligations under Section 4.9.

**“Rates** has the meaning stated in Section 13.14.

**“Redemption Date** when used with respect to any Obligation to be prepaid means the date of such prepayment and when used with respect to any Obligation to be redeemed means the date fixed for such redemption pursuant to this Indenture.

**“Redemption Price** when used with respect to any Obligation to be prepaid means the amount of the indebtedness to be prepaid and when used with respect to any Obligation to be redeemed means the price at which such Obligation is to be redeemed pursuant to this Indenture. It includes the applicable redemption premium, if any, and any prepayment premium, surcharge,

fee or penalty, but does not include installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Regular Record Date** , except as may be otherwise set forth in a Supplemental Indenture for Additional Obligations of any series, means for the interest payable on any Interest Payment Date on the Obligations of any series, the date immediately preceding the Interest Payment Date.

**“Responsible Officer** when used with respect to the Trustee means any officer within the corporate trust department of the Trustee, including any vice-president, any trust officer or any other authorized officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other authorized officer of the Trustee to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

**“Retired** means, when used with respect to property, Bondable Property that, since the Cut-Off Date, has been retired, abandoned, destroyed, worn out, removed, permanently discontinued, lost through the enforcement of any liens or released, sold or otherwise disposed of free of the lien of this Indenture or taken by eminent domain or under the exercise of a right of a government authority to purchase or take the same or recorded as retired on the books of the Company or permanently retired from service for any reason, whether or not replaced, or shall have permanently ceased to be used or useful in the business of the Company, including as a consequence of the termination of any lease, whether or not recorded as retired on the books of the Company, except that, when a minor item of property has been replaced by other property of equal value and efficiency and the cost of such replacement has been charged to other than fixed property accounts such as maintenance, repairs or other similar account, the property replaced shall not be considered as Retired.

**“Retirements** means Bondable Property that has been Retired. The “amount of Retirements shall be computed as follows:

(a) as to property owned by the Company on the Cut-Off Date, the net book value of such property as recorded on the books of the Company as of the Cut-Off Date; and

(b) as to Property Additions, the Cost to the Company thereof or the Fair Value to the Company thereof, whichever is less, as certified to the Trustee at the time such Property Additions were certified in a Certificate as to Bondable Additions filed in accordance with Section 4.2 (estimated, if necessary, as to particular property), or if not theretofore so certified, then the Cost to the Company of such Property Additions.

In determining the amount of Retirements for any purpose under this Indenture, neither any reduction in book values of property recorded in the Company’s fixed plant accounts nor the transfer of any amount appearing in any such accounts to intangible or adjustment accounts, required or arising from adjustments required to be made by any regulatory body or otherwise, nor the elimination of any amount so transferred, otherwise than in connection with the actual retirement of physical property, shall be taken into account.

“RUS means the Rural Utilities Service, or any agency or other governmental body succeeding to the functions thereof relating to this Indenture and, for any period prior to the establishment of the Rural Utilities Service, the Rural Electrification Administration.

“RUS Obligations shall mean those Existing Obligations identified as the “RUS Obligations on Exhibit C.

“Series 1983 Revenue Bond Obligations shall mean those Existing Obligations identified as the “Series 1983 Revenue Bond Obligations on Exhibit C.

“Series 2001A Revenue Bond Obligation shall mean those Existing Obligations identified as the “Series 2001A Revenue Bond Obligations on Exhibit C.

“Special Record Date for the payment of any Defaulted Interest on Obligations means a date fixed by the Trustee pursuant to Section 3.9.

“Stated Maturity when used with respect to any Obligation, any installment of principal thereof, or any installment of interest thereon, means the date specified in such Obligation as the date on which the principal of such Obligation or any installment thereof, or any installment of interest, is due and payable (without regard to any provisions for redemption, prepayment, declaration of acceleration, purchase or extension).

“Stock means and includes all stock, shares, interests, membership interests, participations or other similar ownership, voting or other interests (however designated) in corporations, cooperatives, partnerships, joint-ventures, associations, joint-stock companies, limited liability companies, partnerships, trusts, unincorporated organizations or other types of legal entities.

“Subsidiary of any specified entity means any corporation, cooperative, partnership, joint-venture, association, joint-stock company, limited liability company, partnership, trust, unincorporated organization or any other type of legal entity at least a majority of whose outstanding Voting Stock shall at the time be owned or held, directly or indirectly, by the specified entity or by one or more of its Subsidiaries.

“Supplemental Indenture means any indenture supplemental hereto duly authorized in the manner provided herein.

“System” means all properties and interests in properties of the Company, including the Company’s interests in all electric production, transmission, distribution, conservation, load management, general plant and other related facilities, equipment or property and in any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear or other fuel of any kind or in any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Company’s generating plants, now existing or hereafter acquired by the Company, including any interest or participation of the Company in any such facilities or any rights to the output or capacity thereof, together with all additions, betterments, extensions and improvements to any of the foregoing or any part thereof hereafter made and together with all lands, easements and rights-of-way of the Company and all other works, property or structures of the Company

and contract rights and other tangible and intangible assets of the Company used or useful in connection with or related to any of the foregoing, including a contract right or other contractual arrangement for the long-term or short-term interconnection, interchange, exchange, pooling, wheeling, transmission, purchase or sale of electric power and energy and other similar arrangements with entities having generation or transmission capabilities.

“TIA or “Trust Indenture Act means, as of any time, the Trust Indenture Act of 1939, or any successor statute, as amended and in force at such time.

“Title Evidence means, with respect to any real property:

A. an Opinion of Counsel to the effect that the Company, or the owner-lessor of the property in the case of real property described in paragraph C of the definition of “Property Additions , has such title, whether fairly deducible of record or based upon prescriptive rights, as in the opinion of counsel, based upon information from the Company as to the nature and duration of the use of such property, is satisfactory for the use thereof in connection with the operations of the Company, and counsel, in giving such opinion, may disregard any irregularity or deficiency in the record evidence of title which, in the opinion of such counsel, can be cured by proceedings within the power of the Company or, based upon information from the Company as to the nature and duration of the use of such property, does not substantially impair the usefulness of such property for the purpose for which the Company intends or expects to use such property, and may base such opinion upon his own investigation or upon affidavits, certificates, abstracts of title, statements or investigations made by Persons in whom such counsel has confidence or upon certificates or guaranties of title or policies of title insurance in which he has confidence, and, without limiting the foregoing, counsel may rely solely upon an Officers’ Certificate as to matters regarding the use of such property in the operations of the Company or the usefulness of such property for the purpose for which the Company intends or expects to use such property; or

B. a mortgagee’s policy of title insurance (or a commitment to issue a mortgagee’s policy of title insurance containing only standard conditions to issuance or such other conditions to issuance as are satisfactory to the Trustee) in the amount of the Cost to the Company of the land (on the date of acquisition) included in Property Additions, issued in favor of the Trustee by an entity authorized to insure title in the state in which the real property is located, showing the Company (or such owner-lessor) as the owner of the subject property and insuring the lien of this Indenture;

and with respect to any personal property or any other property that may constitute fixtures or real property solely as a consequence of being affixed to or erected on either (i) real property that was owned by the Company or subject to easements or rights-of-way in favor of the Company prior to the Cut-Off Date or (ii) real property that was acquired by the Company after the Cut-Off Date and as to which the Company has previously provided Title Evidence to the Trustee as described in either paragraph A or B above, an Officers’ Certificate stating that the Company owns such personal property, fixtures or real property and that the Company continues to have title satisfactory for the use thereof in connection with the operations of the Company to the real property referred to in clause (i) or (ii) above, as the case may be; and, with respect to any property described in paragraph C of the definition of “Property Additions, an Officers’

Certificate stating that the Company has a valid leasehold interest in, and is possessed of, such property and with respect to a leasehold interest meeting the requirements in paragraph (C) of the definition of "Property Additions", an Officer's Certificate stating that the lease complies with the requirements of clauses (i) and (ii) of paragraph (C).

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Trustee" means such successor Trustee.

"Trust Estate" has the meaning stated in the Habendum to the Granting Clauses. "Trust Moneys" has the meaning stated in Section 6.1.

"Uniform Commercial Code" means, with respect to any particular part of the Trust Estate, the Uniform Commercial Code as enacted and in effect from time to time in the state or states whose laws are treated as applying to such part of the Trust Estate.

"Vice President" means, when used with respect to the Company or the Trustee, any vice president, whether or not designated by a number or a word added to the title.

"Voting Stock" means Stock of any class or classes (however designated) having ordinary voting power for the election of a majority of the members of the board of directors (or other governing body) of a corporation or other Person, other than Stock having such power only by reason of the happening of a contingency.

"Wholesale Power Contracts" means, collectively, (a) the contracts and agreements (together with the amendments and supplements thereto) with the Member Cooperatives, identified on Exhibit B, together with each successor or replacement thereof, and (b) each other contract and agreement of substantially similar terms and conditions from time to time entered into between the Company and a Member Cooperative providing for the sale of electric power and energy by the Company to such Member Cooperative.

## Section 1.2 Acts of Holders.

A. Any request, demand, authorization, direction, notice, approval, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Company and (subject to Section 9.1) in favor of the Trustee, if made in the manner provided in this Section.

B. The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying

that the individual signing such instrument or writing acknowledged to him the execution thereof. Whenever such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, and the authority of the Person executing the same, may also be proved in any manner which the Trustee deems sufficient.

C. The ownership of Obligations shall be proved by the Obligation Register.

D. Any request, demand, authorization, direction, notice, consent, approval, waiver or other Act of the Holder of any Obligation shall bind every future Holder of the same Obligation and the Holder of every Obligation issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Obligation. However, unless such Obligation is held in the Book-Entry System and the DTC letter of representation executed by the Company in connection therewith, as amended from time to time, does not permit such revocation, any such Holder or subsequent Holder may revoke by written instrument any such Act as to his Obligation or portion of an Obligation until such time as written instruments have been received by the Trustee with respect to the requisite percentage of principal amount of Obligations for the action contemplated by such instruments; **PROVIDED, HOWEVER**, that such revocation shall be effective only if the Trustee receives written notice of revocation before the date the Trustee or the Company does or suffers to be done anything in reliance on such Act.

### Section 1.3 Notices, etc., to Trustee and Company.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

A. the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Principal Corporate Trust Office, or

B. the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (except as otherwise expressly provided in Sections 8.1C and 8.1 E) if in writing and mailed, first-class postage prepaid with return receipt requested, hand-delivered or expressed overnight with proof of delivery, or via confirmed facsimile to the Company addressed to it at 201 Third Street, Henderson, Kentucky 42420, or at any other address furnished in writing to the Trustee by the Company.

### Section 1.4 Notices to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder of such Obligations, at the address of such Holder as it appears in the Obligation Register not later than the latest date, and not earlier than the earliest date, prescribed for such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of mail service or by reason of any other cause, it shall be impossible to give such notice by mail, then such notification as otherwise provided for in Section 1.3B or as shall be specified by the Company and satisfactory to the Trustee shall constitute a sufficient notification for every purpose hereunder.

#### **Section 1.5 Form and Contents of Documents Delivered to Trustee.**

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, advice of or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the certificate, opinion, advice or representations with respect to the matters upon which his certificate or opinion is based are erroneous.

Any Opinion of Counsel may be based, in so far as it relates to factual matters or matters of business judgment, upon a certificate or opinion of, advice, statements or representations by, an Officer or Officers of the Company, unless such counsel knows that the certificate, opinion, advice, statement or representation with respect to such matters is erroneous. Any Opinion of Counsel may be based upon such assumptions, be subject to such qualifications and may be stated in such language as at the time delivered is considered in the jurisdiction whose laws are covered by such opinion to be appropriate and consistent with standard practice with respect to opinions relating to such matters. In addition, in giving any Opinion of Counsel, counsel may rely upon legal opinions addressed to the Company or such counsel as appropriate and consistent with standard practice with respect to reliance on legal opinions of other counsel. Without limiting the foregoing, in giving any Opinion of Counsel with respect to matters involving title or lien priority, counsel may rely upon (i) prior opinions or certificates of counsel for the Company, regardless of to whom such opinions are addressed, and whether delivered by general counsel, special counsel or in-house counsel for the Company provided such counsel has no reason to believe such reliance is unwarranted and (ii) title insurance policies, title insurance commitments and reports, record search certificates, abstracts and other similar evidences of matters reflected in public records and of the existence of liens.

Whenever any Person is required to make, give or execute two or more Applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form as few as one document.

Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished to the Trustee, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the Person furnishing such opinion or certificate is Independent within the meaning thereof.

Wherever in this Indenture, in connection with any Application, request, certificate, statement, opinion or other report to the Trustee, it is provided that the Company shall deliver any document as a condition of the granting of such Application, or as evidence of the Company's compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such Application or at the effective date of such request, certificate, statement, opinion or other report (as the case may be), of the facts and opinions stated in such document shall in such case be conditions precedent to the right of the Company to have such Application granted or to the sufficiency of such document. Notwithstanding anything else herein to the contrary, the validity of any action taken or Obligation issued hereunder based upon any Application, request, certificate, statement, opinion or other report shall not be affected by the truth and accuracy of such document or documents. Nothing in the immediately preceding sentence shall, however, limit any rights or remedies available to the Trustee or the Holders under this Indenture or at law or equity against the Company or any officer thereof with respect to a false or inaccurate Application, request, certificate, statement, opinion or other report other than any remedy seeking to invalidate the action so taken or Obligation issued.

Whenever a clerical, typographical, inadvertent or unintentional error or omission shall be discovered in any instrument filed with the Trustee, a new instrument in corrected form, executed as prescribed herein for that originally filed and which may bear the same date as the instrument originally filed, may be substituted therefor with the same force and effect as if the instrument originally filed had been filed in the corrected form, or in lieu of such substitution an appropriate adjustment may be made in a like instrument filed with the Trustee after such discovery. To the extent that action has been taken hereunder which could not have been taken had the original instrument been filed in correct form, such action shall be validated and rendered effective if the substituted or adjusting instrument shall indicate that any deficiency has been fully satisfied since the filing of the original instrument.

#### **Section 1.6 Compliance Certificates and Opinions.**

Upon any Application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate identifying the relevant provisions of this Indenture and stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and, an Opinion of Counsel stating that in the opinion of such Counsel all such conditions precedent, if any, have been complied with, except that in the case of any Application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular Application or request, no additional certificate or opinion need be furnished.



Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished to the Trustee, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the Person furnishing such opinion or certificate is Independent within the meaning thereof.

Every certificate or opinion required to state that a condition or covenant provided for in this Indenture has been complied with (other than certificates provided pursuant to Section 13.12 hereof) shall include:

A. a statement that each individual signing such certificate or opinion has read such condition or covenant and the definitions herein relating thereto;

B. a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

C. a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such condition or covenant has been complied with; and

D. a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

The Trustee shall be entitled to rely conclusively on any such certificate or opinion as provided in Section 9.1.

#### **Section 1.7 Conflict with Trust Indenture Act.**

At any time at which this Indenture is qualified or required to be qualified under the TIA, if any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Indenture by any of the provisions of the TIA, such required provision shall control.

#### **Section 1.8 Effect of Headings and Table of Contents.**

The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

#### **Section 1.9 Successors and Assigns.**

All covenants and agreements in this Indenture by the Company shall, subject to Section 11.2B, bind its successors and assigns, whether so expressed or not.

#### **Section 1.10 Severability Clause.**

In case any provision in this Indenture or in any Obligation shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

### Section 1.11 Benefits of Indenture.

Nothing in this Indenture or in the Obligations, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any separate trustee or co-trustee appointed under Section 9.14 and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

### Section 1.12 Governing Law.

This Indenture and the Obligations shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, provided, however, that any Obligation as to which the RUS is the Holder shall be governed by and construed in accordance with federal laws.

### Section 1.13 Action by Credit Enhancer When Action by Holders Required.

Notwithstanding anything herein to the contrary, except as otherwise provided in a Supplemental Indenture creating and establishing Obligations of any series or maturity within a series for which Credit Enhancement is being provided if the Credit Enhancer is not in default in respect of any of its obligations with respect to Credit Enhancement for such Obligations, the Credit Enhancer for, and not the actual Holders of, such Obligations, shall be deemed to be the Holder of such Obligations at all times for the purpose of (i) giving any approval or consent to the effectiveness of any Supplemental Indenture or to any amendment, change or modification of this Indenture which requires the written approval or consent of Holders of such Obligations; **PROVIDED, HOWEVER,** that the provisions of this clause (i) shall not apply to any change which could not be made pursuant to Section 12.2 without the consent of each Holder of Obligations affected thereby, and (ii) giving any other approval or consent, giving any notice, effecting any waiver or authorization, exercising any remedies, giving any direction or taking any other action in accordance with the provisions of this Indenture.

### Section 1.14 Bank Holidays.

Except as specified in an Existing Obligation or in a Supplemental Indenture, if the specified date for the making of any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall be a Saturday, Sunday or legal holiday or a day on which banking institutions in the city in which is located the Principal Corporate Trust Office are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day which is not one of the foregoing days without additional interest and with the same force and effect as if made, performed or exercised on the specified date for such payment.

### Section 1.15 Uniform Commercial Code Security Interest; Mortgage.

(a) Uniform Commercial Code Security Interest. This Indenture is intended to be a security agreement pursuant to the Uniform Commercial Code covering any of the items or types of property included as part of the Trust Estate that may be subject to a security interest pursuant to the Uniform Commercial Code, and the Company hereby grants to the Trustee a security interest in such items or types of property. The Company will authorize and deliver to the Trustee, upon the Trustee's request, any financing statements or amendments thereof or

continuation statements thereto that the Trustee may require to perfect a security interest in said items or types of property. The Company shall pay all costs of filing such instruments, and all such costs shall be secured by this Indenture.

From the date of its recording, this Indenture shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Trust Estate which are or are to become fixtures related to the real property. For this purpose, the following information is set forth:

The name and address of the Debtor is:	Big Rivers Electric Corporation 201 Third Street Henderson, Kentucky 42420
Type of Debtor:	Corporation
Jurisdiction of Organization:	Kentucky
State Organizational No.:	KY0004242
The name and address of the Secured Party is:	U.S. Bank National Association 225 Asylum Street Hartford, Connecticut 06103

This Indenture covers goods which are or are to become fixtures related to the real property described on Exhibit A attached hereto.

(b) Mortgage. This Indenture is also intended to be a mortgage under, and construed in accordance with, the laws of the Commonwealth of Kentucky.

#### **Section 1.16 Maturity of Obligations.**

The maturity of the Existing Obligations is set forth in the description Existing Obligations set forth on Exhibit C. The Stated Maturity of Additional Obligations authorized pursuant to Article V and secured by this Indenture shall be as provided in the Supplemental Indentures adopted in accordance with and pursuant to Sections 3.2 and 12.1.

#### **Section 1.17 Acceptance of Trust by Trustee.**

The Trustee accepts the trusts in this Indenture declared and provided, upon the terms and conditions herein set forth.

#### **Section 1.18 Investment of Cash Held by Trustee.**

Any cash held by the Trustee or any Paying Agent under any provision of this Indenture shall, except as otherwise provided in Article VII, at the request of the Company evidenced by a Company Request be invested or reinvested as designated by the Company, and, unless an Event of Default shall exist, any interest or other earnings on such investments shall be paid over promptly to the Company as received by the Trustee, free and clear of any lien, including the lien

of this Indenture. Such investments shall be held subject to the same provisions hereof as was the cash used to purchase the same, but at the request of the Company evidenced by a Company Request shall be sold, in whole or in designated part, and the proceeds of such sale shall be held subject to the same provisions hereof as was the cash used to purchase the investments so sold. If such sale shall produce a net sum less than the cost of the investments so sold, the Company shall pay promptly to the Trustee or any such Paying Agent, as the case may be, such amount in cash as, together with the net proceeds from such sale, shall equal the cost of the investments so sold, and if such sale shall produce a net sum greater than the cost of the investments so sold, the Trustee or any such Paying Agent, as the case may be, shall pay over promptly to the Company an amount in cash equal to such excess, free and clear of any lien, including the lien of this Indenture, unless an Event of Default shall exist.

**Section 1.19 Principal Amount of Obligations Other than Bonds; Principal Amount of RUS 2009 Promissory Note Series B.**

(a) At any point in time, the principal amount of any Obligation which is in any form other than a bond shall not include any amount not advanced and then outstanding thereunder. The principal amount of any Obligation evidencing an assumption by the Company of all or a part of another obligation shall be the principal amount outstanding under such other obligation, or the portion thereof assumed pursuant to or evidenced by such Obligation. The principal amount of an Obligation in any form other than a bond shall be reduced as the principal amount of such an Obligation (or the obligation it evidences an assumption of) is paid or otherwise reduced. The Company retains the right to have such principal payments or reductions readvanced unless the Company elects to have such payments treated as principal payments or retirements for purposes of Sections 4.3, 4.6, 4.8, 6.2, 6.3 and 16.3. If any such principal payment or reduction shall not be treated as a payment or retirement because the Company has the right to have such paid or reduced amounts readvanced, once the readvance right expires or is relinquished or otherwise terminated, such principal payment or reduction shall thereupon be treated as a principal payment or retirement under such Sections. The principal amount of an Obligation in any form other than a bond may be evidenced from time to time by an Officers' Certificate delivered to the Trustee and the Holder of such Obligation. In the event the Holder objects to the principal amount of such Obligation as set forth in such Officers' Certificate by delivering a written objection to the Trustee within sixty (60) days of the Holder's receipt of such Officers' Certificate, the Trustee may require such other evidence of the principal amount of such Obligation as shall be satisfactory to the Trustee in its sole discretion. In the absence of any such objection by the Holder, the Trustee may rely conclusively on such Officers' Certificate. Such Officers' Certificate shall contain a statement of the foregoing objection rights of the Holder and the sixty (60) day period for objection.

(b) The principal amount of the RUS 2009 Promissory Note Series B identified on Exhibit C shall, for purposes of voting, directing the time, place or manner or exercising any remedy, applying moneys, authenticating and delivering Additional Obligations, release of any part of the Trust Estate and for all other purposes under this Indenture, shall be the outstanding amount of such RUS 2009 Promissory Note Series B, multiplied by the applicable Acceleration Percentage for any such year in question identified in the description of the RUS 2009 Promissory Note Series B on Exhibit C.

## Section 1.20 RUS as Holder.

A. As to any Obligation guaranteed or insured by the United States of America, pursuant to the Rural Electrification Act of 1936, as amended, or any other federal statute, the United States of America, acting by and through the Administrator of RUS, and not the actual payee of such Obligation, shall be, and shall have the rights of, the Holder of such Obligation for all purposes under this Indenture at all times during which such Obligation is so guaranteed or insured. The rights of RUS pursuant to this Section with respect to any such Obligation shall not be affected by whether RUS physically possesses such Obligation, and the exercise of such rights shall not require the production of any such Obligation. With respect to any such Obligation, any Obligation as to which RUS is the named payee, the Obligation Register shall show the Holder of all such Obligations to be "United States of America, acting by and through the Administrator of the Rural Utilities Service unless and until RUS requests that the Obligation Register show a different name (including in the event RUS transfers any such Obligation). RUS may hold Obligations, and be registered as the Holder thereof, in a number of different capacities, including as provided in this Section 1.20 with respect to Obligations guaranteed or insured by the United States of America, acting by and through the Administrator of RUS, and as the named payee of Obligations evidencing loans or advances made or to be made to the Company.

B. Certain of the Existing Obligations are, and certain Additional Obligations may be, held by RUS, and are the subject of the Amended and Consolidated Loan Contract (the "Loan Contract") between the Company and the United States of America, acting by and through the Administrator of RUS, dated as of July 1, 2009, as the same may have been or may be amended. In addition, the loans evidenced by the Obligations held by RUS were made pursuant to, and, therefore, the Company is or may be subject to, the provisions of the Rural Electrification Act of 1936, as amended, as well as other federal statutes or regulatory policies and regulations and bulletins issued by RUS from time to time (collectively, the "Statutory Provisions"). The rights of RUS, including the enforcement, exercise or waiver of such rights, under the Loan Contract and the Statutory Provisions are for the sole benefit of, and may be relied upon only by, RUS. No Person, including the Trustee or any Holder (other than RUS), shall have any rights or remedies under the Loan Contract or Statutory Provisions or be deemed a third party beneficiary thereof. RUS may enforce or exercise any or all its rights under the Loan Contract and/or the Statutory Provisions, or may forbear from doing so, or may waive any such rights, in RUS's sole and absolute discretion, subject only to the applicable provisions of the Loan Contract and the applicable Statutory Provisions, and neither the Trustee nor any Holder (other than RUS) shall have or assert any claims against RUS (including any challenge to the amount, validity, priority, or enforceability of the undertakings of the Company to RUS under the Loan Contract) on account of any such enforcement, exercise, forbearance or waiver of any of the rights of RUS under the Loan Contract or any of the Statutory Provisions.

## Section 1.21 Effective Date.

Notwithstanding the date that this Indenture is executed, delivered and filed for recordation, the provisions of this Indenture shall be effective as of July 16, 2009.

**Section 1.22 Counterpart Execution.**

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

**ARTICLE II**

**FORMS OF OBLIGATIONS**

**Section 2.1 Forms of Obligations Generally.**

Additional Obligations may be in the form of bonds, notes, guarantees, assumption agreements or any other undertaking for the payment of borrowed money or purchase money indebtedness. Additional Obligations of each series shall be in substantially the form set forth in the Supplemental Indenture creating such series, or in a Board Resolution establishing such series and delivered to the Trustee, or in an Officers' Certificate pursuant to a Supplemental Indenture or Board Resolution and delivered to the Trustee, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Officers executing such Additional Obligations, as evidenced by their execution of such Obligations. Any portion of the text of any Additional Obligation may be set forth on the reverse or subsequent pages thereof, with an appropriate reference thereto on the face of the Additional Obligation if desired. Such Additional Obligations may be printed, lithographed, typewritten, mimeographed or otherwise produced.

**Section 2.2 Form of Trustee's Certificate of Authentication for Obligations.**

(a) The Trustee's certificate of authentication for Existing Obligations shall be in substantially the following form:

This is one of the Existing Obligations referred to in the Indenture, dated as of July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

\_\_\_\_\_  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

(b) The Trustee's certificate of authentication for Additional Obligations shall be in substantially the following form:

This is one of the Obligations referred to in the Indenture, dated as of July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

\_\_\_\_\_  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

### ARTICLE III

#### THE OBLIGATIONS

##### Section 3.1 Terms and Authentication of Existing Obligations.

There shall be three separate series of Existing Obligations, consisting of the Series 1983 Revenue Bond Obligations, the Series 2001A Revenue Bond Obligations and the RUS Obligations, which the Trustee shall authenticate upon presentation thereof to the Trustee by the Holders thereof. Such authentication shall be by execution of a certificate in substantially the form set forth in Section 2.2(a) which may be set forth either on the Existing Obligation or on an allonge affixed to an Existing Obligation. Only such Obligations authenticated by the Trustee pursuant to this Section 3.1 shall constitute Existing Obligations and be entitled to the benefits of and security of this Indenture as Existing Obligations. The terms and conditions of all Existing Obligations, including the principal amounts, maturity dates, interest rates and payment and prepayment provisions, shall be as provided for therein.

##### Section 3.2 General Title; General Limitations; Issuable in Series.

(a) Unless specified otherwise by a Company Request, provided for in a Supplemental Indenture, the general title of all series of Additional Obligations shall be "FIRST MORTGAGE OBLIGATIONS, or "FIRST MORTGAGE BONDS .

(b) The aggregate principal amount of Additional Obligations which may be authenticated and delivered and Outstanding under this Indenture is three billion dollars (\$3,000,000,000) unless this Indenture is amended to increase such amount. Additional Obligations shall be issued in accordance with Article IV and the provisions of any Supplemental Indenture creating any series of Additional Obligations. The Additional Obligations may be issued in one or more series as from time to time may be authorized by the Board of Directors. With respect to the Additional Obligations of any particular series, the Company may utilize the general title of Additional Obligations as provided in Section 3.2(a) or may use any other words, letters or figures as the title of that series as may be specified in a Company Request, or as provided for in a Supplemental Indenture.

(c) Any increase in the outstanding principal amount of any Existing Obligation shall be deemed an issuance of an Additional Obligation in the amount of such increase and shall,

therefore, be subject to satisfying the conditions for the issuance of Additional Obligations, provided in Article IV. Without limiting the generality of the foregoing sentence, any loan or advance of funds under any Existing Obligation that constitutes a Conditional Obligation shall be subject to satisfying the conditions provided in Section 4.6.

### Section 3.3 Terms of Particular Series.

(a) Each series of Additional Obligations, shall be created by a Supplemental Indenture authorized by the Board of Directors and establishing the terms and provisions of such series of Additional Obligations or the method by which such terms and provisions shall be established. The several series of Additional Obligations may differ from the Existing Obligations and as between series and may differ from Existing Obligations in any respect not in conflict with the provisions of this Indenture, all as may be prescribed in the Supplemental Indenture creating such series. At the time of the creation of any series of Additional Obligations or at any time thereafter, the Company may establish provision for the following which shall be contained in the Additional Obligations:

A. the exchange or conversion of the Additional Obligations of such series, at the option of the Holders thereof, for or into new Additional Obligations of a different series or other securities;

B. a sinking, amortization, improvement or other analogous fund or for the payment of principal by installments or otherwise with respect to Additional Obligations of such series;

C. limiting the aggregate principal amount of the Additional Obligations of such series;

D. exchanging Additional Obligations of such series, at the option of the Holders thereof, for other Additional Obligations of the same series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations;

E. the authentication of Additional Obligations of such series by the Authenticating Agent;

F. providing for the issuance of Additional Obligations of such series in bearer or book-entry form;

G. specifying redemption or prepayment terms and procedures with respect to Additional Obligations of such series;

H. specifying business days, grace periods, record dates, other provisions and such covenants and/or events of default or remedies with respect to Additional Obligations of such series; and

I. any other terms of the Additional Obligations of such series, or any maturity thereof, not inconsistent with the provisions of this Indenture;



all upon such terms as the Board of Directors may determine as evidenced by a Board Resolution, or as may be set forth in the Supplemental Indenture creating any series of Additional Obligations.

All Additional Obligations of like maturity of the same series shall be substantially identical except that any series may have serial maturities and different interest rates for different maturities and except as may otherwise be provided in the Supplemental Indenture creating such series.

(b) With respect to Additional Obligations of a series subject to a Periodic Offering, the Supplemental Indenture or the Board Resolution, or Officers' Certificate pursuant to the Supplemental Indenture or Board Resolution, as the case may be, which establishes such series may provide general terms or parameters for Additional Obligations of such series and specify procedures by which such specific terms are to be established (which procedures may provide for authentication and delivery pursuant to oral or electronic instructions from the Company or any agent or agents thereof, which oral instructions are to be promptly confirmed electronically or in writing).

#### **Section 3.4 Denominations.**

The Additional Obligations of each series shall be issuable in such denominations as shall be provided for in the Supplemental Indenture creating such series. In the absence of any such provision with respect to the Additional Obligations of any particular series, the Additional Obligations of such series shall be in the denomination of \$1,000 or any integral multiple thereof.

#### **Section 3.5 Execution, Authentication, Delivery and Dating.**

The Additional Obligations shall be executed on behalf of the Company by its President, its General Manager, one of its Vice Presidents, its Secretary or its Treasurer, or such other Officer who may be designated by a Board Resolution to execute the Additional Obligations, and, if required by a Board Resolution, attested by its Secretary or one of its Assistant Secretaries. The signature of any of these Officers on the Additional Obligations may be manual or facsimile. Additional Obligations bearing the manual or facsimile signatures of individuals who were at any time the proper Officers of the Company shall bind the Company, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the authentication and delivery of such Additional Obligations or shall not have held such offices at the date of such Additional Obligations.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Additional Obligations executed by the Company to the Trustee for authentication, together with a Company Request for the authentication and delivery of such Additional Obligations, and the Trustee shall authenticate and deliver such Additional Obligations as provided in this Indenture and not otherwise.

All Additional Obligations shall be dated as provided in the Supplemental Indenture creating such Additional Obligations or, in the absence thereof, the date of their authentication.

No Obligation shall be secured by, or be entitled to any lien, right or benefit under, this Indenture or be valid or obligatory for any purpose, unless there appears on such Obligation (or an allonge thereto) a certificate of authentication substantially in the form provided for herein, executed by the Trustee or the Authenticating Agent by manual signature, and such certificate upon any Obligation (or an allonge thereto) shall be conclusive evidence, and the only evidence, that such Obligation has been duly authenticated and delivered hereunder.

### Section 3.6 Temporary Additional Obligations.

Pending the preparation of definitive Additional Obligations, the Company may execute and, upon Company Request, the Trustee shall authenticate and deliver, temporary Additional Obligations which are printed, lithographed, typewritten, photocopied or otherwise produced or reproduced, in any authorized denomination, substantially of the tenor of the definitive Additional Obligations in lieu of which they are issued, and with such appropriate insertions, omissions, substitutions and other variations as the Officers executing such Additional Obligations may determine, as evidenced by their execution of such temporary Additional Obligations.

If temporary Additional Obligations are issued, the Company will cause the definitive Additional Obligations to be prepared without unreasonable delay. After the preparation of definitive Additional Obligations, the temporary Additional Obligations shall be exchangeable for definitive Additional Obligations upon surrender of the temporary Additional Obligations at the office or agency of the Trustee in a Place of Payment therefor, without charge to the Holder. Upon surrender for exchange of any one or more temporary Additional Obligations, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Additional Obligations of authorized denominations. Until so exchanged, temporary Additional Obligations shall in all respects be entitled to the security and benefits of this Indenture. Upon surrender for exchange, temporary Additional Obligations shall be canceled as provided in Section 3.11.

### Section 3.7 Registration; Registration of Transfer and Exchange.

The Company shall cause to be kept at one of the offices or agencies maintained by the Trustee a register (herein sometimes referred to as the "**Obligation Register** ") in which, subject to such reasonable regulations as it may prescribe, the Trustee shall provide for the registration of Obligations and registration of transfers and exchanges of Obligations. The Trustee is hereby appointed "**Obligation Registrar**" for the purpose of registering Obligations and transfers and exchanges of Obligations as herein provided.

Upon surrender for registration of transfer of any Obligation at the office or agency of the Trustee in a Place of Payment therefor (or the delivery of other evidence satisfactory to the Trustee of the transfer of an Obligation), the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Obligations of the same series and maturity, of any authorized denomination and of a like aggregate principal amount (in the event such Obligation is not surrendered for transfer, upon delivery to the Trustee of such satisfactory evidence of a transfer, the Obligation Registrar shall register such transfer on the Obligations Register).

Upon surrender for exchange of any Obligation at the office or agency of the Trustee in a Place of Payment thereof, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the Holder exchanging such Obligation, one or more new Obligations of the same or different series of any authorized denomination and of a like aggregate principal amount and maturity.

All Obligations surrendered upon registration of transfer or exchange provided for in this Indenture shall be promptly canceled by the Trustee and thereafter the Trustee shall retain such Obligations or destroy such Obligations and deliver a certificate of destruction to the Company.

All Obligations issued upon any registration of transfer or exchange of Obligations shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Obligations surrendered upon such registration of transfer or exchange.

Every Obligation presented or surrendered for registration of transfer or exchange shall (if so required by the Company or the Obligation Registrar) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Obligation Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration, discharge from registration, registration of transfer or exchange of Obligations, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Obligations, other than exchanges under Section 3.6, 12.6 or 14.7 not involving any transfer.

Except as provided in a Supplemental Indenture, the Company shall not be required to issue and the Obligation Registrar shall not be required (i) to register the transfer or exchange of any Obligation of any series during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Obligations of such series under Section 14.4 and ending at the close of business on the day of such mailing, or (ii) to register the transfer or exchange of any Obligation so selected for redemption in whole or in part, except the unredeemed portion of an Obligation being redeemed in part.

### **Section 3.8 Mutilated, Destroyed, Lost and Stolen Obligations.**

If (i) any mutilated Obligation is surrendered to the Trustee, or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Obligation, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Obligation has been acquired by a bona fide purchaser, the Company shall execute and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated or in lieu of any such destroyed, lost or stolen Obligation, a new Obligation of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Obligation has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Obligation, pay such Obligation.

Upon the issuance of any new Obligation under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expense (including the fees and expenses of the Trustee) connected therewith.

Every new Obligation issued pursuant to this Section in lieu of any destroyed, lost or stolen Obligation shall constitute an original contractual obligation of the Company, even in the event any destroyed, lost or stolen Obligation shall be enforceable at any time by anyone, and shall be entitled to all the security and benefits of this Indenture equally and ratably with all other Outstanding Secured Obligations.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Obligations.

### **Section 3.9 Payment of Interest; Interest Rights Preserved.**

Interest on any Obligation of any series which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Obligation (or one or more Predecessor Obligations) is registered at the close of business on the Regular Record Date for such interest as specified herein, in the provisions of the Supplemental Indenture creating such series.

Any interest on any Obligation of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall be payable as provided in such Obligation, or if not so provided, shall forthwith cease to be payable to the Holder on the relevant Regular Record Date solely by virtue of such Holder having been such Holder, and such Defaulted Interest may be paid by the Company, at its election, as provided in paragraphs A or B below:

A. The Company may elect to make payment of any Defaulted Interest on the Obligations of any series to the Persons in whose names such Obligations (or their respective Predecessor Obligations) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Obligation and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this subsection provided and not to be deemed part of the Trust Estate or Trust Moneys. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not

more than fifteen (15) days nor less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of an Obligation of such series at his address as it appears in the Obligation Register not less than ten (10) days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Obligations of such series (or their respective Predecessor Obligations) are registered on such Special Record Date and shall no longer be payable pursuant to the following paragraph B.

B. The Company may make payment of any Defaulted Interest on the Obligations of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Obligations may be listed and upon such notice as may be required by such exchange, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this Subsection, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Obligation delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Obligation shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Obligation and each Obligation delivered upon transfer of or in exchange for or in lieu of any such other Obligation shall bear interest from the date specified in the delivered Obligation, so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

### **Section 3.10 Persons Deemed Owners.**

Subject to the provisions of Sections 1.13 and 1.20, prior to due presentment of such Obligation for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Obligation is registered in the Obligation Register as the Holder of such Obligation for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 3.9) interest on such Obligation and for all other purposes whatsoever, whether or not such Obligation be overdue, and, to the extent permitted by law, neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

### **Section 3.11 Cancellation.**

All Obligations surrendered for payment, redemption, transfer, reissue, exchange or conversion, if surrendered to the Trustee, shall be promptly canceled by it, and, if surrendered to any Person other than the Trustee, shall be delivered to the Trustee and, if not already canceled, shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Obligations previously authenticated and delivered hereunder, which the Company may have acquired in any manner whatsoever, and all Obligations so delivered shall be promptly canceled by the Trustee. No Obligation shall be authenticated in lieu of or in exchange for any Obligation canceled as provided in this Section, except as expressly provided

by this Indenture. All canceled Obligations held by the Trustee may be destroyed and thereafter the Trustee shall deliver a certificate of destruction to the Company.

## ARTICLE IV

### AUTHENTICATION AND DELIVERY OF ADDITIONAL OBLIGATIONS

#### Section 4.1 General Provisions.

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company, and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon the basis permitted by, and upon compliance with the conditions of, Section 4.2 (upon the basis of Bondable Additions), Section 4.3 (upon the basis of retirement or defeasance of, or principal payments on, Obligations), Section 4.4 (upon the basis of Deposited Cash), Section 4.7 (in connection with Credit Enhancement Obligations) and Section 4.9 (upon the basis of Certified Progress Payments) upon receipt in each case by the Trustee of the following (except to the extent such Sections provide otherwise) upon or prior to the date of the initial issuance of such Additional Obligations:

A. A Board Resolution authorizing and requesting the authentication and delivery under one or more Sections of this Article from time to time or at any time of a specified principal amount of Additional Obligations of a designated series.

B. An Officers' Certificate, dated within thirty (30) days of the date of the Application for the authentication and delivery of the initial issuance of such Additional Obligations, stating that:

(1) no Event of Default exists,

(2) none of the Trust Estate is subject to any Prior Lien other than Prior Liens permitted by Section 13.6, and

(3) the conditions precedent provided for in this Indenture relating to the authentication and delivery of the initial issuance of such Additional Obligations have been complied with (and, in the event such Additional Obligations are subject to a Periodic Offering, that the statements made in such Officers' Certificate shall be deemed remade at the time of each subsequent authentication and delivery of such Additional Obligations).

C. An Opinion of Counsel

(1) specifying the certificate or other evidence that shows, or cash deposit that will provide for, compliance with the requirements, if any, of any tax or recording or filing law (other than fees for the recording of documents, for which no cash deposit with the Trustee shall be required) applicable to the authentication and delivery of the initial

issuance of the Additional Obligations then applied for, or stating that there is no such requirement;

(2) specifying the certificate or other evidence that shows the authorization, approval or consent of or to the authentication and delivery of the initial issuance by the Company of the Additional Obligations then applied for by any federal, state or other governmental regulatory agency whose authorization, approval or consent is at the time required to be obtained by the Company, or stating that each such authorization, approval or consent has been obtained or that none is required;

(3) stating that none of the Trust Estate is subject to any Prior Lien other than Prior Liens permitted by Section 13.6, **PROVIDED**, that the opinion required by this subparagraph (3) may be limited, with respect to personal property, to that part of the Trust Estate in which a lien may be perfected by the filing of a financing statement under the Uniform Commercial Code;

(4) stating that the conditions precedent provided for in this Indenture relating to the authentication and delivery of the initial issuance of such Additional Obligations have been complied with; and

(5) stating that such Additional Obligations, when executed by the Company, authenticated and delivered by the Trustee and issued by the Company (and, in the event of Obligations subject to a Periodic Offering, when the terms of such Additional Obligations have been established as provided in the manner contemplated by this Indenture or the Supplemental Indenture under which such Additional Obligations are established) will be the legal, valid and binding obligations of the Company enforceable in accordance with their terms and the terms of this Indenture and entitled to the benefits of and secured by the lien of this Indenture equally and ratably with all other Outstanding Secured Obligations.

D. The documents and any cash deposit specified in such Opinion of Counsel, which cash deposit, if any, shall be held by the Trustee as part of the Trust Estate and applied by the Trustee for the purpose specified in such Opinion of Counsel and, to the extent that the amount of such cash deposit proves to be excessive, returned to the Company upon Company Request.

In addition, Additional Obligations of any one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon the basis permitted by, and upon compliance with the conditions of, Section 4.6 (Conditional Obligations).

The Company will not apply for the authentication and delivery of Additional Obligations under this Article except for the purpose of their prompt sale, issuance or pledge or the creation of other security interests therein. In the event that the Company shall have applied for the authentication and delivery of Additional Obligations under this Article and thereafter, the Company shall not have sold, delivered or pledged, or created some other security interest in such Additional Obligations authenticated and delivered under this Article, within three (3)

months after the date of their authentication, or, if such may be the case, upon the termination of such pledge of, or other security interest in, any such Additional Obligations initially pledged or subjected to a security interest, the Company shall surrender such Additional Obligations to the Trustee, whereupon such Additional Obligations, if not previously canceled, shall be canceled by the Trustee. The Additional Obligations, so surrendered shall thereafter be treated as though they had never been Outstanding. In addition, in the event that any portion of an Obligation or series of Additional Obligations shall not be advanced or issued, and the Company's right to receive and advance or issue such portion terminated to the satisfaction of the Trustee, such portion shall thereafter be treated as though it had never been Outstanding.

#### **Section 4.2 Authentication and Delivery of Additional Obligations Upon Basis of Bondable Additions.**

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding 90.91% of the Bondable Additions (as determined below) available as a basis for such authentication and delivery as shown in item 7 of the Summary of Certificate as to Bondable Additions (the "Summary") delivered to the Trustee in accordance with this Section, upon receipt by the Trustee of the documents, instruments and cash referred to in this Section.

Whenever requesting (i) the authentication and delivery of Additional Obligations under this Section, (ii) loans and advances under Conditional Obligations under Section 4.6 upon the basis of Bondable Additions, (iii) the withdrawal of Deposited Cash under Section 4.8 upon the basis of Bondable Additions, (iv) the withdrawal of Trust Moneys under Section 6.2 upon the basis of Bondable Additions, (v) the use of Bondable Additions as a basis, in whole or in part, for the release of any part of the Trust Estate under Section 5.2, (vi) the conversion of outstanding principal amounts under Section 4.10 upon the basis of Bondable Additions, the Company shall deliver to the Trustee the relevant documents and instruments (comprising the related Application) specified in the following paragraphs A through H:

A. (i) In the case of a request for the authentication and delivery of Additional Obligations, the documents and any cash deposit required by Section 4.1 and an Available Margins Certificate; (ii) in the case of a request for a loan or advance under a Conditional Obligation under Section 4.6 upon the basis of Bondable Additions, the Available Margins Certificate, Officers' Certificate and Opinion of Counsel required by Section 4.6; (iii) in the case of a request for the withdrawal of Deposited Cash under Section 4.8 upon the basis of Bondable Additions, the Company Request, Board Resolution and Officers' Certificate required by Section 4.8; (iv) in the case of a request for the withdrawal of Trust Moneys under Section 6.2, the Company Request, Board Resolution and Officers' Certificate required by Section 6.2; (v) in the case of a request for the use of Bondable Additions as a basis for the release of any part of the Trust Estate under Section 5.2, the relevant documents required by Section 5.2 in addition to those specified in the following paragraphs B through H below, which documents may be modified under certain circumstances as stated in the proviso to Section 5.2(D)(2); and (vi) in the case of a request for the conversion of outstanding principal amounts under Section 4.10 upon the basis of Bondable Additions, the documents required by Section 4.10.



B. A Certificate as to Bondable Additions, dated not more than thirty (30) days prior to the date of the related Application, showing in substance:

(1) In the case of the first Certificate as to Bondable Additions, \$0 and, for each subsequent Certificate as to Bondable Additions, the balance (item 1 in the Summary), if any, of Bondable Additions stated in item 9 of the most recent Summary, if any, theretofore delivered to the Trustee, as the balance of Bondable Additions to remain after the action applied for in connection with the most recent Summary.

(2) The Amount of Property Additions (item 2 in the Summary) not described in any previous Certificate as to Bondable Additions (except that the Amount of Property Additions may include the Amount of Property Additions described in any previous Certificate as to Bondable Additions and used as a basis for the authentication and delivery of Additional Obligations surrendered to the Trustee pursuant to the last paragraph of Section 4.1 or as the basis for any portion of an Obligation or series of Obligations which has not been loaned, advanced or issued and for which the right to receive a loan, advance under or issue of such Obligation has been terminated as provided in the last paragraph of Section 4.1). With respect to such Property Additions:

(a) The Certificate shall describe in reasonable detail, and state the Cost to the Company of, such Property Additions, which may include Property Additions to be acquired in connection with the granting of the related Application which shall be considered as already acquired for the purpose of computing the Amount of Property Additions. The Certificate shall state that none of such Property Additions has been described in any previous Certificate as to Bondable Additions (except Property Additions described in any previous Certificate as to Bondable Additions and used as the basis for the authentication and delivery of Additional Obligations surrendered to the Trustee pursuant to the last paragraph of Section 4.1 or as the basis for any principal amount of an Obligation or series of Obligations which has not been loaned or advanced or an Obligation or series of Obligations which has not been issued and for which the Company's right to receive a loan or advance under or to issue such Obligation has been terminated as provided in the last paragraph of Section 4.1). Except for major individual items, such Property Additions may be grouped by major classifications then being used by the Company in the maintenance of its fixed plant accounts and may, in the case of tracts or parcels of land or easements or rights-of-way, be described by reference to the deeds through which they were acquired or to the Supplemental Indenture conveying them to the Trustee. The Certificate shall separately describe any Property Additions consisting of a major item or an Acquired Facility or acquired and paid for in whole or in part through the transfer or delivery of securities or other property, together with a description of the kind and respective amounts of such securities or other property. The Cost to the Company shall be shown separately for each of such Property Additions which is separately described, whether described as a major item or as an Acquired Facility or as Property Additions acquired and paid for in whole or in part through the transfer or delivery of securities or other property. The Cost to the Company may be shown in the aggregate for all Property Additions grouped

within each particular major classification and the Cost to the Company may be allocated among major items and major classifications by an estimate of such nature and upon such basis as the signers deem proper.

The Certificate shall also state the Fair Value to the Company, in the opinion of the Engineer or Appraiser signing such Certificate, of such Property Additions, separately for each item or group thereof for which Cost to the Company is shown separately in the Certificate; **PROVIDED, HOWEVER**, that if such Property Additions include an Acquired Facility, the Fair Value to the Company thereof shall be stated as being the amount thereof set forth in any Independent Engineer's or Independent Appraiser's Certificate required by paragraph C below. In addition the Certificate shall also state the fair market value, as stated in any Independent Appraiser's Certificate required by paragraph D below, of any securities or other property transferred or delivered to acquire or pay for any such Property Additions.

(b) The Certificate shall state that, with respect to each of such Property Additions or group thereof for which Cost to the Company is shown separately in the Certificate, the certified Amount of Property Additions is the lower of the certified Cost to the Company thereof and the certified Fair Value to the Company thereof.

(c) Nothing in this Section shall prevent the Company from certifying any Property Additions acquired by the Company during any period without certifying other Property Additions that the Company may have acquired in that or any other period, and by so doing the Company shall not lose the right so to certify later such other Property Additions.

(3) The aggregate amount of all Retirements (item 3 in the Summary) during the period from the date to which Retirements had been included in item 3 of the most recent Summary theretofore delivered to the Trustee (or, in the case of the first such Certificate, from the Cut-Off Date) to a date not earlier than the ninetieth (90th) day before the date of the related Application.

(4) The credits against Retirements (item 4 in the Summary), which shall equal, subject to the provisions of the last sentence of clause (5) below, the sum of the following:

(a) the excess of credits against Retirements carried forward from the most recent Certificate, as provided in the last sentence of clause (5) below;

(b) the aggregate amount of 100% of (i) any cash, (ii) purchase money obligations, (iii) the principal amount of retired Obligations or principal amounts paid on Obligations (which amount may not be reloaned or readvanced under such Obligations), and (iv) Bondable Additions, in each case, delivered or certified to the Trustee for use as a basis for release of any part of the Trust Estate under Section 5.2 during the period covered by clause (3) above; and

(c) all insurance moneys received by the Trustee pursuant hereto or paid to a trustee, mortgagee or other holder under a Prior Lien during the period covered by clause (3) above on account of the damage, loss or destruction of any Bondable Property.

(5) The net amount of Retirements (item 5 in the Summary) which net amount shall be determined by deducting the credits shown pursuant to clause (4) above (item 4 in the Summary) from the aggregate amount of Retirements shown pursuant to clause (3) above (item 3 in the Summary). If in any case the credits against Retirements exceed the aggregate amount of Retirements shown pursuant to clause (3) above (item 3 in the Summary), the net amount of Retirements for the purpose of this clause (5) shall be zero, but such excess of credits against Retirements shall be carried forward and used as a credit against Retirements in the next Certificate.

(6) The excess of the Amount of Property Additions (item 6 in the Summary) shown pursuant to clause (2) above (item 2 in the Summary) over the net amount of Retirements pursuant to clause (5) above (item 5 in the Summary) and such excess shall be the amount of net Bondable Additions then being certified.

(7) The sum (item 7 in the Summary) of the amount shown pursuant to clause (1) above (item 1 in the Summary) and the amount shown pursuant to clause (6) above (item 6 in the Summary), which sum is the total amount of Bondable Additions then available.

(8) The total amount of Bondable Additions (item 8 in the Summary) which are then being used, which shall equal (in any combination) (i) 110% of the aggregate principal amount of any Additional Obligations whose authentication and delivery are then being applied for under this Section, (ii) 110% of the aggregate principal amount of the loans or advances under Conditional Obligations which are then being applied for under Section 4.6, (iii) 110% of the amount of any Deposited Cash which is then being withdrawn under Section 4.8, (iv) 100% of any Trust Moneys which are then being withdrawn under Section 6.2, (v) 100% of any Bondable Additions which are then being used as a basis for a release of any part of the Trust Estate under Section 5.2 and (vi) 110% of the outstanding principal amount then being converted under Section 4.10.

(9) The balance of the Bondable Additions (item 9 in the Summary) shown by the Certificate that will remain after the granting of the Application then being made, which shall be computed by deducting the total amount shown pursuant to clause (8) above (item 8 in the Summary) from the sum shown pursuant to clause (7) above (item 7 in the Summary).

(10) Except when converting outstanding principal amounts under Section 4.10, if any of the Property Additions described in the Certificate were acquired with Certified Progress Payments:

(a) the amount of such Property Additions acquired with Certified Progress Payments; and

(b) the aggregate principal amount of the Additional Obligations authenticated and delivered upon the basis of the Certified Progress Payments used to acquire the Property Additions certified pursuant to paragraph (a) above that has been paid, redeemed or otherwise retired or defeased under Article VIII, which shall equal at least 90.91% of the amount of Property Additions certified pursuant to paragraph (a) above.

(11) That the Property Additions described in the Certificate have not previously been certified for use as the basis for converting outstanding principal amounts under Section 4.10.

(12) That the Property Additions described in the Certificate, except such as have been Retired, are used or useful in the conduct of the business of the Company; that the allocation of the Cost to the Company of such Property Additions to each major item or classification thereof is, in the opinion of the signers, proper; that all property described in the Certificate as Property Additions qualifies as Property Additions and that the balance of the Bondable Additions to remain after the action applied for (item 9 in Summary) plus the Cost to the Company or the Fair Value to the Company, whichever is less, of uncertified Property Additions is at least equal to the aggregate amount of uncertified Retirements.

(13) That the allowances or charges, if any, for capitalized interest, taxes, engineering, legal and accounting costs and expenses, allocated administrative charges, insurance, casualties, supervisory fees and expenses and other expenses during construction (or in connection with the acquisition of Property Additions) which are included in the Cost to the Company of such of the Property Additions described in the Certificate as were constructed or acquired by or for the Company have been charged and are properly chargeable to fixed plant accounts in respect of such Property Additions in accordance with Accounting Requirements.

(14) That no portion of the Cost to the Company of the Property Additions described in the Certificate should properly have been charged to maintenance or repairs and that no expenditures are included in the Certificate which under Accounting Requirements are not properly chargeable to fixed plant accounts.

(15) That the terms used in the Certificate which are defined herein are used as herein defined.

The Certificate as to Bondable Additions required by this paragraph B shall be subdivided into lettered or numbered paragraphs corresponding to the foregoing clauses (1) to (9), inclusive, and shall include a Summary in substantially the following form:

*Summary of Certificate as to Bondable*

*Additions No. (Number sequentially beginning with 1)*

The undersigned hereby also certify that the following is a true Summary of Certificate as to Bondable Additions:

*Start with:*

1. In the case of the first Certificate as to Bondable Additions No. 1, \$0, and, in the case of any subsequent Certificate as to Bondable Additions, the balance of Bondable Additions remaining after the action applied for in the next previous Certificate (Certificate No. \_\_\_\_\_) \$ \_\_\_\_\_

*Then take the new gross Property Additions as shown in item 2 below:*

2. Amount of additional Property Additions now certified (none of which has been certified in any previous Certificate as to Bondable Additions) \$ \_\_\_\_\_

*Then determine the deductions for Retirements by deducting item 4 below from item 3 below to produce item 5:*

3. The aggregate amount of all Retirements \$ \_\_\_\_\_
4. The sum of the credits against Retirements \$ \_\_\_\_\_
5. The net amount of Retirements to be deducted (if less than zero, enter zero) \$ \_\_\_\_\_

*Then determine the net Bondable Additions now being certified by deducting item 5 from item 2 to produce item 6:*

6. Net Bondable Additions now being certified \$ \_\_\_\_\_

*Then add item 1 and item 6 to produce item 7:*

7. Total Bondable Additions available for the action applied for \$ \_\_\_\_\_
8. Bondable Additions now being used for the action applied for \$ \_\_\_\_\_

*Deduct item 8 from item 7 to produce item 9:*

9. Balance of Bondable Additions that will remain after the action applied for \$ \_\_\_\_\_

Dated \_\_\_\_\_

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Title)

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(Title)

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(Engineer or Appraiser)

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(Accountant)

C. In case any Property Additions described in the Certificate consist of an Acquired Facility, an Engineer's or Appraiser's Certificate (which shall be given by an Independent Engineer or Independent Appraiser if the Amount of Property Additions attributed to such Acquired Facility is not less than \$1,000,000 (\$25,000 if this Indenture is qualified under the TIA) and not less than 1% of the aggregate principal amount of Obligations then Outstanding, dated within ninety (90) days prior to the date of the related Application, stating, in the opinion of the signer, the Fair Value to the Company of the Property Additions constituting such Acquired Facility, except such as have been Retired.

D. In case any Property Additions described in the Certificate have been acquired or paid for in whole or in part through the transfer or delivery of securities or other property, an Appraiser's Certificate (which shall be given by an Independent Appraiser if the fair market value of such securities as set forth in such Certificate is not less than \$1,000,000 (\$25,000 if this Indenture is qualified under the TIA) and not less than 1% of the aggregate principal amount of Obligations then Outstanding stating, in the opinion of the signer, the fair market value of such securities and other property at the time of the transfer or delivery thereof in payment for such Property Additions, which fair market value shall be deemed to be, in whole or in part, as the case may be, the Cost to the Company of such Property Additions.

E. Such Supplemental Indenture or other instruments of conveyance, transfer and assignment as may be necessary to subject to the lien of this Indenture as a part of the Trust Estate all right, title and interest of the Company in and to the Property Additions so described and an Opinion of Counsel identifying such Supplemental Indenture or other instruments of conveyance or stating that no such Supplemental Indenture or other instrument is necessary for such purpose.

F. An Opinion of Counsel, dated within five (5) days prior to the date of the Application, stating that:

(1) if such Property Additions include any property located or constructed on, over or under public highways, rivers or other public property, the Company has the right under permits or franchises granted by a governmental body having jurisdiction or by the law of the state in which such property is located to maintain and operate such property for an unlimited, indeterminate or indefinite period of time or for the period, if any, specified in such permit, franchise or law, and to remove such property at the expiration of the period covered by such permit, franchise or law, or that the terms of such permit,

franchise or law require any public authority having the right to take over such property to pay fair consideration therefor or the term of such permit or franchise extends beyond the useful life of such property;

(2) the Company has corporate power to own and operate such Property Additions; and

(3) the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture for an Application for the action applied for and, upon the basis of such Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for, the release of any part of the Trust Estate then requested, the withdrawal of the Deposited Cash or Trust Moneys then requested or the conversion of outstanding principal amounts under Section 4.10 of Bondable Additions then requested have been complied with.

G. Title Evidence indicating that the Company has or, contemporaneously with the taking of the action applied for, will have, or, in the case of property of the type described in paragraph C of the definition of "Property Additions" at the time the lien of this Indenture attached thereto, had, title to the Property Additions described in the Certificate (except Property Additions that have been Retired).

H. To the extent not otherwise covered by the Title Evidence provided pursuant to paragraph G above, an Opinion of Counsel, dated within five (5) days prior to the date of the Application, stating that (i) the Company has or, contemporaneously with the taking of action applied for, will have duly obtained any easement, right-of-way or leasehold which is described in the Certificate, subject only to Permitted Exceptions, and (ii) the Indenture is or, upon delivery of the instruments of conveyance, transfer or assignment, if any, specified therein, will be a valid lien upon all such Property Additions (except Property Additions that have been Retired), and subject only to Permitted Exceptions and Prior Liens permitted by the proviso to Section 5.2D(2); **PROVIDED**, that the opinion contained in clause (ii) above may be limited, with respect to personal property, to such Property Additions in which a lien may be perfected by the filing of a financing statement under the Uniform Commercial Code.

#### **Section 4.3 Authentication and Delivery of Additional Obligations Upon Basis of Retirement or Defeasance of Obligations or Principal Payments on Obligations.**

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding the aggregate principal amount of Obligations, and the aggregate amount of principal payments on Obligations, made the basis for such authentication and delivery, upon receipt by the Trustee of the following:

A. The documents and any cash deposit required by Section 4.1.

B. Obligations (other than Obligations identified in paragraph D below) authenticated and delivered under this Indenture, whether or not in transferable form, matured or unmatured, canceled or uncanceled, in an aggregate principal amount which, when added to the aggregate amount of principal payments, if any, on Obligations referred to in paragraph C below, will equal the aggregate principal amount of Additional Obligations whose authentication and delivery are then applied for under this Section; **PROVIDED, HOWEVER**, that, in lieu of delivering Obligations to the Trustee, the Company may deposit with or deliver to the Trustee any one or more of the following:

(1) cash sufficient to pay at Stated Maturity or to redeem certain specified Obligations, **PROVIDED** that, if Obligations are to be redeemed, notice of such redemption shall have been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee shall have been made; or

(2) an Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating either or both of:

(a) that cash sufficient (such sufficiency to be established by the opinion of a nationally recognized firm of Independent public accountants in a certificate signed by such firm and delivered to the Trustee) to pay or redeem certain specified Obligations is then held by the Trustee in trust for such purpose and, if such Obligations are to be redeemed, that irrevocable notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and

(b) that certain specified Obligations have been paid, redeemed or otherwise retired or have ceased to be Outstanding; or

(3) an Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating that certain specified Obligations have been defeased under Article VII and are no longer Outstanding.

C. An Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating the aggregate amount of principal payments that have been made on specified Obligations (other than Obligations identified in paragraph D below) which, when added to the aggregate principal amount of the Obligations delivered to or with respect to which a deposit or delivery has been made with the Trustee pursuant to paragraph B above, will equal the aggregate principal amount of Additional Obligations whose authentication and delivery are then applied for under this Section; **PROVIDED, HOWEVER**, that in lieu of delivery of such Officers' Certificate, the Company may deposit with or deliver to the Trustee cash sufficient to make principal payments on the certain specified Obligations in the aggregate amount otherwise required to be stated in such Officers' Certificate.

D. An Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating that the Obligations and the



amount of principal payments on Obligations made the basis for the authentication and delivery of such Additional Obligations do not include:

(1) any Obligation or any principal payment on an Obligation which shall have theretofore been made, or is currently otherwise being made, the basis for the authentication and delivery of Additional Obligations (or any loan, advance thereunder or issuance thereof), the release of any part of the Trust Estate, the withdrawal or application of Deposited Cash or Trust Moneys; or

(2) any Obligation (i) whose payment, redemption or other retirement, or provision therefor, has been effected through the operation of any sinking, amortization, improvement or other analogous fund and (ii) whose use under this Article is at the time precluded by any provision of this Indenture; or

(3) any Obligation which has been surrendered upon any exchange or transfer or any Obligation in lieu of which another Obligation has been authenticated and delivered under Section 3.8; or

(4) any Obligation which, in accordance with the last paragraph of Section 4.1, is treated as though it had never been Outstanding; or

(5) any Obligation or any principal payment on an Obligation retired or paid pursuant to or by an advance or loan under an Obligation held by a Credit Enhancer and evidencing Credit Enhancement; or

(6) any Obligation authenticated and delivered on the basis of Certified Progress Payments or any principal payment of amounts outstanding under an Obligation on the basis of Certified Progress Payments unless such Obligation or principal payment has been paid, redeemed, or otherwise retired or defeased under Article VIII using the proceeds of the Additional Obligations whose authentication and delivery are then being applied for (and each such Additional Obligation, or principal amount loaned or advanced thereunder, shall be deemed to have been authenticated and delivered or, in the case of a loan or advance, made on the basis of Certified Progress Payments).

E. An Opinion of Counsel stating that the actions taken by the Company under this Section with respect to the delivery of documents and cash and/or Obligations to the Trustee conform to the requirements of this Indenture and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for have been complied with.

F. An Available Margins Certificate.

Every Obligation received by the Trustee and on the basis of which an Additional Obligation is authenticated and delivered under this Article, if not already canceled, shall be promptly canceled and thereafter the Trustee may retain such Obligation or may destroy such Obligation as provided in Section 3.11.

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**Section 4.4 Authentication and Delivery of Additional Obligations Upon Deposit of Cash with Trustee.**

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon receipt by the Trustee of the following:

A. The documents and any cash deposit required by Section 4.1.

B. Cash (which may be cash representing the purchase price of, or the proceeds of a loan or advance evidenced by the Additional Obligations to be authenticated and delivered under this Section 4.4) equal to the aggregate principal amount of the Additional Obligations whose authentication and delivery are then applied for under this Section (such cash being herein sometimes referred to as “**Deposited Cash**”).

C. An Opinion of Counsel stating that the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture and that, upon the deposit of an amount of cash equal to the aggregate principal amount of the Additional Obligations whose authentication and delivery are then applied for, the conditions precedent provided for in this Indenture relating to the authentication and delivery of such Additional Obligations shall have been complied with.

D. An Available Margins Certificate.

Section 4.5 [Intentionally omitted.]

**Section 4.6 Authentication and Delivery of Conditional Obligations; Loans or Advances Thereunder.**

Conditional Obligations are Additional Obligations authenticated and delivered as provided in this Section, and under which no principal amount is outstanding thereunder at the time of such authentication and delivery.

Conditional Obligations of one or more new series, or Conditional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Conditional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon receipt by the Trustee of the documents and cash deposit, if any, specified in paragraphs A, B, C and D of Section 4.1 (except that the Officers’ Certificate and Opinion of Counsel with respect to the compliance with conditions precedent shall apply only to the conditions precedent set forth in Section 4.1).

Loans or advances under a Conditional Obligation shall only be made upon the delivery of a written certification by the Trustee under this Section. For purposes of the other Sections of this Indenture, each loan or advance under a Conditional Obligation shall be treated as though an Additional Obligation in an aggregate principal amount equal to the amount of the loan or advance was being authenticated and delivered under the applicable Section of this Indenture referred to in paragraph A below, and all references to Additional Obligations so authenticated

and delivered shall include loans or advances made under Conditional Obligations on the same basis. Upon Company Request, the Trustee shall deliver to the Company a written certification upon receipt by the Trustee of the following:

A. Either (i) the relevant documents specified in paragraphs B through H, inclusive, of Section 4.2, (ii) the relevant documents, Obligations or principal payments on Obligations specified in paragraphs B, C, D and E of Section 4.3, or (iii) the relevant documents specified in paragraphs C through E, inclusive, of Section 4.9 (in each case with such omissions and variations as are appropriate in view of the fact that such Sections are being used as the basis for loans or advances under Conditional Obligations rather than the authentication and delivery of Additional Obligations), which documents would permit the authentication and delivery of Additional Obligations in an aggregate principal amount equal to such requested loan or advance.

B. An Available Margins Certificate.

C. An Officers' Certificate and an Opinion of Counsel each stating that the conditions precedent provided for in this Indenture for the Trustee to deliver a written certificate with respect to such loan or advance have been complied with.

For the purposes of (i) receiving payment on Conditional Obligations, whether at Stated Maturity, upon redemption or if the principal of all Obligations is declared immediately due and payable following an Event of Default, as provided in Section 8.1 of this Indenture, or (ii) computing the principal amount of such Conditional Obligations in connection with any exercise of remedies or Act on the part of the Holder thereof, the principal amount of such Conditional Obligations shall equal the aggregate of the amounts loaned or advanced to, or on behalf of, the Company thereunder, less any repayments thereof.

Each written certification required to be delivered by the Trustee under this Section shall state that the Trustee has received the relevant documents specified in paragraphs A through C above and the amount of the loan or advance permitted under this Section by virtue of the delivery of such documents.

#### Section 4.7 Authentication and Delivery of Credit Enhancement Obligations.

Additional Obligations of one or more new series, or Additional Obligations of an existing series ("Credit Enhancement Obligations"), may from time to time be executed by the Company and delivered to the Trustee for authentication, and such Credit Enhancement Obligations shall be authenticated and delivered by the Trustee upon Company Request, in connection with the authentication and delivery of any Additional Obligations pursuant to Section 4.2, 4.3, 4.4, 4.5, 4.6 or 4.9, for the purpose of evidencing the Company's obligation to repay amounts paid by the Credit Enhancer on an Additional Obligation or any loan or advance made to, or on behalf of, the Company (and related interest, fees, charges and other amounts) in connection with Credit Enhancement or liquidity support of the Additional Obligations in connection with which the Credit Enhancement Obligations are authenticated and delivered; **PROVIDED, HOWEVER**, that the stated maximum principal amount of any such Credit Enhancement Obligations shall not exceed the aggregate principal amount of the Obligations

with respect to which such Credit Enhancement or liquidity support is being provided, plus an amount equal to such number of days' interest thereon as the Company shall determine (but in no event in excess of 180 days) in connection with (as provided in the Supplemental Indenture) the issuance thereof computed at the maximum interest rate applicable thereto, and the Credit Enhancement Obligation may also evidence the Company's obligation to pay related fees and other charges related thereto or the enforcement thereof. Except as otherwise provided in a Supplemental Indenture, for the purposes of (i) receiving payment on a Credit Enhancement Obligation, whether at Stated Maturity, upon redemption or if the principal of all Obligations is declared immediately due and payable following an Event of Default, as provided in Section 9.1 of this Indenture, or (ii) computing the principal amount of any Credit Enhancement Obligation in connection with any Act on the part of the Holder, the principal amount of a Credit Enhancement Obligation shall be the actual principal amount that the Company shall owe thereon at the time as a consequence of payments made or loans or advances to or for the account of the Company. The proceeds of any payment pursuant to, or any loan or advance under, any Credit Enhancement Obligation shall be used solely for the payment of the related Obligation or for the enforcement of, or protection of the security for, such Credit Enhancement Obligation, and for other related fees and charges.

#### **Section 4.8 Withdrawal and Payment of Deposited Cash.**

Until applied as provided in a Company Request as provided in this Section, the Trustee shall hold all Deposited Cash as a part of the Trust Estate. Upon any sale of the Trust Estate or any part thereof under Article IX, any Deposited Cash then held by the Trustee shall be applied in accordance with Section 8.7; but, prior to the date of any such sale, all or any part of the Deposited Cash shall be applied by the Trustee from time to time as provided in this Section.

From time to time, whenever the Company may be entitled to the authentication and delivery of Additional Obligations under Section 4.2 (upon the basis of Bondable Additions) or under Section 4.3 (upon the basis of retirement or defeasance of, or principal payments on, Obligations), the Trustee shall (in lieu of authenticating and delivering Additional Obligations) pay to or as directed by the Company upon Company Request, and the Company shall be entitled to withdraw and receive or direct payment of, Deposited Cash in an amount equal to the principal amount of the Additional Obligations to whose authentication and delivery the Company would be entitled, upon receipt by the Trustee of the following:

A. A Board Resolution requesting the withdrawal and payment to, or as directed by, the Company of Deposited Cash.

B. An Officers' Certificate, dated within five (5) days of the date of the Application for such withdrawal and payment, stating that no Event of Default exists and that the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

C. In the case of an Application for the withdrawal and payment of Deposited Cash upon the basis of Bondable Additions, the additional documents specified in Section 4.2 (other than an Available Margins Certificate) for delivery whenever requesting the use of Bondable Additions as a basis for such withdrawal of Deposited Cash under this Section.

D. In the case of an Application for the withdrawal and payment of Deposited Cash upon the basis of the retirement or defeasance of, or principal payments on, Obligations, the documents, Obligations or principal payments on Obligations specified in paragraphs B, C, D and E of Section 4.3 for delivery to the Trustee (with such omissions and variations as are appropriate in view of the fact that the Application requests the withdrawal and payment of Deposited Cash and not the authentication and delivery of Additional Obligations), together with an Opinion of Counsel stating that the conditions precedent provided for in this Indenture relating to such withdrawal and payment of Deposited Cash have been complied with.

#### **Section 4.9 Authentication and Delivery of Additional Obligations Upon Basis of Certified Progress Payments.**

Additional Obligations of one or more new series, or Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding 80% of the Certified Progress Payments made the basis for such authentication and delivery, upon receipt by the Trustee of the following:

- A. The documents and any cash deposit required by Section 4.1.
- B. An Available Margins Certificate.
- C. An Officers' Certificate, dated within five (5) days of the relevant Application for the authentication and delivery of Additional Obligations, stating:

(1) the total amount of Certified Progress Payments which are then being made the basis for the authentication and delivery of Additional Obligations, which shall equal 110% of the aggregate principal amount of Additional Obligations whose authentication and delivery are then being applied for under this Section;

(2) that the sum of (i) the aggregate principal amount of all Additional Obligations then Outstanding that were originally authenticated and delivered on the basis of Certified Progress Payments to the extent such principal amount has not been converted under Section 4.10 plus (ii) the aggregate principal amount of the Additional Obligations whose authentication and delivery are then being applied for under this Section does not exceed 30% of the sum of (a) the aggregate principal amount of all Obligations then Outstanding plus (b) the aggregate principal amount of the Additional Obligations whose authentication and delivery are then being applied for under this Section; and

(3) that the Certified Progress Payments then being made the basis for the authentication and delivery of Additional Obligations do not include any Certified Progress Payments which shall have theretofore been made, or are otherwise currently being made, the basis for the authentication and delivery of Additional Obligations (or any advance or issuance thereunder).

D. Unless delivery is waived by the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, a Performance Agreement that (i) names the Company and Trustee as obligees, indemnitees or beneficiaries, (ii) contains a stated penal sum or other amount payable thereunder in an amount not less than the Qualified EPC Contract price; (iii) covers the applicable Qualified EPC Contract under which the Certified Progress Payments then being certified for use as the basis for the authentication and delivery of Additional Obligations have been made, and (iv) is issued by a Person qualified to issue such Performance Agreement and who possesses an A.M. Best Company rating of "A-" or better or an equivalent rating from another Person providing such rating services

E. An *Opinion of Counsel* stating that the applicable Qualified EPC Contract is part of the Trust Estate and that the actions taken by the Company under this Section with respect to the delivery of documents to the Trustee conforms to the requirements of this Indenture and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for have been complied with.

F. Prior to filing the Officers' Certificate specified in paragraph C above, the Company shall provide written notice to each Rating Agency then rating the Company or any of the Obligations. Such written notice shall specify (i) the principal amount of Additional Obligations whose authentication and delivery is to be requested; (ii) the terms of any sinking, amortization, improvement or other analogous fund or the terms of any provision for the payment of principal by installments or otherwise with respect to such Additional Obligations; and (iii) the completion date, or the terms for establishing the completion date, under the related Qualified EPC Contract. In addition, until such completion date, the Company shall promptly deliver to each such rating agency quarterly financial statements, including a statement of income, a balance sheet, a statement of cash flows and a computation of the Margins for Interest Ratio for the twelve month period ending on the last day of such quarter.

G. In the event the Company requests the authentication and delivery of Conditional Obligations under Section 4.6, under which loans or advances are to be made on the basis of Certified Progress Payments as provided in Section 4.6A(iii), the required prior written notice to rating agencies shall be given prior to the authentication and delivery of the Conditional Obligations under Section 4.6 and shall not be required at the time of delivery of the Officers' Certificate in connection with each loan or advance.

#### **Section 4.10 Conversion of Additional Obligations.**

From time to time, upon Company Request, all or a portion of the principal amount outstanding under Additional Obligations originally authenticated and delivered upon the basis of Certified Progress Payments under Section 4.9 or under Additional Obligations, under which loans or advances were made upon the basis of Certified Progress Payments under Section 4.9, shall be converted to principal amounts outstanding under Additional Obligations deemed to have been authenticated and delivered upon the basis of Bondable Additions under Section 4.2, in an aggregate principal amount up to but not exceeding 80.00% of Bondable Additions acquired with the proceeds of Certified Progress Payments and made the basis for such

conversion as shown in item 8 of the Summary of Certificate as to Bondable Additions delivered to the Trustee under this Section, upon receipt by the Trustee of the following:

A. The relevant documents specified in paragraphs B through H, inclusive, of Section 4.2 for delivery to the Trustee whenever requesting the use of Bondable Additions as the basis for converting principal amounts outstanding under Additional Obligations under this Section.

B. An Officers' Certificate, dated within five (5) days of the relevant Application requesting the conversion of principal amounts outstanding under Additional Obligations under this Section, stating that:

- (1) no Event of Default exists;
- (2) the conditions precedent provided for in this Indenture relating to such conversion have been complied with; and
- (3) identifying the Additional Obligations all or a portion of the principal amount of which is to be converted under this Section and specifying the principal amount to be converted.

C. An Opinion of Counsel stating that the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the conversion of principal amounts outstanding under Additional Obligations under this Section have been complied with.

Upon compliance with the foregoing provisions of this Section, the principal amount outstanding under Additional Obligations specified in the Officers' Certificate delivered to the Trustee pursuant to paragraph B above shall be converted. By virtue of such conversion, and notwithstanding any other provision of this Indenture, (i) such specified principal amount shall be deemed always to have been outstanding under Additional Obligations authenticated and delivered under Section 4.2 and never to have been outstanding under Additional Obligations upon the basis of Certified Progress Payments and (ii) Property Additions acquired with Certified Progress Payments made the basis for the authentication and delivery of such specified principal amount so converted shall be deemed never to have been acquired with Certified Progress Payments.

## ARTICLE V

### UTILIZATION AND RELEASES OF TRUST ESTATE

#### Section 5.1 Right of Company to Possess, Utilize and Operate Trust Estate; Releases and Dispositions without Release.

So long as no Event of Default shall exist, subject only to the express limitations of this Indenture, the Company shall have the right to (i) possess, use, manage, operate and enjoy the Trust Estate (other than any cash and securities constituting part of the Trust Estate that are

deposited with the Trustee), (ii) use and consume such materials, equipment, fuel and supplies as may be necessary or appropriate to generate, transmit and distribute electricity or operate the System; (iii) collect, receive, use, make payments from, transfer, invest, otherwise utilize or employ amounts constituting or derived from the rents, issues, tolls, earnings, profits, revenues, products and proceeds from the Trust Estate or the operation of the property constituting part of the Trust Estate; (iv) freely and without restriction on the part of the Trustee or of the Holders, explore for, gather, cut, mine and produce crops, timber, coal, ore, gas, oil, minerals or other natural resources and products, and to use, consume and dispose of any thereof; (v) in the ordinary course of business alter, repair and change the position or location of any of its lines, railroads, mines, mills, warehouses, buildings, works, structures, machinery, equipment and other property, **PROVIDED** that such alterations, repairs or changes shall not materially diminish the value thereof or impair the lien of this Indenture thereon; and (vi) deal with, exercise any and all rights under, receive and enforce performance under, modify or amend, and adjust and settle all matters relating to choses in action, leases, contracts and other agreements.

Without limiting the rights of the Company set forth in the preceding paragraph of this Section or otherwise, the Company shall have the right, at any time and from time to time, if no Event of Default shall exist, freely and without restriction on the part of the Trustee or of the Holders, and without any release from or consent by the Trustee,

A. to sell, exchange or otherwise dispose of, free and clear of the lien of this Indenture, any or all machinery, equipment, furniture, apparatus, tools or implements, materials or supplies or other property subject to the lien hereof, which shall have become old, inadequate, obsolete, worn out, unfit, unadaptable, unserviceable, undesirable or unnecessary for use in the operations of the Company, upon substituting for the same other machinery, equipment, furniture, apparatus, tools or implements, materials or supplies or other similar property not necessarily of the same character but of at least equal value to the Company as the property disposed of, which shall forthwith become, without further action, subject to the lien of this Indenture; and no purchaser of any such property shall be bound to inquire into any question affecting the right of the Company to sell or otherwise dispose of the same free and clear of the lien of this Indenture;

B. to abandon, terminate, cancel or release, free and clear of the lien of this Indenture, or amend, make alterations in or substitutions for any lease, contract, easement, right-of-way or other agreement subject to the lien hereof, **PROVIDED** that any amended, altered or substituted lease, contract, easement, right-of-way or other agreement shall forthwith, without further action, become subject to the lien of this Indenture to the same extent as those previously existing and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for such abandonment, termination, cancellation, release, amendment, alteration or substitution, such money (to the extent it exceeds \$100,000 per abandonment, termination, cancellation, release, amendment, alteration or substitution) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

C. to surrender, free and clear of the lien of this Indenture, or modify any franchise, right (charter and statutory), license or permit subject to the lien hereof which it may own or hold or under which it may be operating, **PROVIDED** that, in the opinion of the Board of Directors



or an Officer of the Company, the preservation of such franchise, right, license or permit is no longer reasonably necessary, or with respect to any modification, that such modification is desirable, in the conduct of the business of the Company, **PROVIDED FURTHER** that the exercise of the right of any governmental authority, municipality or other political subdivision to terminate a franchise, right, license or permit shall not be deemed to be a surrender or modification of the same, and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for such surrender or modification, such money (to the extent it exceeds \$100,000 per surrender or modification) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

D. to grant rights-of-way, easements, licenses and permits over or in respect of any property constituting part of the Trust Estate, or release or cancel rights-of-way, easements, licenses and permits constituting part of the Trust Estate, free and clear of the lien of the Indenture, **PROVIDED** that, in the opinion of the Board of Directors or an Officer of the Company, no such grant will in any material respect impair the usefulness of such property in the conduct of the Company's business and such release or cancellation does not affect any right-of-way, easement, license or permit that is reasonably necessary to the operation of the Company's business, and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for any such grant, release or cancellation, such money (to the extent it exceeds \$100,000 per grant, release or cancellation) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

E. to demolish, dismantle, tear down, use for scrap or abandon any property constituting part of the Trust Estate, free and clear of the lien of this Indenture, if, in the opinion of the Board of Directors or an Officer of the Company, such demolition, dismantling, tearing down, scrapping or abandonment is desirable in the conduct of the business of the Company and the value and utility of the Trust Estate as an entirety will not thereby be materially impaired;

F. to alter, repair, replace, change the location or position of and add to its plants, structures, machinery, systems, equipment, fixtures and appurtenances, **PROVIDED** that no change shall be made in the location of any such property subject to the lien of this Indenture which would remove such property into a jurisdiction if this Indenture and any required financing or continuation statement covering security interests in such property have not been recorded, registered or filed in the manner required by law to preserve the lien of this Indenture on such property or which would otherwise in any material respect impair the lien of this Indenture with respect to such property;

G. to deal in, sell, dispose of or otherwise use inventory which is subject to the lien of this Indenture in the ordinary course of the Company's business, and to collect or liquidate accounts which are subject to the lien of this Indenture in the ordinary course of the Company's business; and

H. to sell, lease, sublease or otherwise dispose of any property constituting part of the Trust Estate, subject to the lien of this Indenture, **PROVIDED** that the Company shall

maintain possession and control of such property pursuant to a lease or sublease meeting the requirements of paragraph C of the definition of "Property Additions.

The Trustee shall, from time to time, execute a written instrument to evidence and confirm any action taken by the Company under this Section, upon receipt by the Trustee of (i) a Board Resolution or Officers' Certificate requesting the same and expressing any required opinions, (ii) an Officers' Certificate stating that no Event of Default exists and that said action was duly taken in conformity with a designated paragraph of this Section, and (iii) an Opinion of Counsel stating that said action was duly taken by the Company in conformity with this Section and that the execution of such written instrument by the Trustee confirms such action under this Section.

## Section 5.2 Releases.

The Company shall have the right, at any time and from time to time, to sell, exchange or otherwise dispose of any part of the Trust Estate free and clear of the lien of this Indenture (except cash, Pledged Securities and other personal property held by, or required to be deposited with, the Trustee hereunder) and the Trustee shall, from time to time, release property so sold, exchanged or otherwise disposed of from the lien of this Indenture, but only upon receipt by the Trustee of the items specified in this Section. The Company shall also have the right, at any time and from time to time, to have any part of the Trust Estate released from the lien of this Indenture without selling, exchanging or otherwise disposing of such part of the Trust Estate, and the Trustee shall, from time to time, release such property from the lien of this Indenture, but only upon receipt by the Trustee of the following:

A. A Board Resolution requesting such release and describing the property to be released; **PROVIDED, HOWEVER**, that no Board Resolution shall be required as to any item of property if the Officers' Certificate delivered pursuant to paragraph B below states that the value of such item of property to be released does not exceed \$5,000,000.

B. An Officers' Certificate (hereinafter called a "Release Certificate"), dated not more than thirty (30) days prior to the date of the Application for such release and signed, in the case of the following clause (2), by an Engineer, and, in the case of the following clauses (5) and (6), by an Engineer or an Appraiser, setting forth in substance as follows:

- (1) identifying the property requested to be released;
- (2) that
  - (a) such release is desirable in the conduct of the business of the Company and such property is not reasonably necessary in the conduct of the business of the Company, or
  - (b) any sale, exchange or other disposition of the property has been or is to be made in lieu of reasonable anticipation of the taking of such property by eminent domain by the United States of America or a designated state, municipality or other governmental authority having the power to take such property by eminent domain, or

(c) any sale, exchange or other disposition of the property has been or is to be made in lieu of reasonable anticipation of the exercise of a right of the United States of America or a designated state, municipality or other governmental authority to purchase, or designate a purchaser or order the sale of, such property, or

(d) such release is in connection with the sale and leaseback of any property;

(3) that no Event of Default exists;

(4) that, in the opinion of the signers, the proposed release will not impair the security under this Indenture in contravention of the provisions (including those which permit such release) hereof and that all conditions precedent provided for in this Indenture relating to such release have been complied with;

(5) the fair value, in the opinion of said Engineer or Appraiser, of the property to be released at the date of the Release Certificate; and if, by virtue of clause (7) of this paragraph, any of the property to be released shall be separately described in the Release Certificate, the fair value of such property shall be separately stated; **PROVIDED, HOWEVER,** that it shall not be necessary under this clause to state the fair value of any property whose fair value is certified in an Independent Engineer's or Independent Appraiser's Certificate under paragraph C below;

(6) whether

(a) the aggregate of the fair value of the property to be released at the date of the Release Certificate and the fair value of all securities or other property released since the commencement of the then current calendar year (as previously certified to the Trustee in connection with releases) is 10% or more of the aggregate principal amount of all Obligations at the time Outstanding and whether the fair value of the property to be released is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal amount of all Obligations at the time Outstanding, or

(b) the fair value of the property to be released at the date of the Release Certificate is more than \$5,000,000.

and, if all the facts specified in either clause (a) or (b) above are present, that a certificate of an Independent Engineer or Independent Appraiser as to the fair value of the property to be released will be furnished under paragraph C below; and

(7) whether any purchase money obligations to be delivered to the Trustee or to be certified as delivered to the trustee, mortgagee or other holder of a Prior Lien under paragraph D(4) below are to be secured by a purchase money mortgage on less than all the property to be released; and, if so, the property to be covered by such purchase money mortgage shall be separately described.

C. In case it shall be stated pursuant to paragraph B(6) above that the same will be furnished, a certificate of an Independent Engineer or Independent Appraiser, dated not more than thirty (30) days prior to the date of the Application for such release, stating the fair value, in the Independent Engineer's or Independent Appraiser's opinion, at the date of the Release Certificate of the property to be released, and stating separately the fair value of any such property separately described pursuant to paragraph B(7) above and stating also that, in the opinion of the Independent Engineer or Independent Appraiser, the proposed release will not impair the security under this Indenture in contravention of the provisions hereof.

D. Cash equal to the fair value, as certified pursuant to this Section, of the property to be released; **PROVIDED, HOWEVER**, that, no cash deposit will be required if the Officers' Certificate delivered pursuant to paragraph B above states that the value of each item of property to be released does not exceed \$100,000 and the value of all property released during the current calendar year under this proviso does not exceed \$5,000,000; and **PROVIDED FURTHER** that, in lieu of all or any part of such cash, the Company shall have the right to deposit and pledge with or deliver to the Trustee any of the items described in the following clauses of this paragraph:

(1) purchase money obligations secured by a mortgage or similar instrument (hereinafter in this paragraph called a "mortgage ") on the property to be released or the portion thereof separately described pursuant to paragraph B(7) above, maturing not more than 10 years after the date of the deposit thereof and not exceeding in principal amount 80% of the fair value of the property covered by such purchase money mortgage, as certified pursuant to paragraph B(5) or C above, which purchase money obligations and the mortgage securing the same shall be duly assigned to and deposited and pledged with the Trustee, shall be accompanied by an Officers' Certificate stating that the aggregate unpaid principal amount of all purchase money obligations received by the Trustee under this clause and then deposited and pledged with it (including those then being deposited and pledged with the Trustee), together with all those then and theretofore delivered to and then held by any trustees, mortgagees or other holders of Prior Liens under clause (4) below, does not exceed 10% of the aggregate principal amount of all Obligations then Outstanding and shall be received by the Trustee at their principal amount in lieu of cash;

(2) whenever Bondable Additions are used as a basis, in whole or in part, for the release of any part of the Trust Estate under this Section, the relevant documents specified for delivery in paragraphs B through H, inclusive, of Section 4.2, said documents to be received by the Trustee in lieu of cash up to the Bondable Additions thereby certified; **PROVIDED, HOWEVER**, that if all the property to be released was, immediately before any sale, exchange or other disposition thereof Non-Bondable Property, subject to a Prior Lien, the Bondable Additions being used as a basis for such release may be subject to the same Prior Lien without any deduction for the Prior Lien Obligations thereby secured in computing such Bondable Additions and said documents may be modified accordingly;

(3) whenever Obligations previously or concurrently retired or defeased or principal payments on Obligations are used as a basis, in whole or in part, for the release of any part of the Trust Estate under this Section, the relevant documents and Obligations

specified for delivery in paragraphs B, C, D and E of Section 4.3 (with such omissions and variations as are appropriate in view of the fact that the Obligations described therein as previously or concurrently retired or defeased or principal payments on Obligations are being used as the basis for the release of any part of the Trust Estate), said documents to be received by the Trustee in lieu of cash up to an amount equal to the principal amount of Obligations previously or concurrently retired or defeased or principal payments on Obligations and in either case not previously used as a basis for the issuance of Additional Obligations or the withdrawal of Deposited Cash;

(4) a certificate of the trustee, mortgagee or other holder of a Prior Lien on all or any part of the property to be released, stating that a specified amount of cash or a specified principal amount of purchase money obligations of the character described in clause (1) above and representing proceeds of the sale of such property have been deposited with such trustee, mortgagee or other holder pursuant to the requirements of such Prior Lien, such certificate to be received by the Trustee in lieu of cash equal to the cash and the principal amount of the purchase money obligations so certified to have been deposited with such trustee, mortgagee or other holder, **PROVIDED** there shall also be delivered to the Trustee an Officers' Certificate stating that such property to be released was subject to such Prior Lien, which shall be briefly described or otherwise identified, and that the aggregate principal amount of all purchase money obligations received by the Trustee under clause (1) of this paragraph and then deposited and pledged with it, together with all those then and theretofore delivered to and then held by any trustees, mortgagees or other holders of Prior Liens under this clause, does not exceed 20% of the aggregate principal amount of all Obligations then Outstanding;

(5) an Officers' Certificate stating that the property to be released has been subject to a specified Prior Lien or Prior Liens existing thereon immediately prior to such release, briefly describing or otherwise identifying such Prior Lien or Prior Liens, stating the principal amount of the outstanding Prior Lien Obligations secured thereby and stating that such property constitutes all the property which, immediately prior to such release was subject to such Prior Lien or Prior Liens, said Certificate to be received by the Trustee in lieu of cash in an amount equal to the principal amount of outstanding Prior Lien Obligations so stated to be secured by such Prior Lien or Prior Liens; or

E. An Opinion of Counsel (which shall be outside counsel in the case of the opinion set forth in paragraph (2), if applicable).

(1) stating that the certificates, opinions and other instruments and/or cash and/or obligations which have been or are therewith delivered to or deposited and pledged with the Trustee conform to the requirements of this Indenture, and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the release from the lien of this Indenture of the property to be released have been complied with in all material respects;

(2) stating that the purchase money obligations, if any, being delivered to the Trustee or to the trustee, mortgagee or other holder of a Prior Lien are legal and binding obligations and are duly secured by a valid purchase money mortgage constituting a lien

upon all the property to be released, or upon the portion thereof separately described pursuant to paragraph B(7) above, free of any Prior Liens other than any existing on the property to be released immediately prior to such release, and that the assignment to the Trustee of such purchase money obligations and the mortgage securing the same is valid and in recordable form;

(3) in case any cash or purchase money obligation shall be certified to have been deposited with the trustee, mortgagee or other holder of a Prior Lien, stating that the property to be released, or a specified portion thereof; is or immediately prior to such release was subject to such Prior Lien and that such deposit is required by such Prior Lien;

(4) in case the sale, exchange or other disposition of the property to be released shall have been certified, pursuant to paragraph B(2)(b) above, to be in lieu and reasonable anticipation of the taking of such property by eminent domain, stating that such property could lawfully have been taken by the grantee by eminent domain;

(5) in case the sale, exchange or other disposition of the property to be released shall have been certified, pursuant to paragraph B(2)(c) above, to be in lieu of reasonable anticipation of the exercise of a right to purchase, or to designate a purchaser or order the sale of, such property, stating that the designated governmental authority had, at the time of such sale or disposition, a right to purchase or designate a purchaser of such property or to order its sale; and

(6) in case an Officers' Certificate shall have been delivered to the Trustee in lieu of cash pursuant to paragraph D(4) above, stating that the property to be released, or a specified portion thereof, is or immediately prior to such release was subject to the Prior Lien or Prior Liens described or otherwise identified in said Certificate.

If any property released from the lien of this Indenture as provided in this Section shall continue to be owned by the Company after such release, this Indenture shall not become or be, or be required to become or be, a lien on such property or any improvement, extension or addition to such property or renewals, replacements or substitutions of or for any part or parts of such property unless the Company shall execute and deliver to the Trustee a Supplemental Indenture, in recordable form, containing a grant, conveyance, transfer or mortgage thereof to the Trustee all in accordance with Section 13.5.

With respect to any property released from the lien of the Indenture as provided in this Section, the Trustee, upon Company Request, shall execute and deliver a release or other document to be recorded, registered or filed evidencing that such property is not subject to the lien of the Indenture.

### **Section 5.3 Eminent Domain.**

If any or all of the Trust Estate shall be taken by eminent domain or purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale, the Trustee may release the property so taken and shall be fully protected in so doing upon being furnished with:

A. An Officers' Certificate requesting such release, describing the property to be released and stating that such property has been taken by eminent domain or purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale and that the conditions precedent provided for in this Indenture relating to such release have been complied with.

B. An Opinion of Counsel stating that an order of a court of competent jurisdiction has been issued providing for the taking of such property by the exercise of the power of eminent domain or that such property has been purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale, that such order or such purchase of such property has become final or an appeal therefrom is not being pursued by the Company and that the conditions precedent provided for in this Indenture relating to such release have been complied with.

C. Subject to the requirements of any Prior Lien on the property so taken, cash equal to such award or sale price.

#### **Section 5.4 Written Disclaimer of Trustee.**

In case the Company proposes to sell, exchange or otherwise dispose of or has sold, exchanged or otherwise disposed of any property not subject to the lien hereof and the transferee thereof requests a written disclaimer or quitclaim by the Trustee of any interest in such property under this Indenture, the Trustee shall execute such an instrument without substitution of other property or cash upon receipt by the Trustee of the following:

A. A Company Request for the execution of such disclaimer or quitclaim.

B. An Officers' Certificate which shall identify the sale, exchange or other disposition or proposed sale, exchange or other disposition, describe the property, state that such property is not subject to the lien of this Indenture, and state that the transferee of such property has requested a written disclaimer or quitclaim by the Trustee.

C. An Opinion of Counsel which shall state that such property is not subject to the lien of this Indenture and not then required to be subjected thereto by any provision hereof.

#### **Section 5.5 Powers Exercisable Notwithstanding Event of Default.**

While in possession of all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee), the Company may exercise the powers conferred upon it in this Article even though it would otherwise be prohibited from doing so while an Event of Default exists as provided herein, if the Trustee, in its discretion (based upon such opinions and certifications as the Trustee deems necessary), or the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, by Act of such Holders, shall consent to such action (such consent may be on a retroactive basis), in which event none of the instruments required to be furnished to the Trustee under this Article as a condition to the exercise of such powers need state that no Event of Default exists as provided therein.

#### **Section 5.6 Powers Exercisable by Trustee or Receiver.**

In case all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee) shall be in the possession of a trustee or receiver lawfully appointed, the powers hereinbefore in this Article conferred upon the Company with respect to the sale, exchange or other disposition and release of the Trust Estate may be exercised by such trustee or receiver (with the consent of the Trustee or Holders as specified in Section 5.5), in which case a written request signed by such receiver or trustee shall be deemed the equivalent of any Board Resolution or Company Request required by this Article and a certificate signed by such trustee or receiver shall be deemed the equivalent of any Officers' Certificate required by this Article and such certificate need not state that no Event of Default exists. If the Trustee shall be in possession of the Trust Estate under Section 8.3, such powers may be exercised by the Trustee in its discretion.

#### **Section 5.7 Purchaser Protected.**

No purchaser or other transferee in good faith of property purporting to be released herefrom shall be bound to ascertain the authority of the Trustee to execute the release or to inquire as to the satisfaction of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or other transferee of any property or rights permitted by this Article to be sold, exchanged or otherwise disposed of by the Company be under any obligation to ascertain or inquire into the authority of the Company to make any such sale, exchange or other disposition. Any release executed by the Trustee shall be sufficient for the purpose of this Indenture and shall constitute a good and valid release of the property therein described from the lien hereof.

#### **Section 5.8 Disposition of Collateral on Discharge of Prior Liens.**

Upon the cancellation and discharge of any Prior Lien, the Company will cause all cash and purchase money obligations then held by the trustee, mortgagee or other holder of such Prior Lien, which were received by such trustee, mortgagee or other holder in accordance with the provisions of this Article (including all proceeds of or substitutions for any thereof), to be paid to or deposited and pledged with the Trustee, such cash to be held and paid over or applied by the Trustee as provided in Article VI.

#### **Section 5.9 Disposition of Obligations Received.**

All purchase money obligations received by the Trustee under this Article shall be held by the Trustee as a part of the Trust Estate. Upon payment to the Trustee of the entire unpaid principal amount of any such obligation, the Trustee shall release and transfer such obligation and any mortgage securing the same upon Company Request. Any cash received by the Trustee in respect of the principal of any such obligation shall be held by the Trustee as Trust Moneys under Article VI subject to application as therein provided. The Trustee shall not be responsible for the collection of the principal of or interest on any such obligation. All interest and other income on any such obligation, when received by the Trustee, shall, except to any extent otherwise provided in Section 15.4, be paid from time to time to the Company upon Company Request, unless an Event of Default shall exist. If an Event of Default shall exist, any interest



and other income on any such obligation not theretofore paid upon Company Request, when collected by the Trustee, shall be applied by the Trustee in accordance with Section 8.7.

## ARTICLE VI

### APPLICATION OF TRUST MONEYS

#### Section 6.1 “Trust Moneys” Defined.

All moneys received by the Trustee

A. upon the release of any part of the Trust Estate from the lien of this Indenture, including all moneys received in respect of the principal of all purchase money obligations, or

B. as compensation for, or proceeds of the sale of, any part of the Trust Estate taken by eminent domain or purchased by, or sold pursuant to an order of, a governmental authority or otherwise disposed of, or

C. as proceeds of insurance upon any part of the Trust Estate required to be paid to the Trustee under Section 13.8, or

D. for application under this Article as elsewhere herein provided, or whose disposition is not elsewhere herein otherwise specifically provided for,

(all such moneys being herein sometimes called “Trust Moneys”) shall be held by the Trustee, except as otherwise provided in this Article, as a part of the Trust Estate and, upon any entry upon or sale of the Trust Estate or any part thereof under Article VII, Trust Moneys shall be applied in accordance with Section 8.7; but, prior to any such entry or sale, all or any part of the Trust Moneys may be withdrawn, and shall be paid, released or applied by the Trustee, from time to time as provided in Sections 6.2 to 6.9, inclusive, and may be applied by the Trustee as provided in Sections 9.7, 13.11 and Section 15.14.

#### Section 6.2 Withdrawal on Basis of Bondable Additions.

Trust Moneys may be withdrawn by the Company and shall be paid by the Trustee under this Section to the Company or as otherwise specified in a Company Request, from time to time, equal to the principal amount of Bondable Additions made the basis for such withdrawal pursuant to paragraph C below, upon receipt by the Trustee of the following:

A. A Board Resolution requesting the withdrawal and payment of Trust Moneys.

B. An Officers’ Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys, stating that:

(1) no Event of Default exists or will occur as a result of such redemption, purchase or payment; and

(2) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

C. The additional documents specified in Section 4.2 (other than an Available Margins Certificate) for delivery whenever requesting the use of Bondable Additions as a basis for the withdrawal of Trust Moneys under this Section.

**Section 6.3 Withdrawal on Basis of Retirement or Defeasance of Obligations or Principal Payments on Obligations.**

Trust Moneys may be withdrawn by the Company and shall be paid by the Trustee under this Section to the Company or as otherwise specified in a Company Request, from time to time, equal to the principal amount of Obligations or principal payments on Obligations made the basis for such withdrawal pursuant to paragraph C below, upon receipt by the Trustee of the following:

A. A Board Resolution requesting the withdrawal and payment of Trust Moneys.

B. An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys, stating that:

(1) no Event of Default exists; and

(2) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

C. The Obligations, if any, and documents which the Company would be required to furnish to the Trustee upon an Application for the authentication and delivery of Additional Obligations under Section 4.3, except for the documents and opinions required by paragraphs A, E and F thereof.

D. An Opinion of Counsel stating that the Obligations, if any, and the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the withdrawal and payment of the Trust Moneys then requested have been complied with.

**Section 6.4 [Intentionally Omitted].**

**Section 6.5 Retirement of Obligations or Payments on Obligations.**

Trust Moneys shall be applied by the Trustee from time to time to the redemption of any Outstanding Secured Obligations that may be designated by the Company, all in accordance with the provisions applicable to redemption at the option of the Company and with any premiums applicable thereto, or to the payment of the principal of any Outstanding Secured Obligations at their Stated Maturity or to the purchase thereof upon tender or in the open market or at private sale or upon any exchange or in any one or more of said ways, or to any other payment of the principal of any Outstanding Secured Obligations that may be designated by the Company, all in accordance with the rights of the Company to make such payments and with any penalties or

premiums applicable thereto, as the Company shall specify in a Company Request, upon receipt by the Trustee of the following:

A. A Board Resolution directing the application pursuant to this Section of Trust Moneys and, in case any such moneys are to be applied to the redemption of Obligations, designating the Obligations to be redeemed and stating the applicable Redemption Price, if any, or authorizing such designation and statement to be made in an Officers' Certificate, and, in case such moneys are to be applied to the purchase of Obligations, prescribing the method of purchase, the price or prices to be paid and the maximum principal amount of Obligations to be purchased or authorizing the prescription of such method, price, and maximum principal amount to be made in an Officers' Certificate, and in the case such moneys are to be applied to the payment of principal on Obligations, designating the Obligations on which such payments are to be made, specifying the amount to be paid and stating the applicable penalties or premiums, if any, or authorizing such designation, specification and statement to be made in an Officers' Certificate.

B. Cash equivalent to the maximum amount of the accrued interest and the premium or penalty, if any, required to be paid in connection with any such redemption, purchase or payment, which cash shall be held by the Trustee in trust for such purpose.

C. An Officers' Certificate, dated not more than thirty (30) days prior to the date of the relevant Application, stating that:

- (1) no Event of Default exists; and
- (2) the conditions precedent provided for in this Indenture relating to such application of Trust Moneys have been complied with.

D. An Opinion of Counsel stating that the documents and the cash, if any, which have been or are therewith delivered to and deposited with the Trustee conform to the requirements of this Indenture, and that, upon the basis of the relevant Application, the conditions precedent provided for in this Indenture relating to the application of Trust Moneys therein applied for have been complied with.

Upon compliance with the foregoing provisions of this Section, the Trustee shall apply Trust Moneys as requested by a Company Request, in an amount up to, but not exceeding, the principal amount of the Obligations so redeemed, paid or purchased, or the principal amount of the principal payments on the Obligations so made, and shall use only the cash deposited pursuant to paragraph B above, to the extent necessary, to pay any accrued interest, penalty and premium required in connection with such redemption, purchase or payment.

A Board Resolution expressed to be irrevocable directing the application of Trust Moneys under this Section to the payment of the principal of Obligations shall, for all purposes of this Indenture, be deemed the equivalent of the deposit of money with the Trustee in trust for such purpose. Such Trust Moneys and any cash deposited with the Trustee pursuant to paragraph B above for the payment of accrued interest, penalty and premium shall not, after compliance with the foregoing provisions of this Section, be deemed to be a part of the Trust Estate or Trust Moneys.

## Section 6.6 Withdrawal of Insurance Proceeds.

A. To the extent that any Trust Moneys consist of proceeds of insurance upon any part of the Trust Estate, they may be withdrawn by the Company and shall be paid by the Trustee to the Company or as otherwise specified in a Company Request to reimburse the Company for the Cost to the Company to repair, rebuild or replace the property destroyed or damaged, upon receipt by the Trustee of the following:

(1) An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys and signed with respect to clauses (a) and (c) below, by a Person who is an Accountant (who may be one of the two signing Officers), stating that:

(a) expenditures have been made, or costs incurred, by the Company in a specified amount for the purpose of making certain repairs, rebuildings and replacements, which shall be briefly described, and stating the amount of any such expenditures or costs for the acquisition of a major item of property, which shall be separately specified, in replacement of any destroyed or damaged property;

(b) no part of such expenditures or costs has been or is being made the basis for the authentication and delivery of Obligations or the withdrawal of any Trust Moneys or Deposited Cash or the release of any part of the Trust Estate from the lien of this Indenture or has been paid out of the proceeds of insurance upon any part of the Trust Estate not required to be paid to the Trustee under Section 13.8;

(c) there is no outstanding indebtedness, other than costs for which payment is being requested, known to the Company, after due inquiry, for the purchase price or construction of the repairs, rebuildings or replacements specified pursuant to clause (a) above, or for labor, wages, materials or supplies in connection with the making thereof, which, if unpaid, might become the basis of a vendor's, mechanics', laborers', materialmen's, statutory or other similar lien upon any of such repairs, rebuildings or replacements, which lien might, in the opinion of the signers of such Certificate, materially impair the security afforded by such repairs, rebuildings or replacements;

(d) no Event of Default exists; and

(e) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

(2) An Engineer's or Appraiser's Certificate, dated not more than thirty (30) days prior to the date of the related Application, stating, in the opinion of the signer, the fair value to the Company of any major item of property specified in paragraph A(1) above; **PROVIDED** that if such property constitutes an Acquired Facility and if the fair value to the Company of such Acquired Facility is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal

amount of all Obligations at the time Outstanding, the Engineer or Appraiser shall be an Independent Engineer or Independent Appraiser.

(3) An Opinion of Counsel stating that:

(a) the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, that, upon the basis of the related Application, the conditions precedent provided for in this Indenture relating to the withdrawal and payment of Trust Moneys then requested have been complied with; and

(b) the Company's right, title and interest in and to the repairs, rebuildings and replacements described in the Officers' Certificate delivered pursuant to paragraph A above are subject to the lien of this Indenture.

(4) Title Evidence indicating that the Company has acquired, or upon payment of the costs to be paid as requested will acquire, title to the repairs, rebuildings or replacements described in the Officers' Certificate delivered pursuant to paragraph A above at least equivalent to its title to the property destroyed or damaged.

Upon compliance with the foregoing provisions of this Section, the Trustee shall pay to the Company or as otherwise specified in a Company Request an amount of Trust Moneys of the character aforesaid equal to the amount of the expenditures or costs stated in such Officers' Certificate; **PROVIDED, HOWEVER**, that, in the case of expenditures or costs for the acquisition of a major item of property in replacement of any destroyed or damaged property, such expenditures or costs shall not exceed the fair value to the Company of such replacement as certified pursuant to the paragraph (2) above.

B. To the extent that any Trust Moneys consist of proceeds of insurance upon, or payable in consequence of destruction of or damage to, that portion of the Trust Estate consisting of the property ("Leased Assets") subject to a lease (a "Capital Asset Lease") described in paragraph C of the definition of "Property Additions" or paragraph H of Section 5.1, they shall be paid by the Trustee as specified in a Company Request to the lessor under a Capital Assets Lease or its designee, upon receipt by the Trustee of the following:

(1) An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys and signed in the case of the following clauses (b), (c) and (d) by an Engineer or Appraiser, setting forth in substance as follows:

(a) an amount is, or with an election which shall be made by the Company, will be, due and payable to the lessor under the Capital Assets Lease in respect of such destruction of, or damage to, the Leased Assets and the amount of the request for withdrawal of Trust Moneys to which such Officers' Certificate relates does not exceed such amount;

(b) the amount of Trust Moneys to be withdrawn pursuant to such Company Request is not more than the difference between (i) the amount of

proceeds of insurance received in consequence of such destruction of or damage to the Leased Assets which has theretofore been deposited with the Trustee, minus either (ii) if the Leased Assets are not to be repaired or replaced, the difference between (A) the fair value in the opinion of said Engineer or Appraiser of the Leased Assets immediately prior to the destruction or damage giving rise to the receipt of the proceeds of insurance, minus (B) the fair value in the opinion of said Engineer or Appraiser of the Leased Assets at the date of such Officers' Certificate or (iii) if the Leased Assets are to be repaired or replaced, the cost of repair or replacement as estimated by such Engineer or Appraiser;

(c) whether

(i) the aggregate of the amount of Trust Moneys to be withdrawn in accordance with such Application and the fair value of all Trust Moneys, withdrawn pursuant to this paragraph B of this Section 6.6 or securities or other property released pursuant to Section 5.2 since the commencement of the then current calendar year (as previously certified to the Trustee in connection with withdrawals or releases) is 10% or more of the aggregate principal amount of all Obligations at the time Outstanding, and whether such amount of Trust Moneys to be withdrawn is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal amount of all Obligations at the time Outstanding, or

(ii) the amount of the Trust Moneys to be withdrawn in accordance with such Application is more than \$1,000,000;

(d) that, in the opinion of the signers, the proposed withdrawal will not impair the security under this Indenture in contravention of the provisions hereof; and

(e) that no Event of Default exists.

If the facts specified in either Subclause (i) or (ii) of clause (c) above are present, such Officers' Certificate shall be accompanied by a certificate of an Independent Engineer or Independent Appraiser, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of Trust Moneys, to the effect set forth in clauses (b) and (d) above. Upon compliance with the foregoing provisions of this Section, the Trustee shall pay to the Person specified in a Company Request an amount of Trust Moneys of the character aforesaid equal in the amount stated in such Officers' Certificate.

#### **Section 6.7 Amounts under \$25,000.**

In case the amount of Trust Moneys at any one time received by the Trustee shall not exceed \$25,000, the same shall (unless an Event of Default exists) be paid to the Company upon Company Request; and the Company covenants and agrees that it will, within the 12 months after such Trust Moneys have been so paid to the Company, deposit and file with the Trustee the documents and Obligations, if any, which by the provisions of Sections 6.2, 6.3, 6.4, 6.6 or 6.8

would have been delivered to the Trustee to entitle the Company to have the Trust Moneys paid to it as provided in such Section, with such omissions and variations as are appropriate by reason of the fact that such Trust Moneys have theretofore been paid to the Company by the Trustee without prior compliance with such Sections. In the event that the Company shall have failed to comply with the foregoing covenant, no further payment may be made under this Section until the Company shall have deposited and filed with the Trustee the required documents and Obligations, if any.

#### **Section 6.8 Powers Exercisable Notwithstanding Default.**

While in possession of all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee), the Company may do any of the things enumerated in Sections 6.2 to 6.7, inclusive, which it is prohibited from doing while an Event of Default exists as provided therein, if the Trustee in its discretion (based upon such opinions and certifications as the Trustee deems necessary), or the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, by an Act of such Holders, shall specifically consent to such action, in which event any Officers' Certificate delivered to the Trustee under any of such Sections shall omit any statement to the effect that no Event of Default exists as provided thereunder.

#### **Section 6.9 Powers Exercisable by Trustee or Receiver.**

In case all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee) shall be in the possession of a receiver or trustee lawfully appointed, the powers hereinbefore in this Article conferred upon the Company with respect to the withdrawal or application of Trust Moneys may be exercised by such receiver or trustee (with the consent of the Trustee or Holders specified in Section 6.8), in which case a written request signed by such receiver or trustees shall be deemed the equivalent of any Board Resolution or Company Request required by this Article and a certificate signed by such receiver or trustee shall be deemed the equivalent of any Officers' Certificate required by this Article and such certification need not state that no Event of Default exists. If the Trustee shall be in possession of the Trust Estate under Section 8.3, such powers may be exercised by the Trustee in its discretion.

#### **Section 6.10 Disposition of Obligations Retired.**

All Obligations received by the Trustee and on the basis of which Trust Moneys are paid or for whose payment, redemption or purchase Trust Moneys are applied under this Article, if not previously canceled, shall be promptly canceled by the Trustee and thereafter the Trustee may retain or destroy such Obligations and deliver a certificate of destruction to the Company.

## ARTICLE VII

### DEFEASANCE

#### Section 7.1 Termination of Company's Obligations.

A. The Company may terminate its obligations under the Obligations and this Indenture if all Obligations previously authenticated and delivered (other than destroyed, lost or stolen Obligations which have been replaced or paid or Obligations for whose payment money or securities has theretofore been held in trust and thereafter repaid to the Company, as provided in Section 7.3) have been delivered to the Trustee for cancellation and the Company has paid all sums payable by it hereunder; or

B. Except as otherwise provided in this Section, the Company may terminate its obligations under any Obligations and all of its obligations under this Indenture to or for the benefit of the Holders of such Obligations, if:

(1) the Company has (i) in case any of such Obligations are to be redeemed on any date prior to their Stated Maturity, given to the Trustee irrevocable instructions to give as provided in Article XIV notice of redemption of such Obligations (other than Obligations which have been purchased by the Trustee at the direction of the Company as hereinafter provided prior to the giving of such notice of redemption), and (ii) irrevocably deposited or caused to be deposited with the Trustee or Paying Agent (if other than the Company), under the terms of an irrevocable trust agreement in form and substance satisfactory to the Trustee and any such Paying Agent, as trust funds in trust for the benefit of the Holders of such Obligations for that purpose, money or Defeasance Securities maturing as to principal and interest in such amounts and at such times as are sufficient (in the opinion of a nationally recognized firm of Independent public accountants expressed in a certificate signed by such firm and delivered to the Trustee), without consideration of any reinvestment of such interest, to pay principal or Redemption Price (if applicable) of, and interest due or to become due on such Obligations (other than destroyed, lost or stolen Obligations which have been replaced or paid or Obligations for whose payment money or securities has theretofore been held in trust and thereafter repaid to the Company as provided in the second sentence of Section 7.3) on or prior to the Redemption Date or Stated Maturity thereof, as the case may be, in accordance with the terms of this Indenture and such Obligations; **PROVIDED** that the Trustee or Paying Agent shall have been irrevocably instructed to apply such money or the proceeds of such Defeasance Securities to the payment of said principal, Redemption Price and interest with respect to such Obligations;

(2) no Event of Default shall exist on the date of such deposit or shall occur as a result of such deposit;

(3) the Company has paid or caused to be paid all sums then due from the Company hereunder and under such Obligations;



(4) the Company has delivered to the Trustee and any Paying Agent an Officers' Certificate, each stating that the conditions set forth in clauses (1) through (3) above have been complied with; and

(5) the Holders have perfected security interests in the moneys and Defeasance Securities deposited.

After any such irrevocable deposit, the Trustee upon Company Request shall acknowledge in writing the discharge of the Company's obligations under such Obligations and of the Company's obligations to or for the benefit of the Holders of such Obligations or under this Indenture, except for those surviving obligations specified below.

C. Notwithstanding the satisfaction of the conditions set forth in paragraph B with respect to any Obligations, the Company's obligations to or for the Holders of such Obligations or to the Trustee under Sections 3.6, 3.7, 7.2, 7.3, 7.4, 9.7, 9.10, 10.2, 13.2, 13.3 and 15.14 shall survive until such Obligations are no longer Outstanding. Thereafter, only the Company's obligations under Sections 7.3, 7.4, 9.7 and 15.14 shall survive with respect to such Holders or the Trustee.

D. The Trustee shall, if so directed by the Company (i) prior to the Stated Maturity of Obligations in respect of which a deposit has been made under paragraph B(1) above which are not to be redeemed prior to their Stated Maturity or (ii) prior to the giving of the notice of redemption referred to in paragraph B(1) above with respect to any Obligations in respect of which a deposit has been made under paragraph B(1) which are to be redeemed on a date prior to their Stated Maturity, apply moneys deposited with the Trustee in respect of such Obligations and redeem or sell Defeasance Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Obligations and the Trustee shall immediately thereafter cancel all such Obligations so purchased; **PROVIDED, HOWEVER**, that the moneys and Defeasance Securities remaining on deposit with the Trustee after the purchase and cancellation of such Obligations shall be sufficient to pay when due the principal or Redemption Price (if applicable) of, and interest due or to become due on, all Obligations in respect of which such moneys and Defeasance Securities are being held by the Trustee on or prior to the Redemption Date or Stated Maturity thereof, as the case may be. In the event that on any date as a result of any purchases and cancellations of Obligations as provided in this paragraph the total amount of moneys and Defeasance Securities remaining on deposit with the Trustee under this Section is in excess of the total amount that would have been required to be deposited with the Trustee on such date under paragraph B(1) in respect of the remaining Obligations for which such moneys and Defeasance Securities are being held, the Trustee shall, if requested by the Company and upon receipt by the Trustee of a certificate of an Independent Accountant setting forth the calculation of such excess, pay the amount of such excess to the Company free and clear of any trust, lien, security interest, pledge or assignment securing such Obligations or otherwise existing under this Indenture.

E. If the requirements of this Section have been satisfied with respect to all Obligations theretofore Outstanding, then, upon Company Request, the lien, rights and interest created hereby shall be canceled and surrendered (except as otherwise provided below) and the Trustee and each co-trustee and separate trustee, if any, then acting as such hereunder shall, at

the expense of the Company, execute and deliver a termination statement and such instruments of satisfaction and discharge as may be necessary and pay, sign, transfer and deliver to the Company or upon Company Order all cash, securities and other personal property then held by it hereunder as part of the Trust Estate.

### **Section 7.2 Application of Deposited Money and Money From Defeasance Securities.**

Money or Defeasance Securities deposited with the Trustee or the Paying Agent pursuant to Section 7.1 shall not be part of the Trust Estate and shall not be deemed to be Trust Moneys but shall constitute a separate trust fund for the benefit of persons entitled thereto. Subject to the provisions of Section 13.3, the Trustee or Paying Agent shall hold in trust money or Defeasance Securities deposited with it pursuant to Section 7.1, and shall apply the deposited money and the money from Defeasance Securities to the payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are deposited. If money deposited with the Trustee under this Article VII, or money received from principal or interest payments on Defeasance Securities deposited with the Trustee under this Article VII, will be required at a later date for payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are deposited, such money shall, at the written investment direction of the Company, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts that, together with other moneys so deposited or to be generated by other Defeasance Securities, will be sufficient to pay when due the principal or Redemption Price (if applicable) of, and interest to become due on, such Obligations, and the interest earned from such reinvestments shall be paid over to the Company, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Obligations or otherwise existing under this Indenture.

### **Section 7.3 Repayment to Company.**

Subject to Section 7.1, to the extent any Defeasance Securities deposited with the Trustee under this Article, or cash received from principal or interest payments on such Defeasance Securities, will not be required in the opinion of a nationally recognized firm of Independent Accountants expressed in a certificate signed by such firm and delivered to the Trustees and the Paying Agent for the payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are deposited, the Trustee and the Paying Agent shall promptly pay and deliver to the Company upon Company Request any such Defeasance Securities and cash, and thereupon the Trustee shall be relieved from any liability with respect thereto. Without limiting the foregoing, subject to the unclaimed property laws of the Commonwealth of Kentucky, the Trustee and the Paying Agent shall pay to the Company upon Company Request any money held by them for the payment of principal, Redemption Price or interest that remains unclaimed for two years after the date such payment was due; **PROVIDED** that the Trustee or such Paying Agent before being required to make any payment may at the expense of the Company cause to be mailed by first-class mail, postage prepaid to each Holder entitled to such money, notice that such money remains unclaimed and that after a date specified therein (which shall be at least thirty (30) days from the date of publication or mailing) any unclaimed balance of such money then remaining will be repaid to the Company. After payment to the Company, Holders entitled to such money

must look to the Company for payment as general creditors unless an applicable law designates another person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

#### **Section 7.4 Reinstatement.**

If the Trustee or Paying Agent is unable to apply any money or Defeasance Securities in accordance with Section 7.1 and the second sentence of Section 7.2 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, (i) the Company's obligations under this Indenture to or for the benefit of the Holders of Obligations for whose benefit such money or Defeasance Securities were deposited (other than obligations arising under any provisions creating the lien hereof) and under such Obligations shall be revived and reinstated as though no deposit had occurred pursuant to Section 7.1 until such time as the Trustee or Paying Agent is permitted to apply all such money and Defeasance Securities in accordance with Section 7.1, and (ii) the lien of this Indenture shall be reinstated for the benefit of such Holders (and, if the lien of this Indenture shall previously have been fully released, then to the extent possible, the Company shall take all actions required to subject assets of the Company to a lien substantially similar, in amount and otherwise, to the Trust Estate subject to the lien of this Indenture as in effect on the date of the termination of the Company's obligations hereunder pursuant to Section 7.1, which lien shall be effective until such time as the Trustee or Paying Agent is permitted to apply all such money and Defeasance Securities in accordance with Section 7.1); **PROVIDED, HOWEVER**, that if the Company has made any payment of interest on or principal of any Obligations because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Obligations to receive such payment from the money or Defeasance Securities held therefor by the Trustee or Paying Agent.

### **ARTICLE VIII**

#### **EVENTS OF DEFAULT AND REMEDIES**

##### **Section 8.1 Events of Default.**

"Event of Default means, wherever used herein, any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

A. default in the payment of any interest upon any Obligation when such interest becomes due and payable, and continuance of such default for five (5) days or such other period as may be provided for in such Obligation or in the Supplemental Indenture under which such Obligation is issued **PROVIDED**, however, that no payment by RUS pursuant to any RUS insuring of, or by any other insurer of, any Obligation shall be considered a payment of interest under this paragraph for purposes of determining the existence of such a failure to pay; or

B. default in the payment of the principal of (premium, if any, on) any Obligation at its Maturity and, if there is a grace period provided for in such Obligation or the Supplemental

Indenture under which such Obligation is issued, the continuance of such default for any grace period so provided, **PROVIDED**, however, that no payment by RUS pursuant to any guarantee by RUS insuring of, or by any other guarantor or insurer of, any Obligation shall be considered a payment of principal (or premium) under this paragraph for purposes of determining the existence of such a failure to pay; or

C. default in the performance, or breach, of any covenant or warranty of the Company in this Indenture (other than a covenant or warranty a default in the performance or breach of which is described in paragraph A or B of this Section), and continuance of such default or breach for a period of thirty (30) days after there has been given, by registered or certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of not less than 25% in principal amount of the Obligations Outstanding, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default hereunder, unless such default cannot be reasonably cured within such thirty (30) day period then, so long as a cure is being diligently pursued, the Company shall have a reasonable period of time beyond such thirty (30) day period to complete such cure; or

D. a failure to pay any portion of the principal when due and payable (other than amounts due and payable as a consequence of a declaration of acceleration) under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, other than any indebtedness evidenced or secured by an Obligation, whether such indebtedness now exists or shall hereafter be created, if, but only if, such failure shall have resulted in such indebtedness becoming or being declared due and payable prior to the date on which it otherwise would have been due and payable in an aggregate principal amount exceeding \$10,000,000, without such indebtedness having been discharged or such declaration of acceleration having been rescinded or annulled within a period of ten (10) days after such acceleration; or

E. the rendering against the Company of a judgment for the payment of money in an amount exceeding \$10,000,000 and the continuance of such judgment unsatisfied or without stay of execution thereon for a period of forty-five (45) days after the entry of such judgment, or the continuance of such judgment unsatisfied for a period of forty-five (45) days after the termination of any stay of execution thereon entered within such first mentioned forty-five (45) day period; if, but only if, in either case, such judgment shall have continued unstayed or unsatisfied for a period of ten (10) days after there has been given a written notice specifying such situation and requiring it to be remedied and stating that such notice is a "Notice of Default hereunder; by registered or certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of not less than 25% in principal amount of the Obligations Outstanding; or

F. the entry by a court having jurisdiction of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such

decree or order for relief of any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days; or

G. the commencement by the Company of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

#### **Section 8.2 Acceleration of Maturity; Rescission and Annulment.**

If an Event of Default exists, then and in every such case the Trustee or the Holders of not less than 25% in principal amount of the Obligations Outstanding may declare the principal (or, in the case of Obligations of any series constituting are Original Issue Discount Obligations, such portion of the principal amount of such Original Issue Discount Obligations as may be specified in the terms of such series) of all the Obligations to be due and payable immediately, by a notice in writing to the Company (and to the Trustee, if given by Holders), and upon any such declaration such principal shall become immediately due and payable.

At any time after such a declaration of acceleration has been made, but before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due on any Obligations has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount of the Obligations Outstanding (unless such declaration has been made under Section 8.23 only with respect to a particular series of Outstanding Obligations, in which event only a majority in principal amount of the Obligations of such series) may, by written notice to the Company and the Trustee, rescind and annul such declaration and its consequences if

- A. the Company has paid or deposited with the Trustee a sum sufficient to pay
  - (1) all overdue installments of interest on all Obligations,
  - (2) the principal of (and premium, if any, on) any Obligations which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Obligations,
  - (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in such Obligations, and

(4) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

B. all Events of Default, other than the non-payment of the principal of Obligations which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in Section 8.17.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

### **Section 8.3 Entry.**

The Company agrees that upon the occurrence of an Event of Default the Company, upon demand of the Trustee during the continuance thereof, shall forthwith surrender to the Trustee the actual possession of, and it shall be lawful for the Trustee by such officers or agents as it may appoint to enter and take possession of, the Trust Estate (and the books, papers and accounts of the Company), and to hold, operate, manage and control the Trust Estate (including the making of all needful repairs, and such alterations, additions and improvements which the Trustee shall determine in its discretion to make) and to receive the rents, issues, tolls, profits, revenues and other income thereof, and, after deducting the costs and expenses of entering, taking possession, holding, operating and managing the Trust Estate, as well as payments for taxes, insurance and other proper charges upon the Trust Estate and reasonable compensation to itself, its agents and counsel, to apply the same as provided in Section 8.7. Whenever all that is then due upon the Obligations and under any of the terms of this Indenture shall have been paid and all defaults hereunder shall have been made good, the Trustee shall surrender possession of such property to the Company.

### **Section 8.4 Power of Sale; Suits for Enforcement.**

In case an Event of Default shall exist, the Trustee, with or without entry, in its discretion may, subject to the provisions of Section 8.16:

A. sell, subject to any mandatory requirements of applicable law, the Trust Estate as an entirety, or in such parcels as the Holders of a majority in principal amount of the Obligations then Outstanding shall in writing request, or in the absence of such request, as the Trustee may determine, to the highest bidder at public auction or private sale and upon such terms as the Trustee may (subject to applicable law) fix; or

B. proceed to protect and enforce its rights and the rights of the Holders under this Indenture by sale pursuant to judicial proceedings or by a suit, action or proceeding in equity or at law or otherwise, whether for the specific performance of any covenant or agreement contained in this Indenture or in aid of the execution of any power granted in this Indenture or for the foreclosure of this Indenture or for the enforcement of any other legal, equitable or other remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of the rights of the Trustee or the Holders.

## Section 8.5 Incidents of Sale.

Upon any sale of any of the Trust Estate, whether made under the power of sale hereby given or pursuant to judicial proceedings, to the extent permitted by law:

A. the principal of and accrued interest on all Outstanding Secured Obligations, if not previously due, shall at once become and be immediately due and payable;

B. any Holder or Holders or the Trustee may bid for and purchase the property offered for sale, and upon compliance with the terms of sale may hold, retain and possess and dispose of such property, without further accountability, and may, in paying the purchase price therefor, deliver any Outstanding Secured Obligations or claims for interest thereon in lieu of cash in the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon, and (unless such sale is effected under power of sale) such Obligations, in case the amounts so payable thereon shall be less than the amount due thereon, shall be returned to the Holders thereof after being appropriately stamped to show partial payment;

C. the Trustee may make and deliver to the purchaser or purchasers a good and sufficient deed, bill of sale and instrument of assignment and transfer of the property sold;

D. the Trustee is hereby irrevocably appointed the true and lawful attorney of the Company, in its name and stead, to make all necessary deeds, bills of sale and instruments of assignment and transfer of the property thus sold; and for that purpose it may execute all necessary deeds, bills of sale and instruments of assignment and transfer, and may substitute one or more persons, firms or corporations with like power, the Company hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof; but if so requested by the Trustee or by any purchaser, the Company shall ratify and confirm any such sale or transfer by executing and delivering to the Trustee or to such purchaser or purchasers all proper deeds, bills of sale, instruments of assignment and transfer and releases as may be designated in any such request;

E. all right, title, interest, claim and demand whatsoever, either at law or in equity or otherwise, of the Company of, in and to the property so sold shall be divested and such sale shall be a perpetual bar both at law and in equity against the Company, its successors and assigns, and against any and all persons claiming or who may claim the property sold or any part thereof from, through or under the Company, its successors and assigns; and

F. the receipt of the Trustee or of the officer making such sale shall be a sufficient discharge to the purchaser or purchasers at such sale for his or their purchase money and such purchaser or purchasers and his or their assigns or personal representatives shall not, after paying such purchase money and receiving such receipt, be obliged to see to the application of such purchase money, or be in anywise answerable for any loss, misapplication or non-application thereof.

Upon a sale of substantially all the Trust Estate, whether made under the power of sale hereby given or pursuant to judicial proceedings, the Company will permit, to the extent permitted by law, the purchaser thereof and its successors and its and their assigns to take and use the name of the Company and to carry on business under such name or any variant or

variants thereof and to use and employ any and all other trade names, brands and trade marks of the Company; and in such event, upon written request of such purchaser or its successors, or its or their assigns, the Company will, at the expense of the purchaser, change its name in such manner as to eliminate any similarity.

**Section 8.6 Covenant to Pay Trustee Amounts Due on Obligations and Right of Trustee to Judgment.**

The Company covenants that, if

A. default is made in the payment of any interest on any Obligation when such interest becomes due and payable, and such default continues for the period prescribed in paragraph A of Section 8.1, or

B. default is made in the payment of the principal of (or premium, if any, on) any Obligation at its Maturity, and, if applicable, such default continues for the period prescribed in paragraph of Section 8.1,

then upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the Holders of such Obligations, the whole amount then due and payable on such Obligations for principal (and premium, if any) and interest, with interest at the respective rate or rates prescribed therefor in the Obligations on overdue principal (and premium, if any) and, to the extent that payment of such interest is legally enforceable, on overdue installments of interest; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel. If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled to sue for and recover judgment against the Company and any other obligor on the Obligations for the whole amount so due and unpaid.

The Trustee shall be entitled to sue and recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of the lien of this Indenture, and in case of a sale of the Trust Estate and the application of the proceeds of sale as aforesaid, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon the Outstanding Secured Obligations, for the benefit of the Holders thereof, and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid. No recovery of any such judgment upon any property of the Company shall affect or impair the lien of this Indenture upon the Trust Estate or any rights, powers or remedies of the Trustee hereunder, or any rights, powers or remedies of the Holders of the Obligations.

**Section 8.7 Application of Money Collected.**

Any money collected by the Trustee pursuant to this Article, including any rents, issues, tolls, profits, revenues and other income collected pursuant to Section 8.3 (after the deductions therein provided) and any proceeds of any sale (after deducting the costs and expenses of such sale, including a reasonable compensation to the Trustee, its agents and counsel, and any taxes, assessments or liens prior to the lien of this Indenture, except any thereof subject to which such



sale shall have been made), whether made under any power of sale herein granted or pursuant to judicial proceedings, and any money collected by the Trustee under Sections 5.9 and 15.5 to be applied under this Section, together with, in the case of an entry or sale or as otherwise provided herein, any other sums then held by the Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Obligations and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

A. **First:** To the payment of all undeducted amounts due the Trustee under Sections 9.7 and 15.14;

B. **Second:** To the payment of the interest and principal or Redemption Price then due on the Obligations, as follows:

(1) unless the principal of all of the Obligations shall have become due and payable,

**First: Interest** – To the payment to the persons entitled thereto of all installments of interest then due (and, to the extent that payment of such interest is legally enforceable, interest on overdue installments of interest) on Outstanding Secured Obligations in the order of the maturity of such installments, together with accrued and unpaid interest on the Obligations theretofore called for redemption or prepayment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

**Second: Principal or Redemption Price** – To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Outstanding Secured Obligations which shall have become due, whether at Maturity or by call for redemption, and, if the amount available shall not be sufficient to pay in full all the Obligations which shall have become due, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due, to the persons entitled thereto, without any discrimination or preference.

(2) if the principal of all of the Obligations shall have become due and payable, to the payment of the principal and interest then due and unpaid upon the Outstanding Secured Obligations without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Obligations; and

C. **Third:** To the payment of all other amounts due and unpaid on or under the Outstanding Secured Obligations including, but not limited to, penalties, premiums, costs and expenses payable to the Holders; and

D. **Fourth:** To the payment of any amounts due under Obligations to maintain the value of reserve funds established and maintained in connection with debt securities (i) secured by a pledge of certain Obligations, (ii) issued on behalf of the Company and (iii) with respect to which an opinion was delivered on the date of the issuance of such securities to the effect that the interest on such securities is excluded from the gross income of the holder of such securities pursuant to the Internal Revenue Code, as amended.

E. **Fifth:** To the payment of the remainder, if any, to the Company or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

### Section 8.8 Receiver.

Upon the occurrence of an Event of Default and commencement of judicial proceedings by the Trustee to enforce any right under this Indenture, the Trustee shall be entitled, as against the Company, without notice or demand and without regard to the adequacy of the security for the Obligations or the solvency of the Company, to the appointment of a receiver of the Trust Estate, and of the rents, issues, profits, revenues and other income thereof, but, notwithstanding the appointment of any receiver, the Trustee shall be entitled to retain possession and control of, and to collect and receive the income from, cash, securities and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder.

### Section 8.9 Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Obligations or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Obligations shall then be due and payable, as therein expressed or by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

A. to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Outstanding Secured Obligations and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

B. to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the

Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Sections 9.7 and 15.14.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

**Section 8.10 Trustee May Enforce Claims Without Possession of Obligations.**

All rights of action and claims under this Indenture or the Obligations may be prosecuted and enforced by the Trustee without the possession of any of the Obligations or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Obligations in respect of which such judgment has been recovered.

**Section 8.11 Limitation on Suits.**

No Holder of any Obligation shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Indenture, or for the appointment of a receiver or trustee or for any other remedy hereunder, unless

A. such Holder has previously given written notice to the Trustee of a continuing Event of Default;

B. the Holders of not less than 25% in principal amount of the Outstanding Obligations shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

C. such Holder or Holders (other than the United States of America or its agencies or instrumentalities) have offered to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request;

D. the Trustee for sixty (60) days after its receipt of such notice, request and offer of indemnity, if any is required pursuant to paragraph C, has failed to institute any such proceeding; and

E. no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Holders of a majority in principal amount of the Outstanding Obligations;

it being understood and intended that no one or more Holders of Obligations shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the lien of this Indenture or the rights of any other Holders of Obligations, or

to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Outstanding Secured Obligations.

**Section 8.12 Unconditional Right of Holders to Receive Principal, Premium and Interest.**

Notwithstanding any other provision in this Indenture, the Holder of any Obligation shall have the absolute and unconditional right to receive payment of the principal of (and premium, if any) and interest on such Obligation on the respective Stated Maturities expressed in such Obligation (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

**Section 8.13 Restoration of Positions.**

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture by foreclosure, entry or otherwise and such proceeding has been discontinued or abandoned for any reason or has been determined adversely to the Trustee or to such Holder, then and in every such case the Company, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

**Section 8.14 Rights and Remedies Cumulative.**

Except as otherwise provided in Sections 3.7, 7.3 and 13.3 with respect to the replacement or payment of mutilated, destroyed, lost or stolen Obligations or the payment of certain moneys, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 8.15 Delay or Omission Not Waiver.**

No delay or omission of the Trustee or of any Holder of any Obligation to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

**Section 8.16 Control by Holders.**

The Holders of a majority in principal amount of the Outstanding Obligations shall have the right, during the continuance of an Event of Default,

A. to require the Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Obligations and the foreclosure of this Indenture, the sale of the Trust Estate or otherwise or, at the election of the Trustee, by the exercise of the power of entry and/or sale hereby conferred; and

B. to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee hereunder, **PROVIDED** that

(1) such direction shall not be in conflict with any rule of law or this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and

(3) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders not taking part in such direction.

**Section 8.17 Waiver of Past Defaults.**

Before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due has been obtained by the Trustee as provided in this Article, the Holders of not less than a majority in principal amount of the Outstanding Obligations may, by Act of such Holders delivered to the Trustee and the Company, on behalf of the Holders of all the Obligations waive any past default hereunder and its consequences, except a default

A. in the payment of the principal of (or premium, if any) or interest on any Obligation, or

B. in respect of a covenant or provision hereof which under Article XII cannot be modified or amended without the consent of the Holder of each Outstanding Obligation affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**Section 8.18 Undertaking for Costs.**

All parties to this Indenture agree, and each Holder of any Obligation by acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party in such suit of an

undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party in such suit, having due regard to the merits and good faith of the claims or defenses made by such party; but the provisions of this Section shall not apply to any suit instituted by the Trustee, by the United States of America (or its agencies or instrumentalities) or by any Holder, or group of Holders, holding in the aggregate more than 25% in principal amount of the Outstanding Obligations, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Obligation on or after the respective Stated Maturities expressed in such Obligation (or, in the case of redemption, on or after the Redemption Date).

#### **Section 8.19 Waiver of Appraisal and Other Laws.**

To the full extent that it may lawfully so agree, the Company will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture or the absolute sale of the Trust Estate, or any part thereof, or the possession thereof by any purchaser at any sale under this Article; and the Company, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Company, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Trust Estate marshaled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Indenture may order the sale of the Trust Estate as an entirety.

If any law in this Section referred to and now in force, of which the Company or its successor or successors might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section.

#### **Section 8.20 Suits to Protect the Trust Estate.**

The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture and to protect its interests and the interests of the Holders in the Trust Estate and in the rents, issues, profits, revenues, proceeds, products and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Holders or the Trustee.

#### **Section 8.21 Remedies Subject to Applicable Law.**

All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render

this Indenture invalid, unenforceable or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

**Section 8.22 Principal Amount of Original Issue Discount Obligation.**

The principal amount of an Original Issue Discount Obligation shall, for purposes of voting, directing the time, place or manner or exercising any remedy, applying moneys, authenticating and delivering Additional Obligations, release of any part of the Trust Estate and for all other purposes hereunder, be determined in the manner specified in the Supplemental Indenture establishing the series to which such Original Issue Discount Obligation belongs.

**Section 8.23 Default Not Affecting All Series of Obligations.**

In case an Event of Default affecting the rights of the Holders of Obligations of any one or more series which does not similarly affect the rights of Holders of all other series of Obligations at the time Outstanding (including an Event of Default specified in a Supplemental Indenture creating a series of Obligations) shall have occurred and be continuing, then whatever action (including the acceleration of Obligations under Section 8.2, the giving of any request or direction to the Trustee under Section 8.11 or 8.16 or the waiver of any default under Section 8.17) may or shall be taken under this Article upon the occurrence of such Event of Default by or upon the request of the Holders of a specified percentage in principal amount of the Obligations then Outstanding, may or shall be taken in respect of the Obligations then Outstanding of the series as to which such Event of Default shall have been made, by or upon the request of the Holders of the same percentage in principal amount of such series then Outstanding; provided, however, nothing in this Section 8.23 shall preclude the occurrence of an Event of Default under paragraph A or B of Section 8.1 simply because the default in payment has only occurred with respect to one series of Obligations.

**ARTICLE IX**

**THE TRUSTEE**

**Section 9.1 Certain Duties and Responsibilities.**

A. Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

B. In case an Event of Default exists, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

C. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph shall not be construed to limit the effect of paragraph A above;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Obligations relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

D. Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

## Section 9.2 Notice of Defaults.

Within ninety (90) days after the occurrence of any default hereunder, the Trustee shall transmit by mail to all Holders entitled to receive reports pursuant to Section 10.3C, if operative, and if Section 10.3C is not operative, to all Holders of Obligations as their names and addresses appear in the Obligation Register, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; **PROVIDED, HOWEVER**, that, except in the case of a default in the payment, repayment or prepayment of the principal of (or premium, if any) or interest on any Obligation or in the payment of any sinking or purchase fund installment, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Holders; and **PROVIDED FURTHER** that, in the case of any default of the character specified in Section 8.1C or 8.1D, no such notice to Holders shall be given until at least sixty (60) days after the occurrence thereof. For the purpose of this Section, the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default.



### Section 9.3 Certain Rights of Trustee.

Except as otherwise provided in Section 9.1:

A. the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

B. any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

C. whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

D. the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon;

E. the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders (other than the United States of America or its agencies or instrumentalities) shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

F. the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, or, except as specifically provided herein, compliance by the Company with its agreements or covenants in this Indenture, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;

G. the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

H. the Trustee shall not be personally liable, in case of entry by it upon the Trust Estate, for debts contracted or liabilities or damages incurred in the management or operation of the Trust Estate;

I. the Trustee shall not be required to take notice or be deemed to have notice of any default hereunder unless the Trustee shall be specifically notified in writing of such default by the Company or by the Holder of any Obligation as to the Events of Default described in paragraph A or B of Section 8.1, or by the Holders of not less than twenty-five percent (25%) of the Holders of Obligations as to any other Event of Default;

J. The Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article 13. In addition, the Trustee shall not be deemed to have knowledge of an Event of Default except any Default or Event of the Default of which the Trustee shall have received written notification or obtained actual knowledge; and

K. Delivery of reports, information and documents to the Trustee under Section 11.4, is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

#### **Section 9.4 Not Responsible for Recitals or Issuance of Obligations or Application of Proceeds.**

The recitals contained herein and in the Obligations, except the Trustee's certificate of authentication on the Obligations, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Company thereto or as to the security afforded thereby or hereby, or as to the validity or genuineness of any securities at any time pledged and deposited with the Trustee hereunder, or as to the validity or sufficiency of this Indenture or of the Obligations. The Trustee shall not be accountable for the use or application by the Company of Obligations or the proceeds thereof or of any money paid to the Company or upon Company Order under any provision hereof.

#### **Section 9.5 May Hold Obligations.**

The Trustee, any Paying Agent, Obligation Registrar, Authenticating Agent or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Obligations and, subject to Sections 9.8 and 9.13, if operative, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent, Obligation Registrar, Authenticating Agent or such other agent.

#### **Section 9.6 Money Held in Trust.**

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

**Section 9.7 Compensation and Reimbursement.**

The Company agrees

A. to pay to the Trustee from time to time such compensation as may be specifically agreed upon with the Trustee and, absent specific agreement, reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

B. except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's negligence or bad faith; and

C. to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

All such payments and reimbursements shall be made with interest at the rate of 10% per annum.

As security for the performance of the obligations of the Company under this Section, the Trustee shall be secured under this Indenture by a lien prior to the Obligations, and for the payment of such compensation, expenses, reimbursements and indemnity the Trustee shall have the right to use and apply any Trust Moneys held by it under Article VI.

**Section 9.8 Disqualification; Conflicting Interests.**

A. If the Trustee has or shall acquire any conflicting interest, as defined in this Section (certain terms being defined and percentages calculated as hereinafter stated in this Section), if the default to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated within the ninety (90) day period immediately following the date on which the Trustee ascertains that it has such conflicting interest, it shall, within such ninety (90) day period, either eliminate such conflicting interest or resign in the manner and with the effect hereinafter specified in this Article.

B. In the event that the Trustee shall fail to comply with the provisions of paragraph A above the Trustee shall, within ten (10) days after the expiration of such ninety (90) day period, transmit notice of such failure to the Holders in the manner and to the extent provided in Section 10.3C.

C. For the purposes of this Section, the Trustee shall be deemed to have a conflicting interest if there is an Event of Default and

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the

Company are outstanding, or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of the Company, unless such other indenture is a collateral trust indenture under which the only collateral consists of Obligations issued under or secured by this Indenture, **PROVIDED** that there shall be excluded from the operation of this clause other series under this Indenture and any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding, if the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures or with respect to such series; or

(2) the Trustee or any of its directors or executive officers is an underwriter for the Company; or

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company; or

(4) the Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (i) one individual may be a director or an executive officer, or both, of the Trustee and a director or an executive officer, or both, of the Company but may not be at the same time an executive officer of both the Trustee and the Company; (ii) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director or an executive officer, or both, of the Trustee and a director of the Company; and (iii) the Trustee may be designated by the Company or by any underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depository, or in any other similar capacity, or, subject to the provisions of clause (1) above, to act as trustee, whether under an indenture or otherwise; or

(5) 10% or more of the voting securities of the Trustee is beneficially owned either by the Company or by any director, partner, or executive officer thereof, or 20% or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10% or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons; or

(6) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), (i) 5% or more of the voting securities, or 10% or more of any other class of security, of the Company not including the obligations issued under or secured by this Indenture and securities issued

under any other indenture under which the Trustee is also trustee, or (ii) 10% or more of any class of security of an underwriter for the Company; or

(7) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), 5% or more of the voting securities of any person who, to the knowledge of the Trustee, owns 10% or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company; or

(8) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), 10% or more of any class of security of any person who, to the knowledge of the Trustee, owns 50% or more of the voting securities of the Company; or

(9) the Trustee owns, upon the occurrence of an Event of Default (or any occurrence that would constitute an Event of Default upon the lapse of time or giving of notice) or any anniversary of such date while such Event of Default or occurrence remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25% or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under clauses (6), (7) or (8) above. As to any such securities of which the Trustee acquired ownership through becoming executor, administrator, or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply, for a period of two (2) years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25% of such voting securities or 25% of any such class of security. Promptly after any Event of Default (or other occurrence that would constitute an Event of Default upon the lapse of time or giving of notice) and annually in each succeeding year that any Event of Default or other occurrence remains outstanding, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such dates. If the Company fails to make payment in full of the principal of, or the premium, if any, or interest on, any of the Obligations when and as the same becomes due and payable, and such failure continues for thirty (30) days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such thirty (30) day period, and after such date, notwithstanding the foregoing provisions of this clause, all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall, but only so long as such failure shall continue, be considered as though beneficially owned by the Trustee for the purposes of clauses (6), (7) and (8) above; or

(10) except under the circumstances described in clauses (1), (3), (4), (5) or (6) of Section 9.13B, the Trustee shall become a creditor of the Company.

For purposes of clause (1) above, the term "series of securities" or "series" means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the Trustee, or otherwise take action pursuant to a vote of such

Holders, separately from Holders of another such series; **PROVIDED** that “series of securities or “series shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

The specification of percentages in clauses (5) to (9) inclusive, above, shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of clause (3) or (7) above.

For the purposes of clauses (6), (7), (8) and (9) above only, (a) the terms “**security** and “**securities** shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (b) an obligation shall be deemed to be “**in default** when a default in payment of principal shall have continued for thirty (30) days or more and shall not have been cured; and (c) the Trustee shall not be deemed to be the owner or holder of (i) any security which it holds as collateral security, as trustee or otherwise, for an obligation which is not in default as defined above, or (ii) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent, or depositary, or in any similar representative capacity.

Except in the case of the failure to pay, repay or prepay the principal of or interest on any Obligation, or to pay any sinking or purchase fund installment, on the date on which it becomes due, the Trustee shall not be required to resign as provided by this paragraph if such Trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that

(a) the Event of Default (or other event that would constitute an Event of Default upon the passage of time or giving of notice) otherwise giving rise to an obligation by the Trustee to resign may be cured or waived during a reasonable period and under the procedures described in such application, and

(b) a stay of the Trustee’s duty to resign will not be inconsistent with the interests of Holders of the Obligations. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

Any resignation of the Trustee shall become effective only upon the appointment of a successor trustee and such successor’s acceptance of such an appointment.

D. For the purposes of this Section:

(1) The term “**underwriter** when used with reference to the Company means every person who, within one year prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or sold for the Company in connection with, the distribution of any security of the Company outstanding at such time, or has participated or has had a direct or indirect participation in any such

undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such undertaking, but such term shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(2) The term "**director**" means any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term "**person**" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, or a government or political subdivision thereof. As used in this clause, the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term "**voting security**" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term "**Company**" means any obligor upon the Obligations.

(6) The term "**Trustee**" includes any separate or co-trustee appointed under Section 9.14.

(7) The term "**executive officer**" means the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not, include the chairman of the board of directors.

E. The percentages of voting securities and other securities specified in this Section shall be calculated in accordance with the following provisions:

(1) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section (each of whom is referred to as a "**person**" in this clause) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(2) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(3) The term "**amount**" means, when used in regard to securities, the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units if relating to any other kind of security.

(4) The term “**outstanding**” means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(a) securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(b) securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(c) securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise; and

(d) securities held in escrow if placed in escrow by the issuer thereof;

**PROVIDED, HOWEVER,** that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(5) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges; **PROVIDED, HOWEVER,** that, in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series as different classes, and **PROVIDED FURTHER** that, in the case of unsecured evidences of indebtedness, differences in the interest rates or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

#### **Section 9.9 Corporate Trustee Required; Eligibility.**

There shall at all times be a Trustee hereunder which (i) shall be a corporation organized and doing business under the laws of the United States of America or of any State or Territory thereof or the District of Columbia, which is authorized under such laws to exercise corporate trust powers, and subject to supervision or examination by federal, state, territorial or District of Columbia authority, and (ii) shall have a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Neither the Company nor any Person directly or indirectly controlling, controlled by or under common control with the Company shall serve as Trustee hereunder. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.



**Section 9.10 Resignation and Removal; Appointment of Successor.**

A. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 9.11.

B. The Trustee may resign at any time by giving written notice thereof to the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

C. Unless an Event of Default (or an occurrence that would constitute an Event of Default upon the passage of time or the giving of notice) exists, the Company may remove the Trustee with or without cause, by delivery to the Trustee of a Board Resolution effecting such removal. The Trustee may be removed with or without cause at any time by Act of the Holders of a majority in principal amount of the Outstanding Obligations, delivered to the Trustee and to the Company.

D. If at any time:

(1) the Trustee shall fail to comply with Section 9.8A after written request therefor by the Company or by any Holder who has been a bona fide Holder of an Obligation for at least six (6) months, or

(2) the Trustee shall cease to be eligible under Section 9.9 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 8.18, any Holder who has been a bona fide Holder of an Obligation for at least six (6) months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

E. If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution, or the Holders of a majority in principal amount of the Outstanding Obligations shall promptly appoint a successor Trustee. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a successor to fill such vacancy until a new Trustee shall be so appointed by the Holders. If, within one (1) year after such resignation, removal or incapability or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Obligations delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of

such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company or by such receiver or trustee. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, subject to Section 8.18, any Holder who has been a bona fide Holder of an Obligation for at least six (6) months may, on behalf of himself and all other similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

F. The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Holders of Obligations as their names and addresses appear in the Obligation Register or as their names and their addresses have been previously provided to the Trustee in writing. Each notice shall include the name of the successor Trustee and the address of its principal corporate trust office. Upon the appointment of a new Trustee in the place of, any Trustee named herein acting hereunder, an instrument, executed and acknowledged by the Trustee, shall be conclusive proof of the proper substitution of such successor or successors or new Trustee, who shall have all the estate powers, duties, rights and privileges of the predecessor Trustee.

G. Upon the resignation, removal or incapability of the Trustee, all books and records of the Trustee relating to the Trust Estate shall be sent to the successor Trustee within sixty (60) days of such resignation, removal or incapability. In the event (i) the Trustee resigns due to any conflict of interest or incapability, (ii) there is any change in control, merger, conversion, consolidation or succession to the assets of the Trustee or (iii) the Company removes the Trustee as a result of any such change in control, merger, conversion, consolidation or succession, the Trustee shall pay all costs associated with transferring the Trust Estate to a successor Trustee.

#### **Section 9.11 Acceptance of Appointment by Successor.**

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Sections 9.7 and 15.14. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estates, properties, rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article, to the extent operative.

### Section 9.12 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Obligations shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Obligations so authenticated with the same effect as if such successor Trustee had itself authenticated such Obligations.

### Section 9.13 Preferential Collection of Claims against Company.

A. Subject to paragraph B below, if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company within three (3) months prior to a default (as defined in paragraph C below), or subsequent to such a default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the Holders of the Obligations and the holders of other indenture securities (as defined in paragraph C below):

(1) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such three (3) month period and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in clause (2) below, or from the exercise of any right of set-off which the Trustee could have exercised if a petition in bankruptcy had been filed by or against the Company upon the date of such default; and

(2) all property received by the Trustee in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such three (3) month period, or an amount equal to the proceeds of any such property, if disposed of, **SUBJECT, HOWEVER**, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee

(a) to retain for its own account (i) payments made on account of any such claim by any Person (other than the Company) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the Trustee to a third person, and (iii) distributions made in cash, securities or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceeding for reorganization pursuant to the Federal Bankruptcy Code or applicable state law; or

(b) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such three (3) month period; or

(c) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such three (3) month period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received the Trustee had no reasonable cause to believe that a default would occur within three (3) months; or

(d) to receive payment on any claim referred to in Subclause (b) or (c) above, against the release of any property held as security for such claim as provided in Subclause (b) or (c) above, as the case may be, to the extent of the fair value of such property.

For the purposes of Subclauses (b), (c) and (d) above, property substituted after the beginning of such three (3) month period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of said Subclauses is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned among the Trustee, the Holders and the holders of other indenture securities in such manner that the Trustee, the Holders and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for liquidation or reorganization pursuant to the Federal Bankruptcy Code or applicable state law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee and the Holders and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for liquidation or reorganization pursuant to the Federal Bankruptcy Code or applicable state law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any claim, the term "dividends" shall include any distribution with respect to such claim, in bankruptcy or receivership or proceedings for reorganization pursuant to the Federal Bankruptcy Code or applicable state law, whether such distribution is made in cash, securities, or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership or proceeding for reorganization is pending shall have jurisdiction (i) to apportion among the Trustee, the Holders and the holders of other indenture securities, in accordance with the provisions of this paragraph, the funds and property held in such special

account and proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee and the Holders and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim, or to make a specific allocation of such distributions as between the secured and unsecured portions of such claims, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee which has resigned or been removed after the beginning of such three (3) month period shall be subject to the provisions of this subsection as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such three (3) month period, it shall be subject to the provisions of this subsection if and only if the following conditions exist:

(y) the receipt of property or reduction of claim, which would have given rise to the obligation to account, if such Trustee had continued as Trustee, occurred after the beginning of such three (3) month period; and

(z) such receipt of property or reduction of claim occurred within three (3) months after such resignation or removal.

B. There shall be excluded from the operation of paragraph A above a creditor relationship arising from:

(1) the ownership or acquisition of securities issued under any indenture or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee; or

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by this Indenture, for the purpose of preserving any property which shall at any time be subject to the lien of this Indenture or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advances and of the circumstances surrounding the making thereof is given to the Holders at the time and in the manner provided in this Indenture; or

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity; or

(4) an indebtedness created as a result of services rendered or premises rented; or an indebtedness created as a result of goods or securities sold in a cash transaction (as defined in paragraph C below); or

(5) the ownership of stock or of other securities of a corporation organized under the provisions of Section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; or

(6) the acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptances or obligations which fall within the classification of self-liquidating paper (as defined in paragraph C below).

C. For the purposes of this Section only:

(1) The term “**default**” means any failure to make payment in full of the principal of or interest on any of the Obligations or upon the other indenture securities when and as such principal or interest become due and payable;

(2) The term “**other indenture securities**” means securities upon which the Company is an obligor outstanding under any other indenture (i) under which the Trustee is also trustee, (ii) which contains provisions substantially similar to the provisions of this Section, and (iii) under which a default exists at the time of the apportionment of the funds and property held in such special account;

(3) The term “**cash transaction**” means any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand;

(4) The term “**self-liquidating paper**” means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation;

(5) The term “**Company**” means any obligor upon the Obligations;

(6) The term “**Federal Bankruptcy Code**” means Title 11 of the United States Code, as it may be amended from time to time; and

(7) The term “**Trustee**” includes any separate or co-trustee appointed under Section 9.14.

#### **Section 9.14 Co-trustees and Separate Trustees.**

At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, the Company and the Trustee shall have power to appoint, and, upon the written request of the Trustee or of the Holders of at least 25% in principal amount of the Obligations Outstanding, the Company shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Trustee either to act as co-trustee, jointly with the Trustee, of all or any part of the Trust Estate,

or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such Person or Persons in the capacity aforesaid, any property, title, right or power deemed necessary or desirable, subject to the other provisions of this Section. If the Company does not join in such appointment within fifteen (15) days after the receipt by it of a request so to do, or in case an Event of Default exists, the Trustee alone shall have power to make such appointment.

Should any written instrument from the Company be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Company.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

A. the Obligations shall be authenticated and delivered, and all rights, powers, duties and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely, by the Trustee;

B. the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee;

C. the Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Company evidenced by a Board Resolution, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default has occurred and is continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Company. Upon the written request of the Trustee, the Company shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section;

D. no co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Trustee, or any other such trustee hereunder, and

E. any Act of Holders delivered to the Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

### Section 9.15 Authenticating Agent.

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Obligations issued upon original issue and upon exchange, registration of transfer or partial redemption or pursuant to Sections 3.5, 3.6, 3.7 or 14.7, and Obligations so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Such Authenticating Agent shall at all times be a bank or trust company, and shall at all times be a corporation organized and doing business under the laws of the United States or of any state, territory or the District of Columbia, with a combined capital and surplus of at least \$50,000,000 and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually pursuant to law or the requirements of such supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall continue to be the Authenticating Agent hereunder, provided such corporation shall otherwise be eligible under this Section, without the execution or filing of any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and the Company. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee shall promptly appoint a successor Authenticating Agent, shall give written notice of such appointment to the Company and shall mail notice of such appointment by first-class mail, postage prepaid, to all Holders of Obligations of the applicable series as the names and addresses of such Holders appear on the Obligation Register.

If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

The Trustee agrees to pay to the Authenticating Agent from time to time reasonable compensation for its services under this Section and the Trustee shall be entitled to be reimbursed by the Company for such payments, subject to Sections 9.7 and 15.14. The provisions of Sections 3.9, 9.4 and 9.5 shall be applicable to any Authenticating Agent.

Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect



as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

If an appointment is made pursuant to this Section, the Obligations may have endorsed thereon, in lieu of the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Obligations (of the series identified therein) referred to in the Indenture, dated as of July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

\_\_\_\_\_  
As Trustee

By: \_\_\_\_\_  
As Authenticating Agent

By: \_\_\_\_\_  
Authorized Officer

## ARTICLE X

### HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

#### Section 10.1 Company to Furnish Trustee Semi-Annual Lists of Holders.

The Company will furnish or cause to be furnished to the Trustee semiannually, not less than forty-five (45) days nor more than sixty (60) days after June 1 and December 1 of each year, and at such other times as the Trustee may request in writing, within thirty (30) days after receipt by the Company of any such request, a list in such form as the Trustee may reasonably require containing all the information in the possession or control of the Company, or any of its Paying Agents other than the Trustee, as to the names and addresses of the Holders of Obligations, obtained since the date as of which the next previous list, if any, was furnished, EXCLUDING from any such list the names and addresses received by the Trustee in its capacity as Obligation Registrar. Any such list may be dated as of a date not more than fifteen (15) days prior to the time such information is furnished and need not include information received after such date.

#### Section 10.2 Preservation of Information; Communications to Holders.

A. The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders of Obligations (i) contained in the most recent list furnished to the Trustee as provided in Section 10.1, (ii) received by the Trustee in the capacity of Paying Agent (if so acting) hereunder, (iii) filed with the Trustee by Holders of Obligations within the two (2) preceding years as provided for in Section 10.3C(2), or (iv) received by the Trustee in its capacity as Obligation Registrar.

The Trustee may (1) destroy any list furnished to it under Section 10.1 upon receipt of a new list so furnished, (2) destroy any information received by it as Paying Agent (if so acting) hereunder upon delivering to itself as Trustee, not earlier than forty-five (45) days after each June 1 and December 1 of each year, a list containing the names and addresses of the Holders of Obligations obtained from such information since the delivery of the next previous list, if any, (3) destroy any list delivered to itself as Trustee which was compiled from information received by it as Paying Agent (if so acting) hereunder upon the receipt of a new list so delivered, and (4) destroy, not earlier than two (2) years after filing, any information as to their names and addresses filed with the Trustee by Holders of Obligations as provided for in Section 10.3C(2).

B. If RUS, to the extent it is a Holder, or three or more Holders of Obligations (hereinafter referred to as “**applicants**”) apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned an Obligation for a period of at least six (6) months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders of Obligations with respect to their rights under this Indenture or under the Obligations and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five (5) business days after the receipt of such application, at its election, either

(1) afford such applicants access to the information preserved at the time by the Trustee in accordance with Section 10.2A, or

(2) inform such applicants as to the approximate number of Holders of Obligations whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 10.2A, and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 10.2A, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of such mailing, unless within five (5) days after such tender, the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the Holders of Obligations or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Holders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

C. Every Holder of Obligations, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any Paying Agent shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders of Obligations in accordance with Section 10.2B, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 10.2B.

### Section 10.3 Reports by Trustee.

This Section 10.3 shall be operative only while this Indenture is required to be qualified under the TIA.

A. The term “**reporting date**” means, as used in this Section, January 1 in each year, beginning with the year 2009. Within sixty (60) days after the reporting date in each year, the Trustee shall transmit to the Holders, as provided in paragraph C below, a brief report dated as of such reporting date with respect to any of the following events which may have occurred within the previous twelve (12) months (but if no such event has occurred within such period no such report need be transmitted):

(1) any change to its eligibility under Section 9.9 and its qualifications under Section 9.8;

(2) the creation of or any material change to a relationship specified in clauses (1) through (10) of Section 9.8(C),

(3) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Obligations, on the Trust Estate or on any property or funds held or collected by it as Trustee, except that the Trustee shall not be required (but may elect) to report such advances if such advances so remaining unpaid aggregate not more than one-half of 1% of the principal amount of the Obligations Outstanding on the date of such report;

(4) the amount, interest rate and maturity date of all other indebtedness owing by the Company (or by any other obligor on the Obligations) to the Trustee in its individual capacity, on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in Section 9.13B(2), (3), (4) or (6);

(5) any change to the property and funds, if any, physically in the possession of the Trustee as such on the date of such report;

(6) any release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) which the Trustee has not previously reported; **PROVIDED, HOWEVER**, that to the extent that the aggregate value as shown by the release papers of any or all of such released properties does not exceed an amount equal to 1% of the principal amount of Obligations then Outstanding,

the report need only indicate the number of such releases, the total value of property released as shown by the release papers, the aggregate amount of cash received and the aggregate value of property received in substitution therefor as shown by the release papers;

(7) any additional issue of Obligations which the Trustee has not previously reported; and

(8) any action taken by the Trustee in the performance of its duties hereunder which it has not previously reported and which in its opinion materially affects the Obligations or the Trust Estate, except action in respect of a default, notice of which has been or is to be withheld by the Trustee in accordance with Section 9.2.

B. The Trustee shall transmit to the Holders, as provided in paragraph C below, a brief report (which the Company shall cooperate with the Trustee in preparing) with respect to

(1) the release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) unless the fair value of such property, as set forth in the Officers' Certificate or certificate of an Engineer or Appraiser under Section 5.2, is less than 10% of the principal amount of Obligations Outstanding at the time of such release, or such release and substitution, such report to be so transmitted within ninety (90) days after such time; and

(2) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) since the date of the last report transmitted pursuant to paragraph A above (or if no such report has yet been so transmitted, since the date of execution of this instrument) for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Obligations, on the Trust Estate or on any property or funds held or collected by it as Trustee, and which it has not previously reported pursuant to this Subsection, except that the Trustee shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate 10% or less of the principal amount of the Obligations Outstanding at such time, such report to be transmitted within ninety (90) days after such time.

C. **Reports pursuant to this Section shall be transmitted by mail:**

(1) to all Holders of Obligations, as the names and addresses of such Holders appear in the Obligation Register;

(2) to such Holders as have, within the two (2) years preceding such transmission, filed their names and addresses with the Trustee for that purpose; and

(3) except in the case of reports pursuant to paragraph B above, to all Holders whose names and addresses have been furnished to or received by the Trustee pursuant to Section 10.1.

D. A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any of the Obligations are listed and also with the Commission. The Company will notify the Trustee when the Obligations are listed on any stock exchange.

#### **Section 10.4 Reports by Company.**

This Section 10.4 shall be operative only while this Indenture is required to be qualified under the TIA.

The Company shall:

A. file with the Trustee, within fifteen (15) days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed in such rules and regulations;

B. file with the Trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required by such rules and regulations; and

C. transmit to the Holders of Obligations, within thirty (30) days after the filing thereof with the Trustee, in the manner and to the extent provided in Section 10.3C with respect to reports pursuant to Section 10.3A, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs A and B above as may be required by rules and regulations prescribed by the Commission.

### **ARTICLE XI**

#### **CONSOLIDATION, MERGER, CONVEYANCE OR TRANSFER**

##### **Section 11.1 Consolidation, Merger, Conveyance or Transfer only on Certain Terms.**

The Company shall not consolidate with or merge into any other Person or convey or transfer the Trust Estate substantially as an entirety to any Person, unless:

A. such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the lien and security hereof as provided for in this Article and the rights and powers of the Trustee and the Holders of the Obligations hereunder;

B. the Person formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer the Trust Estate substantially as an entirety shall be a Person organized and validly existing under the laws of the United States of America, any state thereof or the District of Columbia and shall execute and deliver to the Trustee a Supplemental Indenture in recordable form, meeting the requirements of Section 11.2 and containing:

(1) an assumption by such successor Person of the due and punctual payment of the principal of (and premium, if any) and interest on all the Obligations and, subject to Section 11.2B, the performance and observance of every covenant and condition of this Indenture to be performed or observed by the Company, and

(2) a grant, conveyance, transfer and mortgage complying with Section 11.2;

C. immediately after giving effect to such transaction, no Event of Default hereunder shall exist; and

D. the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each of which shall state that such consolidation, merger, conveyance or transfer and such Supplemental Indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

#### **Section 11.2 Successor Person Substituted.**

Upon any consolidation or merger or any conveyance or transfer of the Trust Estate substantially as an entirety in accordance with Section 11.1, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; **SUBJECT, HOWEVER,** to the following limitations:

A. If the Supplemental Indenture required by Section 11.1 shall contain a grant, conveyance, transfer and mortgage in terms sufficient to include and subject to the lien of this Indenture, subject only to Permitted Exceptions and any Prior Liens permitted by Section 13.6, all property, rights, privileges and franchises owned by the successor Person on the date of the consolidation, merger, transfer or conveyance and which may be thereafter acquired by such successor Person (other than Excepted Property and Excluded Property), then such successor Person may cause to be executed, in its own name or in the name of the Company prior to such succession, and delivered to the Trustee for authentication, any Obligations issuable hereunder; and upon request of such successor Person, and subject to all the terms of this Indenture, the Trustee shall authenticate and deliver any Obligations which shall have been previously executed and delivered by the Company to the Trustee for authentication, and any Obligations which such successor Person shall thereafter, in accordance with this Indenture, cause to be executed and delivered to the Trustee for such purpose. Such changes in language and form (but not in substance) may be made in such Obligations as may be appropriate in view of such consolidation, merger, conveyance or transfer.

B. If the Supplemental Indenture required by Section 11.1 shall not contain the grant, conveyance, transfer and mortgage described in paragraph A above, then such successor Person shall not be entitled to procure the authentication and delivery of any Obligations issuable hereunder (except for Obligations issued under Sections 3.5, 3.6, 3.7 and 14.7), and this Indenture shall not, by virtue of such consolidation, merger, conveyance or transfer, or by virtue of such Supplemental Indenture, or by virtue of the Granting Clauses, become a lien upon, and the term Trust Estate shall not be deemed to include, any of the property, rights, privileges and franchises of such successor Person owned by the successor Person at the time of such consolidation, merger, conveyance or transfer (unless such successor Person, in its discretion shall subject the same to the lien hereof), but this Indenture shall become and be a lien, subject to only Permitted Exceptions and any Prior Liens permitted by Section 13.6, upon only the following property, rights, privileges and franchises acquired by such successor Person after the date of such consolidation, merger, conveyance or transfer, to wit:

(1) all betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions and alterations to, upon, for and of the property, rights, privileges and franchises subject to the lien hereof, and all property constituting appurtenances of the Trust Estate;

(2) all property made the basis of the withdrawal of cash from the Trustee or the release of property from the lien of this Indenture;

(3) all property acquired or constructed with the proceeds of (i) any insurance on any part of the Trust Estate, including with the proceeds of insurance on the Trust Estate not required to be paid to the Trustee under Section 13.8, or (ii) any part of the Trust Estate released from the lien of this Indenture or disposed of free from any such lien or taken by eminent domain;

(4) all property acquired pursuant to Section 13.7 to maintain and preserve and keep the Trust Estate in good condition, repair and working order and all property acquired or constructed with Trust Moneys paid over upon Company Request under Section 6.6; and

(5) all property, leases, rights-of-way, franchises, licenses, permits or easements acquired in alteration, substitution, surrender or modification of any property, leases, rights-of-way, franchises, licenses, permits or easements disposed of, altered or modified pursuant to Section 5.1 and all monies deposited in connection therewith pursuant to Section 5.1;

and said Supplemental Indenture shall contain a grant, conveyance, transfer or mortgage subjecting the property referred to in the preceding clauses of this paragraph to the lien of this Indenture.

C. No such conveyance or transfer of the Trust Estate substantially as an entirety shall have the effect of releasing the Person named as "the Company" in the first paragraph of this instrument or any successor Person which shall have become such in the manner prescribed in this Article from its liability as obligor and maker on any of the Obligations, unless such

conveyance or transfer is followed by the complete liquidation of such Person or successor Person and substantially all its assets immediately following such conveyance or transfer are the Stock or other securities of such successor Person received in such conveyance or transfer.

## ARTICLE XII

### SUPPLEMENTAL INDENTURES

#### Section 12.1 Supplemental Indentures Without Consent of Holders.

Without the consent of the Holders of any Obligations, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more Supplemental Indentures, in form satisfactory to the Trustee, for any of the following purposes:

A. to correct or amplify the description of any property at any time subject to the lien of this Indenture, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture, or to subject additional property to the lien of this Indenture; or

B. to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Obligations or of any series of Obligations, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or

C. to create any series of Obligations and make such other provisions as provided in Section 3.3; or

D. to modify or eliminate any of the terms of this Indenture; **PROVIDED, HOWEVER,** that

(1) in the event any such modification or elimination made in such Supplemental Indenture would adversely affect or diminish the rights of the Holders of any Obligations then Outstanding against the Company or its property, it shall expressly be stated in such Supplemental Indenture that any such modifications or eliminations shall become effective only when such Obligations are no longer Outstanding; and

(2) the Trustee may, in its discretion, decline to enter into any such Supplemental Indenture which, in its opinion, may not afford adequate protection to the Trustee when the same becomes operative; or

E. to evidence the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company herein and in the Obligations contained; or

F. to evidence the appointment of any successor trustee or separate trustee or trustees or co-trustee or co-trustees hereunder, and to define the rights, powers, duties and obligations conferred upon any such separate trustee or trustees or co-trustee or co-trustees; or



G. to add to the covenants of the Company or the Events of Default for the benefit of the Holders of all or any series of Obligations or to surrender any right or power herein conferred upon the Company; or

H. to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provisions, with respect to matters or questions arising under this Indenture, which shall not be inconsistent with the provisions of this Indenture, **PROVIDED** such action shall not, in the opinion of the Company, as evidenced by an Officers' Certificate delivered to the Trustee, adversely affect the interests of the Holders of the Obligations in any material respect; or

I. to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualification of this Indenture under the TIA or under any similar federal statute hereafter enacted, to add to this Indenture such other provisions as may be expressly permitted by the TIA and to modify, eliminate or add to the provisions of this Indenture to the extent that any such provisions relating to requirements under the TIA have been modified or eliminated in the TIA after the date of this instrument, **EXCLUDING, HOWEVER**, the provisions referred to in Section 316(a)(2) of the TIA as in effect at the date as of which this instrument was executed or any corresponding provision in any similar federal statute hereafter enacted; or

J. to add or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Obligations (i) in bearer form, registrable or not registrable as to principal and with or without interest coupons or (ii) in book-entry form; or

K. to increase the limit on the maximum amount of Additional Obligations which may be authenticated and delivery and Outstanding under this Indenture;

L. to make any change in the Indenture that, in the reasonable judgment of the Trustee, will not materially and adversely affect the rights or interests of any of the Holders. For purposes of this paragraph of this Section, any Supplemental Indenture will be presumed not to materially and adversely affect the rights or interests of any of the Holders if (1) this Indenture, as supplemented and amended by such Supplemental Indenture, secures equally and ratably the payment of principal of (and premium, if any) and interest on the Outstanding Secured Obligations which are to remain Outstanding and (2) subject to the last sentence of this paragraph, the Company shall furnish to the Trustee written evidence, from (i) the nationally recognized statistical rating organization or organizations then rating the Obligations (or other obligations primarily secured by Outstanding Secured Obligations) or (ii) if there are more than two (2) such organizations, at least two (2) of such organizations, that its ratings of the Outstanding Secured Obligations (or other obligations primarily secured by Outstanding Secured Obligations) that are not subject to Credit Enhancement will not be withdrawn or reduced as a result of the changes in the Indenture effected by such Supplemental Indenture; **PROVIDED, HOWEVER**, that the failure to qualify for the presumption set forth in this sentence shall not create any presumption to the contrary or be used to question the judgment of the Trustee and **PROVIDED, FURTHER**, that the provisions of this paragraph may not be used to amend or modify the items listed in paragraphs A through F of Section 12.2 hereof in any way that is inconsistent with the provisions of such Section 12.2. The Trustee may rely on the written

evidence of the nationally recognized statistical rating organization or organizations then rating the Obligations (or other obligations primarily secured by Outstanding Secured Obligations) with respect to credit matters relating to the Company to the extent that it deems such reliance to be appropriate.

## **Section 12.2 Supplemental Indentures With Consent of Holders.**

With the consent of the Holders of not less than a majority in principal amount of the Obligations of all series then Outstanding affected by such Supplemental Indenture, by Act of such Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into a Supplemental Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of the Obligations under this Indenture; **PROVIDED, HOWEVER**, that no such Supplemental Indenture shall, without the consent of the Holder of each Outstanding Obligation affected thereby,

A. change the Stated Maturity of the principal of, or any installment of interest on, any Obligation, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change any Place of Payment where, or the coin or currency in which, any Obligation, or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or

B. reduce the percentage in principal amount of the Outstanding Obligations, the consent of whose Holders is required for any such Supplemental Indenture, or the consent of whose Holders is required for any waiver provided for in this Indenture of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences; or

C. modify or alter the provisions of the proviso to the definition of the term “Outstanding or “Outstanding Secured Obligations ; or

D. modify any of the provisions of this Section, Section 8.12 or Section 8.17, except to increase any percentage provided thereby or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Obligation affected thereby; or

E. permit the creation of any lien (other than as permitted in this Indenture) ranking prior to or on a parity with the lien of this Indenture with respect to all or substantially all of the Trust Estate; or

F. modify, in the case of Obligations of any series for which a mandatory sinking fund is provided, any of the provisions of this Indenture in such manner as to affect the rights of the Holders of such Obligations to the benefits of such sinking fund.

The Trustee may in its discretion determine whether or not any Obligation would be affected by any Supplemental Indenture and any such determination shall be conclusive upon the Holder of all Obligations, whether theretofore or thereafter authenticated and delivered

hereunder, and the Trustee shall have no liability to any Holder of any Obligation for any such determination made in good faith.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such Act shall approve the substance thereof.

### **Section 12.3 Execution of Supplemental Indentures.**

In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trust created by this Indenture, the Trustee shall be entitled to receive, and, subject to Section 9.1, shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture. The Trustee may, but shall not, except to the extent required in the case of a Supplemental Indenture entered into under Section 12.11, be obligated to, enter into any such Supplemental Indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture.

### **Section 12.4 Effect of Supplemental Indentures.**

Upon the execution of any Supplemental Indenture under this Article, this Indenture shall be modified in accordance therewith and such Supplemental Indenture shall form a part of this Indenture for all purposes; and every Holder of Obligations theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

### **Section 12.5 Conformity with Trust Indenture Act.**

After qualification of this Indenture under the TIA, every Supplemental Indenture executed pursuant to this Article thereafter shall conform to the requirements of the TIA as then in effect.

### **Section 12.6 Reference in Obligations to Supplemental Indentures.**

Obligations authenticated and delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if required by the Trustee or the Company shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Company shall so determine, new Obligations so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such Supplemental Indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Obligations.

## ARTICLE XIII

### COVENANTS

#### Section 13.1 Payment of Principal, Premium and Interest.

The Company will duly and punctually pay the principal of (and premium, if any) and interest on the Obligations in accordance with the terms of the Obligations and this Indenture.

#### Section 13.2 Maintenance of Office or Agency.

The Company will establish one or more Places of Payment where Obligations may be presented or surrendered for payment, where Obligations entitled to be registered, transferred, exchanged or converted may be presented or surrendered for registration, transfer, exchange or conversion and where notices and demands to or upon the Company in respect of the Obligations and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency. If at any time the Company shall fail to maintain such an office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the principal corporate trust office of the Trustee, and the Company hereby appoints the Trustee its agent to receive all such presentations, surrenders, notices and demands.

#### Section 13.3 Money for Obligation Payments to be Held in Trust; Repayment of Unclaimed Money.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of (and premium, if any) or interest on any of the Obligations, segregate and hold in trust for the benefit of the Holders of such Obligations a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Holders or otherwise disposed of as herein provided, and the Company will promptly notify the Trustee in writing of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of (and premium, if any) or interest on any Obligations, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Holders of such Obligations entitled to such principal (and premium, if any) or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of its action or failure so to act.

Moneys so segregated or deposited and held in trust shall not be a part of the Trust Estate and shall not be deemed Trust Moneys but shall constitute a separate trust fund for the benefit of the Persons entitled to such principal, premium or interest. Except in the case of moneys so segregated by the Company when acting as its own Paying Agent, moneys held in trust by the Trustee or any other Paying Agent for the payment of the principal (or premium, if any) or interest on the Obligations need not be segregated from other funds, except to the extent required by law.

The Company will cause each Paying Agent other than the Company and Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will

A. hold all sums held by it for the payment of principal of (and premium, if any) or interest on Obligations in trust for the benefit of the Holders of such Obligations until such sums shall be paid to the Holders or otherwise disposed of as herein provided;

B. give the Trustee notice of any default by the Company (or any other obligor upon the Obligations) in the making of any payment of principal (and premium, if any) or interest; and

C. at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all money held in trust by the Company or such Paying Agent, such money to be held by the Trustee upon the same trusts as those upon which such money was held by the Company or such Paying Agent; and, upon such payment by the Company, the Company shall be discharged from such trust, and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent or held by the Company in trust for the payment of the principal of (and premium, if any) or interest on any Obligation and remaining unclaimed for two (2) years after such principal (and premium, if any) or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Obligation shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; PROVIDED, HOWEVER, that the Trustee or such Paying Agent, before being required to make any such payment to the Company, shall at the expense of the Company cause to be published once, in a newspaper of general circulation in each Place of Payment of such Obligation, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such publication, any unclaimed balance of such money then remaining will be paid to the Company.

#### **Section 13.4 Ownership of Property.**

At the time of the execution and delivery of this instrument, the Company owns and holds the real property specifically described in Subdivision A of Granting Clause First in fee (or such other estate as may be specified) and owns and holds the other interests in real property specifically described in Granting Clause First, subject to no mortgage, lien, charge or encumbrance other than Permitted Exceptions, and has full power and lawful authority to grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge,

set over and confirm such real property and interests in real property in the manner and form aforesaid.

The Company lawfully owns and is possessed of the personal property described in Granting Clauses First and Second (other than property of the Company acquired after the time of the execution and delivery of this Indenture), subject to no mortgage, lien, charge or encumbrance other than Permitted Exceptions, and has full power and lawful authority to grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm such personal property in the manner and form aforesaid.

The Company hereby does and will forever, at all times warrant and defend its ownership, as set forth above, of the real property and interests in real property described in Granting Clauses First and Second against all claims and demands of all Persons whomsoever, except Permitted Exceptions.

### **Section 13.5 After-Acquired Property; Further Assurances; Recording.**

All property of every kind, other than Excepted Property, acquired by the Company after the date hereof shall, immediately upon the acquisition thereof by the Company, and without any further mortgage, conveyance or assignment, become subject to the lien of this Indenture; **SUBJECT, HOWEVER,** to the exceptions permitted by Section 11.2B. Nevertheless, the Company will do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, financing statements and assurances as the Trustee shall require to subject such property to the lien of this Indenture.

The Company will cause this Indenture and all Supplemental Indentures and other instruments of further assurance, including all financing statements and continuation statements covering security interests in personal property, and all mortgages securing purchase money obligations delivered to the Trustee or to the trustee, mortgagee or other holder of a Prior Lien under Section 5.2 to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, and will execute and file such financing statements or cause to be issued and filed such continuation statements, all in such manner and in such places as may be required by law fully to preserve and protect the rights of the Holders and the Trustee to the extent provided in this Indenture to all property constituting part of the Trust Estate. Furthermore, the Company will use its best efforts to cause all contracts of the type and duration set forth in Subparagraph C of Granting Clause First and acquired by the company after the date hereof to become subject to the lien of this Indenture. The Company will furnish to the Trustee:

A. promptly after the execution and delivery of each Supplemental Indenture or other instrument of further assurance, an Opinion of Counsel stating that, in the opinion of such Counsel, this Indenture and such Supplemental Indenture and other instruments of further assurance have been properly recorded, registered and filed, or have been received for recording, registration or filing, to make effective the lien of this Indenture to the extent intended by this Indenture and stating that all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the rights of the Holders and the Trustee hereunder, or stating that, in the opinion of such Counsel, no such action is necessary to make such lien effective; and

B. within one hundred-twenty (120) days after January 1 in each year beginning with the year 2010, an Opinion of Counsel, dated as of such date, either stating that, in the opinion of such Counsel, during the preceding calendar year, such action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of this instrument and of all Supplemental Indentures, financing statements, continuation statements or other instruments of further assurance as is necessary to maintain the lien of this Indenture (including the lien on any property acquired by the Company after the execution and delivery of this instrument and owned by the Company at the end of the preceding calendar year) and stating that during the preceding calendar year, all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the rights of the Holders and the Trustee hereunder, or stating that, in the opinion of such Counsel, during the preceding calendar year, no such action was necessary to maintain such lien.

Upon the cancellation and discharge of any Prior Lien, the Company will cause all cash, obligations and securities then held by the trustee, mortgagee or other holder of such Prior Lien, which were received by such trustee, mortgagee or other holder on account of the release or the taking by eminent domain or the purchase by a public authority or the sale by virtue of a designation or order of a public authority or any other disposition of, or insurance on, the Trust Estate, or any part thereof (including all proceeds of or substitutions for any thereof), to be paid to or deposited and pledged with the Trustee, such cash to be held and paid over or applied by the Trustee as provided in Article VI.

#### Section 13.6 Limitations on Liens; Payment of Taxes.

The Company will not create or incur or suffer or permit to be created or incurred or to exist any mortgage, lien, charge or encumbrance on or pledge of any of the Trust Estate prior to or upon a parity with the lien of this Indenture except Permitted Exceptions and except that:

A. The Company may create, incur or suffer to exist purchase money mortgages or other purchase money liens upon any real property acquired by the Company or acquire real property subject to mortgages and liens existing thereon at the date of acquisition, or acquire or agree to acquire and own personal property subject to or upon chattel mortgages, conditional sales agreements or other title retention agreements; **PROVIDED** that

(1) the principal amount of the indebtedness secured by each such mortgage, lien or agreement shall not exceed 80% of the Cost or Fair Value to the Company at the time of the acquisition thereof by the Company, whichever is less, as evidenced by an Officers' Certificate, of the property subject thereto, **PROVIDED** that if the property subject to such mortgage, lien or agreement is not necessary to the operations of the remaining portion of the System, the principal amount thereby secured may not exceed 100% of such Cost or Fair Value to the Company, whichever is less;

(2) the aggregate principal amount of all indebtedness of the Company at the time outstanding secured by such mortgages, liens and agreements (including extensions, renewals and replacements thereof, as provided by the paragraph B below, and also the indebtedness then being incurred) shall not exceed 15% of the aggregate principal amount of all Obligations then Outstanding; and

(3) each such mortgage, lien or agreement shall apply only to the property originally subject thereto, fixed improvements erected on any such real property or affixed to such personal property or equipment used in connection with such real or personal property, any contracts, licenses, permits and other property related solely to such real or personal property, and the proceeds thereof.

B. The Company may modify, extend, renew or replace any mortgage, lien or agreement permitted by paragraph A above upon the same property theretofore subject thereto, or modify, replace, renew or extend the indebtedness secured thereby, **PROVIDED** that in any such case the principal amount of such indebtedness so modified, replaced, extended or renewed shall not be increased above the limits described in paragraph A above.

The Company will pay or cause to be paid before they become delinquent all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Trust Estate or any part thereof or upon any income therefrom, and also (to the extent that such payment will not be contrary to any applicable laws) all taxes, assessments and other governmental charges lawfully levied, assessed or imposed upon the lien or interest of the Trustee or of the Holders in the Trust Estate, so that (to the extent aforesaid) the lien of this Indenture shall at all times be wholly preserved at the cost of the Company and without expense to the Trustee or the Holders; **PROVIDED, HOWEVER**, that the Company shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and the Company shall have established and shall maintain adequate reserves on its books for the payment of the same.

#### **Section 13.7 Maintenance of Properties.**

The Company will cause all its properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; **PROVIDED, HOWEVER**, that nothing in this Section shall prevent the Company from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of its business and not disadvantageous in any material respect to the Holders.

The Company will promptly classify, and record on its books, as retired, all property that has permanently ceased to be used or useful in the business of the Company.

#### **Section 13.8 To Insure.**

The Company will at all times keep all its property of an insurable nature and of the character usually insured by companies operating similar properties, insured in amounts customarily carried, and against loss or damage from such causes as are customarily insured against, by similar companies.



All such insurance shall be effected with responsible insurance carriers. All policies or other contracts for such insurance upon any part of the Trust Estate shall provide that the proceeds of such insurance (except in the case of any particular casualty resulting in damage or destruction not exceeding \$2,000,000 in the aggregate) shall be payable, subject to the requirements of any Prior Lien, to the Trustee as its interest may appear (by means of a standard mortgagee clause or other similar clause acceptable to the Trustee, without contribution). Each policy or other contract for such insurance, or such mortgagee clause, shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for the benefit of the Trustee for at least thirty (30) days after written notice to the Trustee of cancellation. As soon as practicable after the execution of this Indenture, and within ninety (90) days after the close of each calendar year thereafter, and at any time upon the request of the Trustee, the Company will file with the Trustee an Officers' Certificate containing a detailed list of the insurance in force upon the Trust Estate on a date therein specified (which date shall be within thirty (30) days of the filing of such Certificate), including the names of the insurers with which the policies and other contracts of insurance on the Trust Estate are carried, the numbers, amounts and expiration dates of such policies and other contracts and the property and hazards covered thereby, and stating that the insurance so listed complies with this Section, and the Trustee may conclusively rely on such Certificate.

Any appraisal or adjustment or any loss or damage of or to any part of the Trust Estate and any settlement in respect thereof which may be agreed upon between the Company and any insurer, as evidenced by an Officers' Certificate, shall be accepted by the Trustee.

All proceeds of insurance received by the Trustee shall be held and paid over or applied by the Trustee as provided in Article VI.

All proceeds of any insurance on any part of the Trust Estate not payable to the Trustee or the trustee, mortgagee or other holder of a Prior Lien shall be applied by the Company to the repair, rebuilding or replacement of the property destroyed or damaged or shall be deposited with the Trustee to be held and paid over or applied by it as provided in Article VI.

### **Section 13.9 Corporate Existence.**

Subject to Article XI, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; **PROVIDED, HOWEVER**, that the Company shall not be required to preserve any right or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and that the loss thereof is not disadvantageous in any material respect to the Holders.

### **Section 13.10 To Keep Books; Inspection by Trustee.**

The Company will keep proper books of record and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the Obligations and the plant, properties, business and affairs of the Company in accordance with Accounting Requirements. The Company will, upon reasonable written notice by the Trustee to the Company and at the expense of the Company, permit the Trustee by its representatives to inspect

the plants and properties, books of account, records, reports and other papers of the Company, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection, and the Company will furnish to the Trustee any and all information as the Trustee may reasonably request, with respect to the performance by the Company of its covenants in this Indenture; **PROVIDED, HOWEVER**, the Company shall not be required to make available any information supplied to it by a third party which is subject to a confidentiality agreement with such third party except to the extent allowed by, and subject to the terms of such confidentiality agreement.

#### **Section 13.11 Use of Trust Moneys and Advances by Trustee.**

If the Company shall fail to perform any of its covenants in this Indenture, the Trustee may (but shall not be obligated to) at any time and from time to time, after notice to the Company, use and apply any Trust Moneys held by it under Article VI, or make advances, to effect performance of any such covenant on behalf of the Company; and all moneys so used or advanced by the Trustee, together with interest at the lesser of (i) 10% per annum or (ii) the maximum rate permitted by law, shall be repaid by the Company upon demand and such advances shall be secured under this Indenture prior to the Obligations. For the repayment of all such advances the Trustee shall have the right to use and apply any Trust Moneys at any time held by it under Article VI but no such use of Trust Moneys or advance shall relieve the Company from any default hereunder. Nothing contained herein shall be deemed to obligate the Trustee to advance its own monies for any purpose.

#### **Section 13.12 Statement as to Compliance.**

The Company will deliver to the Trustee, within one hundred and twenty (120) days after the end of each calendar year beginning with the year 2010, a written statement signed by the principal executive officer and by the principal financial officer or principal accounting officer of the Company stating that a review of the Company's activities during the preceding calendar year has been made under their supervision and that the Company has fulfilled its obligations hereunder in all material respects during such calendar year.

Promptly after any Officer of the Company may reasonably be deemed to have knowledge of a default hereunder, the Company will deliver to the Trustee a written notice specifying the nature and period of existence thereof and the action the Company is taking and proposes to take with respect thereto.

#### **Section 13.13 Waiver of Certain Covenants.**

The Company may omit in any particular instance to comply with any covenant or condition set forth in this Article except Sections 13.1, 13.2, 13.3, 13.4, 13.5, 13.9, 13.10, 13.11 and the first sentence of Section 13.14 if before or after the time for such compliance the Holders of at least a majority in principal amount of all Obligations then Outstanding, shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived and, until such waiver shall become effective,

the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

#### **Section 13.14 Rate Covenant.**

The Company shall establish and collect rates, rents, charges, fees and other compensation (collectively, “Rates”) that, together with other moneys available to the Company, produce moneys sufficient to enable the Company to comply with all its covenants under this Indenture. Subject to any necessary regulatory approval or determination and the approval of the RUS, if required, the Company also shall establish and collect Rates that, together with other revenues available to the Company, are reasonably expected to yield a Margins for Interest Ratio for each fiscal year of the Company equal to at least 1.10 for such period. Promptly upon any material change in the circumstances which were contemplated at the time such Rates were most recently reviewed, but not less frequently than once every twelve (12) months, the Company shall review the Rates so established and shall promptly establish or revise such Rates as necessary to comply with the foregoing requirements; subject in the case of the foregoing Margins for Interest requirement to any necessary regulatory approval or determination and the approval of the RUS, if required. The Company will not furnish or supply or cause to be furnished or supplied any use, output, capacity or service of the System with respect to which a charge is regularly or customarily made, free of charge to any Person, and the Company will use commercially reasonable efforts to enforce the payment of any and all accounts owing to the Company with respect to the use, output, capacity or service of the System.

#### **Section 13.15 Distributions to Members.**

The Company shall not directly or indirectly declare or pay any dividend or make any payments of, distributions of, or retirements of, patronage capital to its members (each a “Distribution”) if, at the time thereof or after giving effect thereto, (i) an Event of Default shall exist, or (ii) the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) as of the end of the Company’s most recent fiscal quarter would be less than 20% of the Company’s total long-term debt and equities (determined in accordance with Accounting Requirements) at such time; or (iii) the aggregate amount expended for all Distributions on or after the date on which the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) first reached 20% of the Company’s long-term debt and equities (determined in accordance with Accounting Requirements) shall exceed 35% of the aggregate net margins (whether or not such net margins have since been allocated to members) of the Company earned after such date (subtracting, in the case of any deficit, 100% of such deficit). Notwithstanding the foregoing and so long as no Event of Default shall exist, the Company may declare and make Distributions at any time if, after giving effect thereto, the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) as of the end of the Company’s most recent fiscal quarter would have been not less than 30% of the Company’s total long-term debt and equities (determined in accordance with Accounting Requirements) as of such date..

### **Section 13.16 Limitation on Certain Cash Investments.**

The Company shall direct the Trustee to invest at least 75% of each of (i) Trust Moneys and (ii) Deposited Cash (as determined by the Company), in (a) Defeasance Securities, (b) securities issued by any agency or instrumentality of the United States of America or any corporation created pursuant to any act of the Congress of the United States, (c) commercial paper rated in either of the two highest rating categories by a national credit rating agency, (d) demand or time deposits, certificates of deposit and bankers' acceptances issued or accepted by any bank or trust company having capital surplus and undivided profits aggregating at least \$50,000,000 and whose long-term debt is rated in any of the three highest rating categories by a national credit rating agency, (e) any non-convertible debt securities rated in any of the three highest rating categories by a national credit rating agency, (f) repurchase agreements that are secured by a perfected security interest in securities listed in clauses (a) or (b) above entered into with a government bond dealer recognized as a primary dealer by the Federal Reserve Bank of New York or any bank described in clause (d) above, or (g) any short-term institutional investment fund or account which invests solely in any of the foregoing obligations.

## **ARTICLE XIV**

### **REDEMPTION OF OBLIGATIONS; SINKING FUNDS**

#### **Section 14.1 Applicability of Sections 14.1 Through 14.7.**

Obligations which are by their express terms redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise provided with respect to the Obligations of any particular series by the provisions of a Supplemental Indenture creating such series in accordance with Sections 14.1 through 14.7, inclusive. Except for the provisions of Section 14.11, the provisions of this Article do not apply to Obligations of which either RUS or CFC is the Holder.

#### **Section 14.2 Election to Redeem; Notice to Trustee.**

The election of the Company to redeem any Obligations shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company of less than all the Outstanding Obligations of any series, the Company shall, at least thirty (30) days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee) notify the Trustee of such Redemption Date and of the principal amount of Obligations of such series to be redeemed and of the numbers of any Outstanding Obligations of such series then owned by the Company.

#### **Section 14.3 Selection by Trustee of Obligations to be Redeemed.**

Unless otherwise provided in a Supplemental Indenture authorizing a particular series of Obligations, if less than all the Outstanding Obligations of any series or maturity within a series are to be redeemed, the particular Obligations to be redeemed shall be selected not more than thirty (30) days prior to the Redemption Date by the Trustee from the Outstanding Obligations of such series or maturity within a series which have not previously been called for redemption by prorating, as nearly as may be, the principal amount of Obligations of such series or maturity

within a series to be redeemed among the Holders of such Obligations in proportion to the aggregate principal amount of such Obligations registered in their respective names; **EXCEPT** that, if there shall have been previously filed with the Trustee an Act of all the Holders of such Obligations satisfactory to the Trustee specifying the method of selecting the Obligations to be redeemed, such selection shall be made by the Trustee in accordance with the terms of such Act.

In any proration pursuant to this Section, the Trustee shall make such adjustments, reallocations and eliminations as it shall deem proper to the end that the principal amount of Obligations of such series or maturity within a series so prorated shall be equal to the greater of \$1,000 and the smallest authorized denomination of the Obligations of such series, or a multiple thereof, by increasing or decreasing or eliminating the amount which would be allocable to any Holder on the basis of exact proportion by an amount not exceeding such prorated minimum.

The Trustee in its discretion may determine the particular Obligations (if there is more than one) registered in the name of any Holder which are to be redeemed, in whole or in part.

The Trustee shall promptly notify the Company in writing of the Obligations selected for redemption and, in the case of any Obligation selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Obligations shall relate, in the case of any Obligation redeemed or to be redeemed only in part, to the portion of the principal of such Obligation which has been or is to be redeemed.

#### **Section 14.4 Notice of Redemption.**

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than twenty (20) nor more than sixty (60) days prior to the Redemption Date, to each Holder of Obligations of such series to be redeemed, at his address appearing in the Obligation Register.

All notices of redemption shall state:

- A. the CUSIP number (if any) of all Obligations to be redeemed,
- B. the Redemption Date,
- C. the Redemption Price,
- D. the principal amount of Obligations of each series to be redeemed, and, if less than all Outstanding Obligations of a series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Obligations of such series to be redeemed,
- E. that on the Redemption Date the Redemption Price of each of the Obligations to be redeemed will become due and payable and that the interest thereon shall cease to accrue from and after said Redemption Date,

F. the place or places where the Obligations of each series to be redeemed are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Company in each Place of Payment for such series,

G. if it be the case, that such Obligations are to be redeemed by the application of certain specified Trust Moneys, and

H. if it be the case, that such redemption is to satisfy sinking fund requirements.

Notice of redemption of Obligations to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company.

#### **Section 14.5 Deposit of Redemption Price.**

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 13.3) an amount of money sufficient to pay the Redemption Price of all the Obligations which are to be redeemed on that date. Such money shall be held in trust for the benefit of the Persons entitled to such Redemption Price and shall not be deemed to be part of the Trust Estate or Trust Moneys.

Subject to the requirements of any Supplemental Indenture, the Company may determine what sinking fund requirements (if any) to apply redeemed Obligations against.

#### **Section 14.6 Obligations Payable on Redemption Date.**

Notice of redemption having been given as aforesaid, the Obligations so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Obligations shall cease to bear interest. Upon surrender of any such Obligation for redemption in accordance with said notice, such Obligation shall be paid by the Company at the Redemption Price. Installments of interest with a Stated Maturity on or prior to the Redemption Date shall be payable to the Holders of the Obligations registered as such on the relevant Record Dates according to the terms of such Obligations and the provisions of Section 3.7.

If any Obligation called for redemption shall not be so paid upon surrender thereof for redemption or as otherwise provided under Section 14.7 in lieu of surrender, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Obligation.

#### **Section 14.7 Obligations Redeemed in Part.**

Unless otherwise provided in any Supplemental Indenture, any Obligation which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney

duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Obligation, without service charge, a new Obligation or Obligations of the same series and maturity of any authorized denomination or denominations as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Obligation so surrendered.

In lieu of surrender under the preceding paragraph, payment of the Redemption Price of a portion of any Obligation held in the Book-Entry System may be made directly to the Holder thereof without surrender thereof if there shall have been filed with the Trustee either (i) a written agreement between the Company and such Holder and, if such Holder is a nominee, the Person for whom such Holder is a nominee, that payment shall be so made and that such Holder will not sell, transfer or otherwise dispose of such Obligation unless prior to delivery thereof such Holder shall present such Obligation to the Trustee for notation thereon of the portion of the principal thereof redeemed or shall surrender such Obligation in exchange for a new Obligation or Obligations for the unredeemed balance of the principal of the surrendered Obligation or (ii) a certificate of the Company that such an agreement has been entered into and remains in force.

#### **Section 14.8 Applicability of Sections 14.8 Through 14.10.**

The provisions of Sections 14.8 through 14.10, inclusive, shall be applicable to any sinking fund for the retirement of Obligations except as otherwise specified as contemplated by Section 3.3 for Obligations of such series.

The minimum amount of any sinking fund payment provided for by the terms of Obligations of any series is herein referred to as a “mandatory sinking fund payment, and any payment in excess of such minimum amount provided for by the terms of Obligations of any series is herein referred to as an “optional sinking fund payment. If provided for by the terms of Obligations of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 14.9. Each sinking fund payment shall be applied to the redemption of Obligations of any series as provided for by the terms of Obligations of such series.

#### **Section 14.9 Satisfaction of Sinking Fund Payments with Obligations.**

The Company (1) may deliver Outstanding Obligations of a series (other than any previously called for redemption) and (2) may apply, as a credit, Obligations of a series which have been redeemed either at the election of the Company pursuant to the terms of such Obligations or through the application of permitted optional sinking fund payments pursuant to the terms of such Obligations, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Obligations of such series required to be made pursuant to the terms of such Obligations as provided for by the terms of such series; **PROVIDED** that such Obligations have not been previously so credited. Such Obligations shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Obligations for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

#### **Section 14.10 Redemption of Obligations for Sinking Fund.**

Not less than sixty (60) days prior to each sinking fund payment date for any series of Obligations, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Obligations of that series pursuant to Section 14.9 and will also deliver to the Trustee any Obligations to be so delivered. Not less than thirty (30) days before each such sinking fund payment date the Trustee shall select the Obligations to be redeemed upon such sinking fund payment date in the manner specified in Section 14.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 14.4. Such notice having been duly given, the redemption of such Obligations shall be made upon the terms and in the manner stated in Sections 14.6 and 14.7.

#### **Section 14.11 Prepayment of Certain Obligations.**

Any Existing Obligation or Additional Obligation as to which RUS is the Holder shall be redeemable or prepayable in accordance with the provisions of such Obligation or any applicable existing or future law. Any Existing Obligation or Additional Obligation as to which CFC is the Holder shall be redeemable or prepayable in accordance with the provisions of such Obligation.

### **ARTICLE XV**

#### **CONTROL OF PLEDGED SECURITIES**

##### **Section 15.1 Pledged Securities Deposited with Trustee.**

Any Stock and certificates representing the same and any obligations and indebtedness and evidences thereof and any other securities which are at the time deposited with the Trustee or required to be deposited and pledged with the Trustee are herein sometimes collectively called the "Pledged Securities.

As and when any Pledged Securities shall come into the possession of the Company or under its control, the Company shall forthwith deposit and pledge the same with the Trustee, together with such proper instruments of assignment and transfer as the Trustee may reasonably require, which shall include express authority to the Trustee to vote any Stock included therein to the extent herein provided or permitted and to cause such authority to be recorded in the entry of transfer of such Stock on the books of the entity issuing the same.

The Trustee shall not be obliged at any time to accept any Pledged Securities or to cause or to permit a transfer thereof to be made to it, if, in the opinion of the Trustee, such action would subject it to the risk of any liability or expense, unless the Trustee shall be indemnified to its satisfaction for so doing.

The Trustee shall not be under any duty to examine into or pass upon the validity or genuineness of any of the Pledged Securities. The Trustee shall be entitled to assume that any



Pledged Securities are genuine and valid and what they purport to be and that any endorsements or assignments thereof are genuine and valid.

#### **Section 15.2 Form of Holding.**

The Trustee may hold any Pledged Securities in bearer form or in the name of the Trustee or any nominee or nominees of the Trustee or (unless an Event of Default exists or the Holders of a majority in principal amount of the Obligations then Outstanding otherwise direct) in the name of the Company or any nominee or nominees of the Company, endorsed or assigned in blank or in favor of the Trustee. The Trustee may deliver any of the Pledged Securities to the Company for a period of not more than twenty-one (21) days or to the issuer thereof for the purpose of making exchanges or registrations of transfers or for such other purposes in furtherance of this trust as the Trustee may deem advisable.

#### **Section 15.3 Right of Trustee to Preserve Issuers; Directors' Qualifying Shares.**

The Trustee may do whatever in its judgment may be necessary for the purpose of preserving or extending the legal existence of any entity whose Stock are included in the Pledged Securities, but (subject to Section 9.1) it shall be under no duty to take any action in respect thereof. Upon Company Request stating that the Company has no shares for the purpose under its control other than shares held hereunder, the Trustee shall transfer or permit the Company to transfer as many shares of stock as may be necessary to qualify the requisite number of persons to act as directors of or in any other official relation to the corporation issuing such shares; **PROVIDED, HOWEVER**, that no such transfer of the stock of any Pledged Subsidiary shall be made which would change the status of the issuing corporation as a Pledged Subsidiary. In every such case the Trustee may make such arrangements as it shall deem necessary for the protection of the trust hereunder in respect of the shares so transferred. While such shares remain so transferred they shall not be deemed to be Pledged Securities, but when such shares are no longer needed for such qualification purposes they shall immediately be redeposited and repledged and thereupon again become Pledged Securities.

#### **Section 15.4 Income Before Event of Default.**

Unless an Event of Default exists, the Company from time to time shall be entitled to receive and collect for its own use all interest paid on any Pledged Security (other than any such interest which shall have been collected or paid out of the proceeds of any sale or condemnation or expropriation of any property covered by a mortgage or other lien securing such Pledged Security) and all dividends on any Pledged Security which are paid in cash out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder. The Trustee from time to time shall execute and deliver upon Company Request suitable orders in favor of the Company or its nominee for the payment of such interest and cash dividends and shall deliver upon Company Request any and all coupons held by the Trustee representing such interest as the date of the maturity thereof approaches. The Trustee shall likewise pay over all sums which are received or collected by it as such interest or cash dividends. Until actually paid, all rights to such interest or cash dividends shall remain subject to the lien hereof.

The Trustee shall be entitled (subject to Section 9.1) to assume that any cash dividend received by it on any Pledged Security is paid out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder and that any interest has not been collected or paid out of the proceeds of any such sale or condemnation or expropriation, unless and until notified in writing to the contrary by any Holder or the Company or the person making such payment, in which event the Trustee may (subject to Section 9.1) accept an Officers' Certificate stating any pertinent facts in connection with any such dividend or interest as conclusive evidence of such facts.

#### Section 15.5 Income After Event of Default.

If an Event of Default exists, in addition to the other remedies herein provided, the Trustee shall collect and receive all interest and dividends on Pledged Securities and shall cancel and revoke all interest and dividend orders in favor of the Company or its nominee. All money so received by the Trustee which, in the absence of an Event of Default, would be receivable by the Company under Section 15.4, shall be applied in accordance with Section 8.7.

In every such case, after all Events of Default have been cured, the right of the Company to receive and collect interest and dividends, and the duty of the Trustee with respect thereto, under Section 15.4, shall revive and continue; and the Trustee shall pay over upon Company Request any such interest or dividends received by it which, in the absence of an Event of Default, would be receivable by the Company under Section 15.4 and then remain unexpended in its hands.

#### Section 15.6 Principal and Other Payments.

In case any sum shall be paid on account of

- A. the principal of (or premium, if any, on) any Pledged Security, or
- B. any dividend upon any Pledged Security other than a cash dividend paid out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder, or
- C. the liquidation or dissolution or reduction of capital of the corporation issuing any Pledged Security, or
- D. interest on any Pledged Security which shall have been collected or paid out of the proceeds of any sale or condemnation or expropriation of any property covered by a mortgage or other lien securing such Pledged Security,

or in case any other distribution (including stock dividends but excluding any dividend excluded by subsection B) shall be made in respect of any Pledged Security, such sum or other distribution shall be paid or delivered to the Trustee to be held as a part of the Trust Estate.

In case the Company or the Trustee shall receive rights to subscribe to additional securities in respect of any Pledged Securities, the Company may exercise or (subject to Section 15.8) sell such rights in its discretion, **PROVIDED, HOWEVER**, that (i) all securities

acquired by exercise of such rights shall forthwith be deposited and pledged with the Trustee hereunder, (ii) all net proceeds from the sale of any such rights shall forthwith be paid to the Trustee, (iii) if the Company shall not have elected to exercise or sell such rights by the fifth (5th) business day prior to the expiration thereof, it shall give the Trustee notice thereof and the Trustee shall forthwith sell or, in the event that Section 15.8 is applicable, may exercise such rights in such manner as in its uncontrolled discretion it may deem advisable and (iv) if an Event of Default exists, the Trustee shall be entitled at any time in its discretion to exercise or sell such rights.

#### **Section 15.7 Voting.**

Unless an Event of Default exists, the Company shall have the right to vote and give consents with respect to all Pledged Securities and from time to time, in case any Pledged Securities have been transferred into the name of the Trustee or its nominee or nominees, the Trustee, upon Company Request, shall execute and deliver or cause to be executed and delivered to the Company or its nominee appropriate powers of attorney or proxies to vote such Pledged Securities or to execute a waiver or consent with respect thereto, for such purpose or purposes as may be specified in such request; PROVIDED, HOWEVER, that such right of the Company shall not include (and every such power of attorney or proxy shall be limited, either generally or specifically, to provide in effect that the powers thereby conferred do not include) any power to vote for or to authorize or consent to any act or thing inconsistent with or in avoidance of the Company's obligations under this Indenture.

If an Event of Default exists, the Trustee may in its discretion, and if requested by the Holders of a majority in principal amount of the Obligations then Outstanding and provided with an indemnity reasonably satisfactory to it shall, revoke all such powers of attorney and proxies and the Trustee may in its discretion vote and exercise, or cause the nominee or nominees of the Trustee to vote and exercise, all the powers of an owner with respect to any Pledged Securities. In so voting and exercising the powers of an owner with respect to any Pledged Securities, the Trustee shall not be required to attend any meeting of security holders, but the Trustee may vote or act by power of attorney or proxy and such power of attorney or proxy may be granted to any person selected by the Trustee, including an Officer of the Company. The Trustee may so vote and exercise the powers of an owner with respect to any Pledged Securities for any purpose or purposes which the Trustee, in its discretion, shall deem advisable and in the interest of the Holders, whether or not such action may involve a change in the character of any Pledged Security or in the corporate identity or business of the issuer thereof or in the proportionate interest or voting power represented by such security. In every such case, after all Events of Default have been cured, the right of the Company to vote and give consents with respect to the Pledged Securities, and the duty of the Trustee to execute powers of attorney and proxies as hereinabove provided, shall revive and continue.

#### **Section 15.8 Limitations on Issue of Voting Stock or Grant of Membership Interests of Pledged Subsidiaries.**

The Company will not permit any Pledged Subsidiary to issue any additional shares of Voting Stock, other than stock dividends, unless simultaneously there shall be made effective provision that certificates for all such additional Voting Stock, forthwith upon the issue thereof,

will be deposited and pledged with the Trustee; **PROVIDED, HOWEVER**, that, if the, holders of any stock of such Pledged Subsidiary not then included in the Pledged Securities shall have a preemptive right to subscribe for and purchase their pro rata share of such additional shares of Voting Stock, then such part of such additional shares as shall be actually subscribed for and purchased by such stockholders pursuant to such preemptive right may be issued to them and need not be deposited and pledged with the Trustee. The Company will not permit any Pledged Subsidiary to grant any additional membership interests, unless simultaneously there shall be made effective provision that certificates evidencing all such additional membership interests, forthwith upon the granting thereof, will be deposited and pledged with the Trustee.

**Section 15.9 Increase, Reduction or Reclassification of Stock; Dissolution; Consolidation, etc.**

Except as otherwise provided in Article XIII or this Article, the capital stock of any corporation whose shares are included in the Pledged Securities may be increased (subject to Section 15.8) or reduced or reclassified (other than a reclassification resulting in the creation of a preferred stock of any Pledged Subsidiary or a reclassification reducing the proportionate voting power of any Pledged Securities in any corporation) and any such corporation may be dissolved; **PROVIDED, HOWEVER**, that effective provision shall (to the extent the Company has any control of such matters) be made that, in the case of any such increase, whether by stock dividend or otherwise (subject to Section 15.8), certificates for such part of each class of additional stock as shall be proportionate to the part of the entire issued and outstanding capital stock of such class of such corporation previously deposited and pledged with the Trustee and, in the case of any such reclassification, any distribution in connection therewith shall be deposited and pledged with the Trustee and that, in the case of any such reduction, there shall continue to be deposited and pledged with the Trustee certificates for not less than the same proportion of such class of capital stock deposited and pledged with the Trustee before such reduction. The Trustee may make any exchange, substitution, cancellation or surrender of certificates of stock held by it for the purpose of such increase, reduction, reclassification or dissolution. Prior to any such cancellation or surrender of stock certificates for the purpose of dissolution, the share, if any, of all the assets of the corporation so dissolved which is distributable in respect of the Pledged Securities (excluding Excepted Property) shall be subjected to the lien of this Indenture. The Trustee shall be entitled to receive and shall (subject to Section 9.1) be fully protected in relying upon an Officers' Certificate as to the amount of the share of the assets of any corporation dissolved as aforesaid which is so distributable to the holder of such Pledged Securities.

The deposit and pledge with the Trustee at any time of any shares of stock of any corporation shall not prevent any one or more of the following transactions:

A. subject to the provisions of Articles X and XI, the merger or consolidation of any Pledged Subsidiary into or with the Company or the conveyance or transfer of all or any of the assets of any Pledged Subsidiary to the Company, or

B. the merger or consolidation of any corporation, any of whose shares may be Pledged Securities, into or with any other corporation other than the Company, or the conveyance or transfer of all or any of the assets of any corporation, any of whose shares may be

Pledged Securities, to any other corporation other than the Company; **PROVIDED, HOWEVER,** that no such action involving a Pledged Subsidiary shall be taken unless the corporation resulting from such consolidation, or into which such merger shall be made, or which shall have acquired the assets of a Pledged Subsidiary, shall thereupon be a Pledged Wholly-Owned Subsidiary.

#### Section 15.10 Enforcement.

In case default shall be made in the payment of the principal of or interest on any Pledged Security or in the due performance of any covenant contained in any Pledged Security or the instrument securing the same, then and in any such case (without prejudice, however, to any right to claim a default under this Indenture or to assert any right consequent upon such default) the Trustee, upon Company Request, may, in its discretion and upon receipt of indemnity to its satisfaction, cause, or join with other owners of like securities in causing, such proceedings as may be approved by the Trustee to be instituted and prosecuted to collect such principal and interest or enforce the performance of such covenant. If an Event of Default exists, the Trustee may, and upon the written request of the Holders of a majority in principal amount of the Obligations then Outstanding shall, upon receipt of indemnity to its satisfaction, institute such proceedings without Company Request.

#### Section 15.11 Acquisition of Property of Issuers of Pledged Securities.

In case, at any time, all or any of the property of any corporation, any of whose securities are at the time Pledged Securities, shall be sold upon insolvency or foreclosure or otherwise, then and in such event, if the property of such corporation or the property sold can be acquired by crediting on any of the Pledged Securities any sum accruing or to be received thereon out of the proceeds of such property, the Trustee in its discretion may, and if requested by Company Request or by the Holders of a majority in principal amount of the Obligations then Outstanding and provided by the Company or such Holders the amount of any cash necessary therefor shall, purchase such property or cause the same to be purchased, either in the name of the Trustee or the Company or a purchasing trustee or trustees as the Trustee may determine, and shall use or permit the Company or such purchasing trustees to use such Pledged Securities so far as necessary to make payment for such property. In case of any such purchase the Trustee shall take such steps as it may deem proper to cause the property so purchased to be vested in the Company subject to the lien of this Indenture, or in some other corporation organized or to be organized with power to acquire and manage such property, or partly in the Company and partly in such other corporation, as the Company may deem advisable, **PROVIDED** that all debt of such corporation with a maturity more than one year from date of issuance (except such, if any, as shall represent a lien existing upon the property at the time it was acquired) and certificates for all the capital stock (except directors' qualifying shares) of such corporation shall be deposited and pledged with the Trustee. In case the property so sold shall not be purchased in the manner hereinabove in this Section provided, the Trustee shall receive the proceeds of sale accruing on and apportioned to such Pledged Securities and such proceeds shall be held and paid over or applied by the Trustee as provided in Article VI.

### **Section 15.12 Reorganization.**

With Company Consent, the Trustee may join in any plan of voluntary or involuntary reorganization or readjustment or rearrangement in respect of any Pledged Securities and may accept or authorize the acceptance of new securities issued in exchange therefor under any such plan. If an Event of Default exists, the Trustee shall be entitled to take such steps without Company Consent.

Any new securities so issued shall be deposited and pledged with the Trustee under this Indenture. If the Trustee does not join in such plan or reorganization or readjustment or rearrangement, the Trustee shall receive any moneys accruing on or apportioned to such Pledged Securities and such moneys shall be held and paid over or applied by the Trustee as provided in Article VI.

### **Section 15.13 Renewal and Refunding.**

Nothing contained in this Article shall prevent

A. the renewal or extension, without impairment of lien or security, at the same or at a lower or higher rate of interest, of any of the obligations or indebtedness of any corporation included in the Pledged Securities, or

B. the issue in substitution for any such obligations or indebtedness of other obligations or indebtedness of such corporation for equivalent amounts and of substantially equal or superior rank as to security, if any;

**PROVIDED, HOWEVER,** that every such obligation or indebtedness as so renewed or extended shall continue to be subject to the lien hereof and every substituted obligation or indebtedness and the evidence thereof shall be deposited and pledged with the Trustee. Except as otherwise provided in Article XIII, unless an Event of Default exists, the Trustee upon receipt of a Company Request shall, and if an Event of Default exists the Trustee may without such Company Request, consent to any such renewal, extension or substitution.

### **Section 15.14 Expenses.**

On demand of the Trustee, the Company forthwith will pay or satisfactorily provide for all expenses incurred by the Trustee under this Article, including all expenditures (except as otherwise provided in Section 15.11) made to acquire the ownership and title to any property which the Trustee shall purchase or shall cause or authorize to be purchased under this Article. Without impairment of or prejudice to any of its rights hereunder by reason of any default of the Company, the Trustee in its discretion may (but shall not be obligated to) advance all such expenses and other sums required or may procure such advances to be made by others. The Company will repay all such advances, with interest thereon at the rate of 10% per annum, and for all such advances the Trustee shall be secured by a lien on the Trust Estate prior to the Obligations. For the repayment of all such advances the Trustee shall have the right to use and apply any Trust Moneys held by it under Article VI as part of the Trust Estate.

**Section 15.15 Opinion of Counsel.**

The Trustee shall be entitled, before taking any action under this Article, to receive an Opinion of Counsel stating the legal effect of any transaction relating to the Pledged Securities and the steps necessary to be taken to consummate the same and stating also that such action is in compliance with the provisions hereof and will not materially adversely effect the security of the Holders hereunder in contravention of the provisions hereof. Such Opinion of Counsel shall (subject to Section 9.1) be full protection to the Trustee for any action taken or omitted to be taken by it in reliance thereon.

**IN WITNESS WHEREOF**, the parties hereto have caused this Indenture to be duly executed under seal as of the day and year first above written.

*(Signatures begin on next page.)*

Company:  
201 Third Street  
Henderson, KY 42420

**BIG RIVERS ELECTRIC CORPORATION**, a  
cooperative corporation organized under the laws of  
the Commonwealth of Kentucky

By: Mark A. Bailey  
Name: Mark A. Bailey  
Title: President and CEO

Attest: C. William Blackburn  
Name: C. William Blackburn  
Title: Senior Vice President and CFO  
[CORPORATE SEAL]

COMMONWEALTH OF KENTUCKY §  
COUNTY OF Henderson §  
§

This instrument was acknowledged before me on this 12th day of May, 2009,  
by Mark Bailey Pres./CEO of Big Rivers Electric Corporation, a Kentucky cooperative  
corporation, on behalf of said cooperative corporation.

Paula Mitchell  
Notary Public's Signature  
Notary-Kentucky, State at Large  
My commission expires: 1-12-13

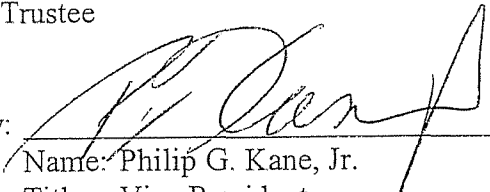
(Seal)

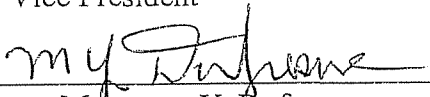
[Indenture]



Trustee:  
U.S. Bank National Association  
225 Asylum Street  
Hartford, Connecticut 06103

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

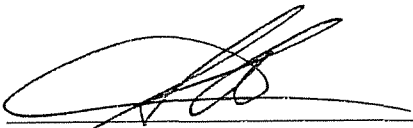
By:   
Name: Philip G. Kane, Jr.  
Title: Vice President

Attest:   
Name: Maryanne Y. Dufresne  
Title: Vice President

STATE OF CONNECTICUT           §  
  §  
COUNTY OF HARTFORD         §

I, Arthur L. Blakeslee IV, a Notary Public, in and for the State of Connecticut, hereby certify that Philip G. Kane, Jr., whose name as Vice President of **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as Trustee, is signed to the foregoing instrument and who is known to me, acknowledged before me this day that being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said national banking association.

Given under my hand this 13<sup>th</sup> day of May, 2009.

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

(Notary Seal)

My commission expires \_\_\_\_\_, 200[ ]

Arthur L. Blakeslee, IV  
Notary Public  
My Commission Expires 06/30/2009

[Indenture]

INDENTURE  
EXHIBIT

EXHIBIT A  
SCHEDULE OF MORTGAGED PROPERTY

HENDERSON COUNTY - OFFICE HEADQUARTERS BUILDING  
(150' x 135')

A certain tract of land described in a certain deed, dated September 2, 1964, from the United States of America, Administrator of General Services, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 216, page 228.

HENDERSON COUNTY - PARKING LOT - MAIN & FOURTH STREETS  
(51' x 130')

A certain tract of land described in a certain deed, dated March 29, 1971, from Paul Herron, Sr. and wife, Dorothy Herron, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 252, page 468.

SUBJECT to easement of 10' granted to the City of Henderson, Kentucky, by instrument dated June 11, 1971, by Big Rivers Rural Electric Cooperative Corporation, and recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 253, page 428. This easement given to maintain sewers and appurtenance structures.

HENDERSON COUNTY - WAREHOUSE - FOURTH STREET  
(50' x 80')

A certain tract of land described in a certain deed, dated March 25, 1974, from Paul Herron, Sr. and wife, Alice Herron, Paul Herron, Jr., and wife, Mary J. Herron, and Dorothy T. Herron, unmarried, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky in Deed Book 271, page 205.

HENDERSON COUNTY - PARKING LOT - MAIN & THIRD STREETS  
(110' x 210')

A certain tract of land described in a certain deed, dated February 27, 1979, from Imperial Medical Center, Inc., a Kentucky corporation, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 311, page 276. The parties agree that this deed is subject to an agreement entered into on November 25, 1974, between the grantor herein and Miss Mary E. Davis, concerning Mary E. Davis' right to use two (2) parking spaces on the subject property.

HENDERSON COUNTY - AIRLINE ROAD WAREHOUSE  
(6.55 ACRES)

A certain tract of land described in a certain deed, dated October 27, 1977, from the Firestone Tire & Rubber Company, a corporation, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, conveying 6.55 acres in Deed Book 299, page 239. There is reserved from the above described grant a perpetual easement for the benefit of grantor, its successors and assigns in a seventy-five (75) foot wide strip of land running from the Airline Road to grantor's remainder tract. Said perpetual easement shall be for purposes of ingress and egress to and from grantor's remainder tract; for construction and maintenance of roadways, railways, pipelines, aboveground and underground utilities services and general access to and from grantor's remainder tract and Kentucky 812 (Airline Road), Henderson County, Kentucky. Grantee, its successors and assigns shall have the use and enjoyment of said easement but without right to unreasonably interfere with the rights reserved therein by grantor, its successors and assigns. This conveyance is subject to all existing public utility and roadway easements of record.

REID PLANT SITE

HENDERSON COUNTY  
(32.7 ACRES)

A certain tract of land described in a certain deed, dated April 14, 1977, from Peabody Coal Company, a Delaware corporation, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 293, page 616.

HENDERSON AND WEBSTER COUNTIES  
(140.47 ACRES)

A certain tract of land described in a certain deed dated June 24, 1963 from Walker Rideout, an unmarried man, recorded in the Office of the Clerk of the Webster County Court, in the State of Kentucky, in Deed Book 126, page 277; and recorded in the Office of the Clerk of the County Court of Henderson County, in the State of Kentucky, in Deed Book 211, page 56.

SUBJECT to right-of-way easement 20 feet wide conveyed by Big Rivers Rural Electric Cooperative Corporation to Oeth Drilling Company, by instrument dated September 6, 1963 and recorded in the Office of the Clerk of the County Court of Henderson County, in the State of Kentucky, in Deed Book 211, page 552.

SUBJECT to pipe line easement conveyed by Big Rivers Rural Electric Cooperative Corporation to Owensboro Ashland Company, by instrument dated August 20, 1970, and recorded in the Office of the Clerk of the County Court of Henderson County, in the State of Kentucky, in Deed Book 249, page 196.

FURTHER SUBJECT to easement granted to Commonwealth of Kentucky per permanent and temporary easements, by Big Rivers R.E.C.C. by instrument dated May 8, 1967 and recorded in Deed Book 230, page 466, and covering Parcels 845 and 845A.

Less and Except a tract of land conveyed by Big Rivers to Anaconda Aluminum by deed of record in Deed Book 259, page 177, Office of the Henderson County Court Clerk.

Less and Except a 2.248 acre tract conveyed by Big Rivers to City of Henderson by deed dated March 18, 1971 of record in Deed Book 252, page 392, Office of the Henderson County Court Clerk.

Less and Except a 1.697 acre tract conveyed by Big Rivers by Deed of Correction dated December 9, 1971 of record in Deed Book 258, page 94, Office of the Henderson County Court Clerk.

HENDERSON COUNTY  
(Parcel 845 and 845A)

A certain tract of land described in a certain deed dated January 10, 1972, from the Commonwealth of Kentucky, through Commissioner of Finance of the Commonwealth of Kentucky, to Big Rivers Rural Electric Cooperative Corporation and recorded in

the Office of the Clerk of the Henderson County Court in the State of Kentucky, in Deed Book 257, page 275.

**HENDERSON AND WEBSTER COUNTIES**  
**(91.08 ACRES)**

A certain tract of land described in a certain deed, dated June 25, 1963 from Maud Watson, widow, Rufus H. Watson and wife, Virginia Watson, Roy Watson and Cora Watson, his wife, Gustene Floyd and husband, Vaughn Floyd, Eloise Shelton and husband, Albert Shelton, Sherman Duncan, unmarried, Hattie E. McCollum and husband Thomas McCollum, Cora Inez Bottomley and husband, Leonard Bottomley, Charles Duncan, unmarried, Emma Louise Goyer and husband, John E. Goyer, Edith Bramow and husband, L.H. Bramow, and Alice Frances Kuhlmeier and husband, John Kuhlmeier, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 211, page 180 and recorded in the Office of the Clerk of Webster County Court Clerk, in the State of Kentucky, in Deed Book 126, page 374.

A certain tract of land described in a certain deed, dated September 27, 1962, from Hattie E. McCollum and husband, Thomas McCollum, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 212, page 23, and recorded in the Office of the Clerk of Webster County, in the State of Kentucky, in Deed Book 127, page 190.

A certain tract of land described in a certain deed, dated December 14, 1963, from James A. Newman, Special Commissioner of Henderson County Court, appointed for the purpose of conveying John Kuhlmeier's right and interest, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 213, page 20, and recorded in the Office of the Clerk of Webster County, in the State of Kentucky, in Deed Book 127, page 274.

SUBJECT to easement, for ingress and egress to Green River, conveyed by Big Rivers Electric Cooperative Corporation to Panama Coal Company, over a tract of 51.13 acres, dated January 24, 1964, and recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 213, page 371.

Less and Except a tract of land conveyed by Big Rivers to Anaconda Aluminum by deed of record in Deed Book 259, page 177, Office of the Henderson County Court Clerk.

**MINERALS UNDER 91.08 ACRES**

A certain tract of land described in a certain deed, dated June 25, 1963, from Maud Watson, widow, Rufus H. Watson and wife, Virginia Watson, Roy Watson and wife, Cora Watson, Gustene Floyd and husband, Vaughn Floyd, Eloise Shelton and husband, Albert Shelton, Sherman Duncan, unmarried, Hattie E. McCollum and husband Thomas McCollum, Cora Inez Bottomley and husband, Leonard Bottomley, Charles Duncan, unmarried, Emma Louise Goyer and husband, John E. Goyer, Edith Bramow and husband, L.H. Bramow, and Alice Frances Kuhlmeier and husband, John Kuhlmeier, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 211, page 200, and recorded in the Office of the Clerk of the County Court of Webster County, in the State of Kentucky, in Deed Book 126, page 368.

A certain tract of land described in a certain deed, dated September 27, 1963, from Hattie E. McCollum and husband, Thomas McCollum, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 212, page 25, and recorded in the Office of the Clerk of the County Court of Webster County, in the State of Kentucky, in Deed Book 127, page 193.

A certain tract of land described in a certain deed, dated May 21, 1964, from James A. Newman, Special Commissioner of Henderson County Court, who conveys for and on behalf of Edith Bramow and husband, L.H. Bramow, and Alice Frances Kuhlmeier and husband, John Kuhlmeier, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 215, page 3.

**COAL RIGHTS UNDER 84 ACRES**

A certain tract of land described in a certain deed, dated January 23, 1964, from Panama Coal Company, a Kentucky Corporation, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 213, page 343, and recorded in the Office of the Clerk of Webster County, in the State of Kentucky in Deed Book 127, page 453.

SAVING AND EXCEPTING FROM THE RIDEOUT AND  
WATSON TRACTS THE FOLLOWING CONVEYANCES BY  
BIG RIVERS RURAL ELECTRIC COOPERATIVE

CORPORATION and/or BIG RIVERS ELECTRIC CORPORATION:

- A. That certain tract of land described in a certain deed, dated March 18, 1971, from Big Rivers Rural Electric Cooperative Corporation, as grantor, to the City of Henderson, Kentucky, a municipal corporation and recorded in Deed Book 252, page 392, in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 151, page 203 in the Office of the Clerk of Webster County, in the State of Kentucky, and by Deed of Correction dated December 9, 1971, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 258, page 94, and in the Office of the Clerk of Webster County, in the State of Kentucky, in Deed Book 154, page 308.
- B. A certain tract of land described in a certain deed dated May 12, 1972, from Big Rivers Rural Electric Cooperative Corporation to Anaconda Aluminum Company, a Montana corporation, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 259, page 177.
- C. A certain tract of land described in a certain deed dated August 10, 1973, from Big Rivers Electric Corporation, to Peabody Coal Company, a Delaware Corporation, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 268, page 633.

WEBSTER COUNTY  
(3.2 ACRES)

A certain tract of land described in a certain deed, dated October 5, 1963, from Georgia Rideout, unmarried, recorded in the Office of the Clerk of Webster County, in the State of Kentucky in Deed Book 127, page 51, and by Deed of Correction from same grantor to same grantee, dated January 23, 1964, recorded in Deed Book 127, page 387, in the Office of the Clerk of Webster County, Kentucky.

WEBSTER COUNTY  
(3.5 ACRES)

A certain tract of land described in a certain deed, dated October 5, 1963 from Effie Gibson and husband, W.B. Gibson, Ola Walker,

widow, Mae Walker, widow, Zella Griffin, widow, Georgia Rideout, unmarried, and Walter Rideout, unmarried, recorded in the Office of the Clerk of Webster County, in the State of Kentucky, in Deed Book 127, page 48, and by Deed of Correction, dated January 23, 1964, and recorded in Deed Book 127, page 392, in said office.

HENDERSON COUNTY  
(1.519 ACRES, 2.06 ACRES, AND 0.111 ACRES)

Three certain tracts of land described in a certain deed, dated February 25, 1972, from Anaconda Aluminum Company, a corporation, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 259, page 174.

HENDERSON AND WEBSTER COUNTIES, KENTUCKY  
(136 ACRES)

A certain tract of land described in a certain deed dated April 21, 1971 from Zella Griffin, widow, grantor to Big Rivers Rural Electric Cooperative Corporation as grantee, and recorded in the office of the clerk of the Webster County Court, in the State of Kentucky, in Deed Book 151, page 302, and recorded in the office of the clerk of Henderson County, in the State of Kentucky in Deed Book 260, page 23, and conveying 1/5 undivided interest therein.

A certain tract of land described in a certain deed dated November 12, 1972 from W.J. Walker and wife, Elinora Walker, Thornton Walker and wife Lockie Mae Walker, Walker Rideout, unmarried, and Effie Gibson and husband William B. Gibson, as grantors to Big Rivers Rural Electric Cooperative Corporation as grantee and recorded in the office of the clerk of Webster County, in the State of Kentucky in Deed Book 157, page 124, and recorded in the office of the clerk of Henderson County, in the State of Kentucky in Deed Book 268, page 628, and conveying an undivided 4/5ths interest therein.

Subject to right-of-way conveyed to Commonwealth of Kentucky for Pennyrile Parkway, by Rideout.

Also subject to easement dated March 11, 1974 from Big Rivers R.E.C.C., as grantor to Henderson Dorsul, Inc., a Kentucky corporation, as grantee, and recorded in the office of the clerk of



Henderson County, in the State of Kentucky in Deed Book 271, page 98.

HENDERSON COUNTY - EASEMENT TO RIVER CELLS

Any and all rights conveyed in Deed of Easement between City of Henderson Utility Commission, City of Henderson, and Big Rivers Electric Corporation, dated July 26, 1974, concerning coal conveying and barging facilities, and recorded in the office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 273, page 358.

HENDERSON COUNTY  
(4.13 ACRES)

A certain tract of land described in a certain deed, dated September 29, 1965, from T.O. Kyle and wife, Eleanor Kyle, recorded in the Office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 221, page 553.

SUBJECT to easement granted to Texas Gas Transmission Corporation, by instrument dated February 20, 1969 and recorded in the office of the Clerk of Henderson County, in the State of Kentucky, in Deed Book 241, page 75.

WEBSTER COUNTY  
(29.37 ACRES)

A certain tract of land described in a certain deed, dated April 14, 1975, from Walker Rideout, unmarried, recorded in the Office of Webster County, in the State of Kentucky, conveying an undivided 4/5ths interest in a tract of 29.37 acres, in Deed Book 165, page 89.

And a certain tract of land described in a certain deed, dated April 14, 1975, by Thornton Walker and wife, recorded in the Office of Webster County, in the State of Kentucky, conveying an undivided 1/5th interest in a tract of 29.37 acres, in Deed Book 165, page 92.

HENDERSON COUNTY  
(2.62 ACRES)

A certain tract of land described in a certain deed, dated February 7, 1975, from Penpark, Inc. a Kentucky corporation, recorded in the Office of Henderson County, in the State of Kentucky, conveying a tract of 2.62 acres, more or less, in Deed Book 276, page 653. Subject to reservation of an easement for ingress and egress to

Penpark additional lands, with right to construct, maintain and operate on said easement adequate roads and streets, water, sewer, gas, electric and telephone utility services, which easement shall be perpetual.

SUBJECT to an unrecorded lease to Daniel S. Dant dated January 18, 1995 for purposes of growing crops, fencing, grazing cattle and hay production.

WEBSTER COUNTY, KENTUCKY  
(78 ACRES) (1.19 ACRES)

Two certain tracts of land described in a certain Deed, dated July 5, 1975, conveyed by Martha Jacobshagen, widow of Alfred Jacobshagen, Grantor, to Big Rivers Electric Corporation, Grantee, recorded in the Office of the Clerk of the Webster County Court in the State of Kentucky, in Deed Book 165, page 685.

GREEN PLANT SITE

WEBSTER COUNTY  
(195.72 ACRES)

Two certain tracts of land described in a certain deed, dated April 7, 1978, from R.T. Majors and Mona Majors, his wife, recorded in the Office of the Clerk of Webster County, in the State of Kentucky, conveying a tract of 195.72 acres in Deed Book 174, page 182.

The above described property is subject to the following easements and right-of-ways, recorded and unrecorded:

- (a) Pipeline easement of unspecified width dated July 12, 1954, recorded in Deed Book 112, page 195, office aforesaid, from R.T. Majors and Mona Majors, his wife, to Owensboro-Ashland Company.
- (b) Pipeline easement of unspecified width for a 6-inch natural gas pipeline dated July 25, 1973, recorded in Deed Book 159, page 463, office aforesaid, from R.T. Majors and Mona Majors, his wife, to Henderson Dorsul, Inc.
- (c) Electric transmission line easement 100 feet wide dated May 6, 1964, recorded in Deed Book 128, page 60A, office

aforesaid, from R.T. Majors and Mona Majors, his wife, to Big Rivers Rural Electric Cooperative Corporation.

- (d) Rights of the public and private rights of others entitled thereto in and to the use of that portion of the premises within the bounds of the "county road" shown on the aforementioned plat of the subject premises.
- (e) Henderson Union Rural Electric Cooperative Corporation distribution line easement.

WEBSTER COUNTY  
(338.82 Acres)

A certain tract of land described in a certain deed, dated January 6, 1978, from Morgan M. Blair and his wife, Marilyn Blair, and Rizpah Blair, widow and unmarried, recorded in the Office of the Clerk of Webster County, in the State of Kentucky, and conveying a tract of 338.82 acres in Deed Book 173, page 404. This conveyance is subject to all valid and subsisting oil and gas leases on the above described real property of record against the above described real property, and is to be effective on January 1, 1978, as to any production from the above described real property under any such leases. Further, this conveyance is subject to an easement on the above described real property dated August 4, 1939, from Jane Edwards Chessher to the Board of Drainage Commissioners of Webster County, Kentucky, for the purpose of improving drainage conditions and to construct and maintain the J.C. Thornsberry Drainage Channel, etc. Also, this conveyance is subject to three pipe line easements through the above described real property granted to Texas Gas Transmission Corporation by deeds of record in Deed Book 106, page 587, Miscellaneous Book 71, page 419, and Deed Book 134, page 329, all in the Webster County Court Clerk's Office.

WEBSTER COUNTY  
(90.93 Acres)

(2 tracts: 11.35 acres and 79.58 acres)

Two certain tracts of land described in a certain deed, dated January 10, 1980, from Marcus Elliott Gibson and his wife, Vella Gibson, recorded in the Office of the Clerk of Webster County, in the State of Kentucky, conveying tracts of 90.93 acres in Deed Book 179, page 571. There is excepted from the foregoing tracts easements conveyed to Big Rivers Rural Electric Cooperative

Corporation dated April 14, 1964, and recorded in Deed Book 128, page 27; August 23, 1971, recorded in Deed Book 152, page 411; March 21, 1973, recorded in Deed Book 158, page 156, and out-right conveyances to Commonwealth of Kentucky Department of Highways by deed dated January 23, 1967, and recorded in Deed Book 136, page 462, all recordings being in the Office of the Clerk of Webster County Court.

COLEMAN PLANT SITE

HANCOCK COUNTY

(212.66 Acres)

A certain tract of land described in a certain deed dated December 6, 1966, from John Q. Adams and Mary T. Adams, his wife; William D. Adams, and Emma R. Adams, his wife; J.C. Adams and Mary D. Adams, his wife; Eula A. Wiles and Brinton Wiles, her husband; Anna Creason and James M. Creason, Jr., her husband; and Mary Helen A. Jolly and Reuben Jolly, her husband, recorded in the Office of the Clerk of Hancock County, in the State of Kentucky, in Deed Book 71, page 380.

HANCOCK COUNTY

(64.13 Acres)

A certain tract of land described in a certain deed, dated January 19, 1979, from W.E. Horrell and Dorothy Elizabeth Horrell, his wife, recorded in the Office of Hancock County, in the State of Kentucky, conveying a tract of 64.13 acres, more or less, in Deed Book 88, page 505. There is reserved from this conveyance and from the description of the above tract a burial ground 45.00 feet square and access for ingress and egress. This burial ground was excepted from the description in the deed from James R. Hamilton, et ux, to John S. Lander dated October 26, 1853, and record in Deed Book 7, page 86, Office of the Hancock County Court Clerk. There is also reserved from this conveyance certain sand and gravel rights which were conveyed in fee to Henry Koch, et al, from Robert C. Beauchamp by Deed dated October 30, 1935, recorded in Deed Book 53, page 186, office aforesaid.

WILSON PLANT SITE

OHIO COUNTY

(506 Acres)

A certain tract of land described in a certain deed, dated June 18, 1980, from Peabody Coal Company, a Delaware corporation, and Beaver Dam Coal Company, a Delaware corporation, recorded in the Office of the Clerk of Ohio County, in the State of Kentucky, in Deed Book 237, pages 80-89. There is excepted from this description the conveyance from Big Rivers to the Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet by deed dated April 13, 1984, recorded in Deed Book 250, page 751, Office of the Clerk of Ohio County.

OHIO COUNTY

(1,754.98 Acres)

A certain tract of land described in a certain deed, dated June 18, 1980, from Peabody Coal Company, a Delaware corporation, and Beaver Dam Coal Company, a Delaware corporation, recorded in the Office of the Clerk of Ohio County, in the State of Kentucky, in Deed Book 237, pages 90-102. There is excepted from this description the conveyance from Big Rivers to the Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet by deed dated April 13, 1984, recorded in Deed Book 250, page 751, Office of the Clerk of Ohio County.

LESS AND EXCEPTED 220.09 acres conveyed to Peabody Coal Company by deed dated May 13, 1988 of record in Deed Book 265, page 418, Office aforesaid.

OHIO COUNTY

(HIGHWAY DEPT. QUITCLAIM  
POINT PLEASANT FERRY)

A certain tract of land described in a Quitclaim Deed dated May 12, 1987 from the Commonwealth of Kentucky recorded in Deed Book 261, page 286, Office aforesaid.

OHIO COUNTY - WILSON STATION RAILROAD SPUR

3.313 Acres

A certain tract of land described in a certain deed, dated June 2, 1980, from Edward Lewis and Mary Lewis, his wife, recorded in the Office of the Clerk of Ohio County, in the State of Kentucky, in Deed Book 237, pages 1-2.

OHIO COUNTY - MOUNT PLEASANT

(1/2 Acre)

A certain tract of land described in a certain deed, dated May 12, 1980, from the Board of Education of Ohio County, Kentucky, a body politic and corporate, of Ohio County, Kentucky, recorded in the Office of the Clerk of Ohio County, in the state of Kentucky, in Deed Book 237, pages 256-257.

SUBSTATION SITES

CRITTENDEN COUNTY - SULLIVAN SWITCHING STATION

(1.99 Acres)

A certain tract of land described in a certain deed, dated November 16, 1964, from William Marshall Berry, single, Pearl Berry, single, and Edith Berry, single, recorded in the office of the Clerk of the Crittenden County Court, in the State of Kentucky, in Deed Book 98, page 650.

SAVING AND EXCEPTING FROM THE ABOVE TRACT THE FOLLOWING CONVEYANCE BY BIG RIVERS R.E.C.C.

A certain tract of land described in a certain deed, dated May 12, 1972, by Big Rivers Rural Electric Cooperative Corporation, a Kentucky corporation, to Henderson-Union Rural Electric Cooperative Corporation, a Kentucky corporation and recorded in the Office of the Clerk of the County Court of Crittenden County, in the State of Kentucky, in Deed Book 111, page 532.

UNION COUNTY - MORGANFIELD SWITCHING STATION

(1.94 Acres)

A certain tract of land described in a certain deed, dated December 17, 1965, from Annie H. Meacham, widow, Charles M. Meacham,

III and wife Wanda I. Meacham; Annie Meacham McElroy and husband, Sam M. McElroy; Eleanor Meacham Thurmond and husband, John M. Thurmond; William T. Meacham and wife, Jane Meacham and Elizabeth Meacham Payne, a single woman, recorded in the Office of the Clerk of Union County Court, in the State of Kentucky, in Deed Book, 181, page 96.

Together with an easement described in a certain deed dated April 3, 1967, from Charles M. Meacham III and wife, Wanda Lee Meacham, recorded in the Office of the Clerk of Union County Court, in the State of Kentucky, in Deed Book 188, page 190.

**HENDERSON COUNTY - LOT ADJOINING HENDERSON UNION  
ELECTRIC COOP'S ZION SUBSTATION  
(93' x 175')**

A certain tract of land described in a certain deed, dated May 13, 1968 from Malcolm N. Pruitt and wife, Catherine A. Pruitt, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 236, page 293.

**HENDERSON COUNTY - CORYDON SUBSTATION  
(200' x 200')**

A certain tract of land described in a certain deed, dated September 1, 1971, from Elmer Blakeman and wife, Mary Blakeman, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 254, page 591.

**HENDERSON COUNTY - HENDERSON COUNTY SUBSTATION  
(7.93 Acres and Easement)**

A certain tract of land described in a certain deed, dated June 11, 1974, from Jesse F. Parrish and wife, Izetta P. Parrish, Larry F. Parrish and wife, Linda B. Parrish, recorded in the Office of the Clerk of the Henderson County Court, in the State of Kentucky, in Deed Book 272, page 516.

**DAVISS COUNTY - UTICA SWITCHING STATION  
(1.79 Acres)**

A certain tract of land described in a certain deed, dated September 4, 1964, from John Moorman, Special Commissioner of Daviess

County Court, who conveys for and on behalf of Lucinda P. Gibson, Ethel C. Gibson, Unknown Heirs and Unknown Defendants and C.S. and W. Investors, recorded in the Office of the Clerk of the Daviess County Court, in the State of Kentucky, in Deed Book 332, page 277.

SUBJECT to an unrecorded lease to Robert E. Worthington dated April 26, 1984 for purposes of grazing cattle and hay production.

ALSO SUBJECT to unrecorded agreements dated July 22, 1994 and July 18, 1994, in favor of Green River Electric Corporation for placement of electrical distribution line facilities.

**DAVIESS COUNTY - DAVIESS COUNTY SUBSTATION**  
**(5.23 and 0.34 Acres)**

A certain tract of land described in a certain deed, dated February 7, 1973, from B.L. Mercer and his wife, Nellie Mercer, recorded in the Office of the Clerk of the Daviess County Court, in the State of Kentucky, in Deed Book 423, page 304.

**DAVIESS COUNTY - NEWMAN SUBSTATION**

A 2.2328 acre tract described in a deed from the County of Daviess and Scott Paper Company dated November 10, 1994, of record in Deed Book 643, page 123, Office of the Daviess County Court Clerk.

**HANCOCK COUNTY - HANCOCK SUBSTATION**  
**(3.5 Acres)**

A certain tract of land described in a certain deed, dated February 16, 1965, from Green River Rural Electric Cooperative Corporation, a Kentucky corporation, recorded in the Office of the Clerk of Hancock County, in the State of Kentucky, in Deed Book 70, page 17; and Deed of Correction recorded in Deed Book 70, page 87.

**HANCOCK COUNTY - MARTIN-MARIETTA STATION (Old Harvey Station)**  
**(.265 Acre)**

A certain tract of land described in a certain deed, dated September 20, 1966, from Green River Rural Electric Cooperative Corporation, a Kentucky corporation, recorded in the Office of the



Clerk of Hancock County, in the State of Kentucky, in Deed Book 71, page 182.

**HANCOCK COUNTY - NATIONAL ALUMINUM CORPORATION SUBSTATION**  
**(1.62 Acre)**

A certain tract of land described in a certain deed, dated March 3, 1970, from National Aluminum Corporation, a Delaware corporation, recorded in the Office of the Clerk of Hancock County, in the State of Kentucky, in Deed Book 81, page 147.

**HANCOCK COUNTY - ADDITION TO NATIONAL ALUMINUM SUBSTATION**

A .09 acre lot described in a deed from Alumax Mill Products, Inc. dated January 24, 1990 of record in Deed Book 102, page 660, Office of the Hancock County Court Clerk.

**BRECKINRIDGE COUNTY - HARDINSBURG SWITCHING STATION**  
**(13.04 Acres)**

A certain tract of land described in a certain deed, dated October 14, 1966, from Harold Beard and Helen Beard, his wife, recorded in the Office of the Clerk of Breckinridge County, in the State of Kentucky, in Deed Book 111, page 471.

**McCRACKEN COUNTY - McCRACKEN COUNTY SWITCHING STATION**  
**(10 Acres)**

A certain tract of land described in a certain deed, dated February 8, 1980, from Garth Tilford and Reba Louise Tilford, his wife, recorded in the Office of the Clerk of McCracken County, in the State of Kentucky, in Deed Book 626, page 271. This conveyance is subject to the following exceptions.

(a) Transmission line easement conveyed to Kentucky Utilities from Louis Bradford, et ux, by instrument dated June 12, 1951, recorded in Deed Book 317, page 376, office aforesaid.

(b) Easement for telephone and telegraph lines conveyed to Southern Bell Telephone & Telegraph Company from Louis Bradford, et ux, by instrument dated January 22, 1951, recorded in Deed Book 293, page 171, Office aforesaid.

(c) Easement for telephone and telegraph lines conveyed to Southern Bell Telephone & Telegraph Company from H. Ewell Russell, et ux, by deed dated January 22, 1951, recorded in Deed Book 293, page 176, office aforesaid.

(d) Transmission line easement conveyed to Kentucky Utilities from H. Ewell Russell, et ux, by instrument dated July 12, 1951, recorded in Deed Book 304, page 7, office aforesaid.

(e) Transmission line easement conveyed to the United States of America from H. Ewell Russell, et ux, by deed dated October 10, 1951, recorded in Deed Book 304, page 526, office aforesaid.

(f) A one-half interest in all the oil and mineral rights acquired by First Parties from Louis Bradford was excepted from the conveyance to Louis Bradford by H. Ewell Russell, et ux, deed dated August 14, 1950, recorded in Deed Book 315, page 40, office aforesaid.

**MEADE COUNTY - MEADE COUNTY SWITCHING STATION**  
**(7.251 Acres)**

A certain tract of land described in a certain deed dated June 2, 1980, from Sherley Simmons, an unmarried person, recorded in the Office of the Clerk of Meade County, in the State of Kentucky, in Deed Book 167, page 56.

**MICROWAVE SITE**

**DAVISS COUNTY - HABIT MICROWAVE SITE**  
**(3.34 Acres)**

A certain tract of land described in a certain deed, dated September 13, 1967, from Thomas H. Logsdon and Marian Fay Logsdon, his wife, recorded in the Office of the Clerk of Daviess County, in the State of Kentucky, in Deed Book 363, page 640.

**UNION COUNTY - MORGANFIELD MICROWAVE SITE**  
**(.46 Acre)**

A certain tract of land described in a certain deed, dated March 30, 1967, from Annie H. Meacham, widow, Charles H. Meacham, III and wife, Wanda I. Meacham, Annie Meacham McElroy and husband, Sam M. McElroy; Eleanor Meacham Thurmond and

husband, John M. Thurmond; William T. Meacham and wife, Jane Meacham and Elizabeth Meacham Payne, single, recorded in the Office of the Clerk of Union County, in the State of Kentucky, in Deed Book 188, page 192.

**BRECKINRIDGE COUNTY - WEBSTER MICROWAVE TOWER SITE**  
**(2500 Square Feet Plus Access Easement)**

A certain tract of land and access road easement described in a certain deed dated March 27, 1982, from Creston Dutschke and Fannie Lee Dutschke, husband and wife, recorded in the Office of the Clerk of Breckinridge County, in Deed Book 166, page 423.

**CALDWELL COUNTY - CRIDER MICROWAVE SITE**  
**(Approximately 2500 Square Feet)**

A certain tract of land described in a deed dated September 15, 1981, from Johnson Stone and Alice Stone, husband and wife, recorded in the Office of the Clerk of Caldwell County, in Deed Book 153, page 555.

**CRITTENDEN COUNTY - MARION MICROWAVE SITE**  
**(Approximately 2500 Square Feet)**

A certain tract of land described in a deed dated July 21, 1981, from Harvey G. Hunt and Anna Lois Hunt, husband and wife, recorded in the Office of the Clerk of Crittenden County, in Deed Book 137, page 84.

**HANCOCK COUNTY - SKILLMAN SUBSTATION**  
**(5.09 Acres)**

A certain tract of land described in a deed dated March 2, 1983, from Willamette Industries, Inc., and recorded in the Office of the Clerk of Hancock County, in Deed Book 94, page 65.

LESS AND EXCEPTED 0.182 acres conveyed to County of Hancock by deed dated August 28, 1990, of record in Deed Book 103, page 465, Office of the Hancock County Court Clerk.

ALSO LESS AND EXCEPTED 0.003 acres conveyed to Willamette Industries, Inc. by deed dated August 28, 1990, of record in Deed Book 103, page 468, Office aforesaid.

**HANCOCK COUNTY - COLEMAN EHV SUBSTATION**  
**(20.0 Acres)**

A certain tract of land described in a deed dated November 18, 1981, from C. Waitman Taylor, Jr., and Margaret Taylor, husband and wife, recorded in the Office of the Clerk of Hancock County, in Deed Book 92, page 548, subject to mineral reservations of record.

**HEADQUARTERS PARKING - THIRD AND WATER STREETS**  
**(Four Lots)**

Four certain tracts of land described in deeds dated February 10, 1981, from A.D. Sprague, III, and Barbara Q. Sprague, husband and wife, recorded in the Office of the Clerk of Henderson County, in Deed Book 324, page 418; Deed Book 324, page 419; Deed Book 324, page 420; and Deed Book 324, page 421, Office aforesaid.

Big Rivers Electric Corporation conveyed "New Lot 2" as shown on the plat of record in Plat Book 7, page 799, Office of the Henderson County Court Clerk, to Western Kentucky Energy Corp. by deed dated September 19, 2000 of record in Deed Book 499, page 188, Office aforesaid. Western Kentucky Energy Corp. conveyed "New Lot 2" of the subject property to Big Rivers Electric Corporation by deed dated July 16, 2009, of record in Deed Book \_\_\_\_\_, page \_\_\_\_\_, Office of the Henderson County Court Clerk.

**HOPKINS COUNTY - HOPKINS COUNTY SUBSTATION**  
**(11.78 Acres)**

A certain tract of land described in a deed dated November 24, 1980, from Leota F. Rice and First Kentucky Trust Company of Louisville, co-executors of the Estate of Than G. Rice, deceased, and as testamentary trustees under the will of said Than G. Rice, deceased; Leota F. Rice, widow; Caroline Rice Moore, unmarried; Myra Adams and Freeman Adams, husband and wife; and Robert Rice and Joyce Rice, husband and wife, grantors, to the Mortgagor, as grantee, and recorded in the Office of the Clerk of Hopkins County, in Deed Book 413, page 433.

LESS AND EXCEPT 1.612 acres conveyed to Kenergy Corporation by Big Rivers Electric Corporation, by deed dated

June 12, 2002, of record in Deed Book 609, page 220, Office of the Hopkins County Court Clerk.

**LIVINGSTON COUNTY - LIVINGSTON COUNTY SUBSTATION**  
**(9.98 Acres)**

A certain tract of land described in a deed dated October 4, 1980, from Cleveland Walker and Jean Walker, husband and wife, recorded in the Office of the Clerk of Livingston County, in Deed Book 138, page 212, with general warranty as to the surface and one-third of the minerals underlying the surface.

**McCRACKEN COUNTY - 69 KV TRANSMISSION FACILITIES**  
**(Lot)**

A certain tract of land described in a deed dated February 5, 1983, from Buford Potts, unmarried, recorded in the Office of the Clerk of McCracken County, in Deed Book 651, page 785.

**McCRACKEN COUNTY - ST. JOHN MICROWAVE SITE**  
**(Approximately 2500 Square Feet)**

A certain tract of land described in a deed dated March 29, 1982, from Florence Scheer, widow, and Joyce Ann Alexander and Joe T. Alexander, husband and wife, recorded in the Office of the Clerk of McCracken County, in Deed Book 644, page 386.

**McCRACKEN COUNTY - BRYANT ROAD SUBSTATION**  
**(13.510 Acres)**

A certain tract of land described in a deed dated August 1, 1984, from Edgar L. Conner and Karen J. Conner, husband and wife, recorded in the Office of the Clerk of McCracken County, in Deed Book 666, page 704.

**MEADE COUNTY - MEADE SWITCHING STATION**  
**(0.879 Acre)**

A certain tract of land described in a deed dated June 19, 1980, from Meade County Rural Electric Cooperative Corporation, recorded in the Office of the Clerk of Meade County, in Deed Book 168, page 87.

**OHIO COUNTY - HARTFORD MICROWAVE SITE**  
**(Approximately 2500 Square Feet)**

A certain tract of land described in a deed dated July 16, 1981, from Homer G. Roach and Mary Roach, husband and wife, recorded in the Office of the Clerk of Ohio County, in Deed Book 241, page 287.

**OHIO COUNTY - WILSON STATION RAILROAD SPUR**  
**(5.369 Acres)**

A certain tract of land described in a deed dated August 5, 1980, from Carlos Lee Brown and Lou Verna Brown, husband and wife, recorded in the Office of the Clerk of Ohio County, in Deed Book 237, page 434. The coal and other minerals were excepted from this conveyance.

**OHIO COUNTY - WILSON STATION RAILROAD SPUR**  
**(37.553 Acres)**

A certain tract of land described in a deed dated June 18, 1980, from Peabody Coal Company and Beaver Dam Coal Company, recorded in the Office of the Clerk of Ohio County, in Deed Book 237, page 103.

**OHIO COUNTY - WILSON PLANT SITE**  
**(2 Tracts totaling 48.41 Acres)**  
**AND RAILROAD SPUR (4 tracts totaling 16.167 Acres)**

Certain tracts of land described in a commissioner's deed dated September 3, 1982, from Betty White, Master Commissioner of the Ohio Circuit Court, for and on behalf of Rex Igleheart and Margaret Igleheart, husband and wife, Green River Production Credit Association, and the Farmer's Home Administration, recorded in the Office of the Clerk of Ohio County, in Commissioners Deed Book N, page 510.

**OHIO COUNTY - WILSON STATION**  
**(1/8 Acre)**

A certain tract of land described in a deed dated October 31, 1980, from Estle Dutschke, single, recorded in the Office of the Clerk of Ohio County, in Deed Book 238, page 372.

**OHIO COUNTY - WILSON STATION RAILROAD SPUR**  
**(2.53 Acres)**

A certain tract of land described in a commissioner's deed dated October 6, 1981, from Betty White, Master Commissioner of the Ohio Circuit Court, for and on behalf of Marvin Boling and Maude Boling, husband and wife, recorded in the Office of the Clerk of Ohio County, in Commissioners Deed Book N, page 429.

**OHIO COUNTY - WILSON STATION RAILROAD SPUR**  
**(1.969 Acres)**

A certain tract of land described in a deed dated January 26, 1981, from Peabody Coal Company and Beaver Dam Coal Company, recorded in the Office of the Clerk of Ohio County, in Deed Book 239, page 487.

**OHIO COUNTY - WILSON STATION RAILROAD SPUR**  
**(11.934 Acres)**  
**(2 Tracts: 10.668 acres and 1.266 acres)**

Two certain tracts of land described in a deed dated September 17, 1980, from Elizabeth R. Johnson, unmarried, recorded in the Office of the Clerk of Ohio County, in Deed Book 237, page 806.

**WEBSTER COUNTY - GREEN PLANT SITE**  
**(22.43 Acres)**

A certain tract of land described in a deed dated July 16, 1980, from the Commonwealth of Kentucky, by George Atkins, Secretary of the Department of Finance, Commonwealth of Kentucky, recorded in the office of the Clerk of Webster County, in Deed Book 181, page 184.

**WEBSTER COUNTY - GREEN PLANT SITE**  
**(Two Parcels)**

Two certain tracts of land described in a deed dated February 4, 1981, from Danny D. O'Nan and Sue O'Nan, husband and wife, recorded in the Office of the Clerk of Webster County, in Deed Book 182, page 264.

**WEBSTER COUNTY - GREEN PLANT SITE**  
**(2 Acres)**

A certain tract of land described in a deed dated February 4, 1981, from Harold Wayne Burton and Alice C. Burton, husband and wife, recorded in the Office of the Clerk of Webster County, in Deed Book 182, page 267.

**MEADE COUNTY - LOT**

1.3672 acre lot described in the deed from Claude R. Stennett, et ux, dated January 22, 1989 of record in Deed Book 281, page 118, Office of the Meade County Court Clerk.

**0.129 ACRES LOCATED IN BRECKINRIDGE COUNTY**  
**YANCY PROPERTY**

A certain tract of land described in a deed dated November 14, 2007, from William D. Yancey and Kathleen A. Yancey,, his wife, and recorded in Deed Book 328, page 476, Office of the Breckinridge County Court Clerk.

**95.996 ACRES LOCATED IN BRECKINRIDGE COUNTY**  
**NEWBY PROPERTY**

A certain tract of land described in a deed dated January 7, 2008 from Paulette Curry and Thomas C. Brite, as Co-Executors of the Martha Marie Newby (a/k/a Marie Newby) Estate, and recorded in Deed Book 329, page 546, Office of the Breckinridge County Court Clerk.

**5.733 ACRES LOCATED IN MEADE COUNTY**  
**SPINK PROPERTY**

A certain tract of land described in a deed from Donald H. Spink and Mary Jo Spink, his wife, dated September 5, 2007, of record in Deed Book 530, page 608, Office of the Meade County Court Clerk.

**3.870 ACRES LOCATED IN DAVIESS COUNTY**  
**HAYNES TRUST PROPERTY**

A certain tract of land described in a deed dated February 21, 2007, from James I. Haynes, Trustee of the James I. Haynes Trust dated



the 28th day of May, 2002, and recorded in Deed Book 828, page 986, Office of the Daviess County, Kentucky Court Clerk.

**9.537 ACRES LOCATED IN CALDWELL COUNTY**  
**SIGLER PROPERTY**

A certain tract of land described in a deed from Gerald W. Sigler and Sandra K. Sigler, his wife, dated April 17, 2003, of record in Deed Book 239, page 115, Office of the Caldwell County Clerk.

**8.440 ACRES LOCATED IN MARSHALL COUNTY**  
**RUDOLPH/BARRETT PROPERTY**

A certain tract of land described in a deed from Boverda Rudolph, et al, dated April 16, 2009, of record in Deed Book 390, page 48, Office of the Marshall County Court Clerk.

**HANCOCK COUNTY - LCC, LLC PROPERTY**  
**(159.537 acres, 144.69 acres, 145.34 acres and 3.37 acres)**

A certain tract of land described in a deed dated the \_\_\_\_\_ day of \_\_\_\_\_, 2009, from LCC, LLC, a Kentucky limited liability company, record in Deed Book \_\_\_\_\_, page \_\_\_\_\_, Office of the Hancock County Court Clerk.

INDENTURE  
EXHIBIT

EXHIBIT B  
SCHEDULE OF CERTAIN CONTRACTS INCLUDED IN TRUST ESTATE

1. Wholesale Power Contract made as of October 14, 1977, between the Company and Jackson Purchase Rural Electric Cooperative Corporation, as amended.
2. Wholesale Power Contract made as of June 11, 1962 between the Company and Meade County Rural Electric Cooperative Corporation, as amended.
3. Wholesale Power Contract made as of June 11, 1962 between the Company and Kenergy Corp. (successor by consolidation to Henderson Union Electric Cooperative Corp.), as amended.
4. Wholesale Power Contract made as of June 11, 1962 between the Company and Kenergy Corp. (successor by consolidation to Green River Electric Corporation), as amended.
5. Agreement dated October 12, 1974 by and between the Company and Kenergy Corp. (successor by consolidation to Henderson Union Electric Cooperative Corp.), as amended.
6. Agreement dated October 12, 1974 by and between the Company and Kenergy Corp. (successor by consolidation to Green River Electric Corporation) as amended and restated by an Agreement dated February 16, 1988, as amended.
7. Agreements dated as of July 15, 1998 between the Company and Kenergy Corp. (successor by consolidation to Green River Electric Corporation and Henderson Union Electric Cooperative Corp.).
8. Power Plant Construction and Operation Agreement between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
9. Power Sales Contract between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
10. Joint Facilities Agreement between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
11. Wholesale Electric Service Agreement (Alcan) dated July 16, 2009 by and between the Company and Kenergy Corp.

12. Wholesale Electric Service Agreement (Century) dated as of July 16, 2009 by and between the Company and Kenergy Corp.
13. Coordination Agreement dated as of July 16, 2009 by and between the Company and Alcan Primary Products Corporation.
14. Coordination Agreement dated July 16, 2009 by and between the Company and Century Aluminum of Kentucky General Partnership.
15. Security and Lockbox Agreement (Alcan) dated as of July 16, 2009 by and among Old National Bank, the Company, Kenergy Corp., and Alcan Primary Products Corporation.
16. Security and Lockbox Agreement (Century) dated as of July 16, 2009 by and among Old National Bank, the Company, Kenergy Corp., and Century Aluminum of Kentucky General Partnership.
17. Parent Guarantee dated as of July 16, 2009 by Alcan Corporation in favor of Kenergy Corp., and the Company.
18. Parent Guarantee dated as of July 16, 2009 by Century Aluminum Company in favor of Kenergy Corp., and the Company.
19. Transaction Termination Agreement dated as of March 26, 2007, by and among the Company, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.
20. Indemnification Agreement dated as of July 16, 2009 by and between the Company and Western Kentucky Energy Corp.

EXHIBIT C  
SCHEDULE OF EXISTING OBLIGATIONS

Series 1983 Revenue Bond Obligations

- (1) Ambac Municipal Bond Insurance Policy Series 1983 Note, dated July 16, 2009, made by the Company to Ambac Assurance Corporation, (“Ambac”) reflecting the Company’s obligation to pay Ambac for any payments of principal and interest in respect of the \$58,000,000 County of Ohio, Kentucky Pollution Control Float Rate Demand Bonds, Series 1983 maturing on June 1, 2013.

Address: Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004

County and  
State of Residence: New York County, New York

- (2) Big Rivers Electric Corporation Standby Bond Purchase Agreement Note (Series 1983 Bonds), dated July 16, 2009, made by the Company to Dexia Credit Local, in an amount equal to the principal and interest due on any of the \$58,000,000 County of Ohio, Kentucky Pollution Control Floating Rate Demand Bond, Series 1983 purchased by Dexia pursuant to the Standby bond Purchase Agreement identified in such Note maturing June 1, 2013.

Address: Dexia Crédit Local New York Branch  
445 Park Avenue, 7th floor  
New York, New York 10022

County and  
State of Residence: New York County, New York

Series 2001A Revenue Bond Obligations

Big Rivers Electric Corporation FCB Series 2001A Note, dated July 16, 2009, made by the Company to the County of Ohio, Kentucky and endorsed to U.S. Bank Trust National Association, as trustee, in the maximum principal amount of \$83,000,000 maturing on October 1, 2022.

Address: U.S. Bank National Association  
60 Livingston Avenue

EP-MN-WS3C  
St. Paul, MN 55107-2292

County and  
State of Residence: Ramsey County, Minnesota

**RUS Obligations**

- (i) RUS 2009 Promissory Note Series A, dated July 16, 2009, made by the Company to the United States of America, in the principal amount of \$602,573,536, maturing on July 1, 2021.
- (ii) RUS 2009 Promissory Note Series B, dated July 16, 2009, made by the Company to the United States of America, in the amount at final maturity of \$245,530,257.30, maturing on December 31, 2023.

YEAR	MONTH	ACCELERATION PERCENTAGE
2009	July	37.96%
2009	October	38.59%
2010	January	39.25%
2010	April	39.92%
2010	July	40.59%
2010	October	41.25%
2011	January	41.97%
2011	April	42.68%
2011	July	43.39%
2011	October	44.10%
2012	January	44.87%
2012	April	45.63%
2012	July	46.39%
2012	October	47.15%
2013	January	47.97%
2013	April	48.78%
2013	July	49.59%
2013	October	50.41%
2014	January	51.28%
2014	April	52.15%
2014	July	53.02%
2014	October	53.89%
2015	January	54.82%
2015	April	55.75%
2015	July	56.69%
2015	October	57.62%
2016	January	58.61%
2016	April	59.61%
2016	July	60.60%
2016	October	61.60%
2017	January	62.66%
2017	April	63.73%

YEAR	MONTH	ACCELERATION PERCENTAGE
2017	July	64.79%
2017	October	65.85%
2018	January	66.99%
2018	April	68.13%
2018	July	69.27%
2018	October	70.40%
2019	January	71.62%
2019	April	72.84%
2019	July	74.05%
2019	October	75.27%
2020	January	76.57%
2020	April	77.87%
2020	July	79.17%
2020	October	80.47%
2021	January	81.86%
2021	April	83.25%
2021	July	84.64%
2021	October	86.03%
2022	January	87.52%
2022	April	89.00%
2022	July	90.49%
2022	October	91.98%
2023	January	93.56%
2023	April	95.15%
2023	July	96.74%
2023	October	98.33%
2024	January	100.00%

Address: Rural Utilities Service  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Room 4051  
Washington, D.C. 20250-1500

County and  
State of Residence: Washington, D.C.



**2009004088**

BRECKINRIDGE CO, KY FEE \$551.00

PRESENTED / LODGED: 07-16-2009 08:00 AM

RECORDED: 07-16-2009

JILL IRWIN

CLERK

BY: GEORGEANNA RHODES

CHEIF DEPUTY

**BK: MTG 354**

**PG: 533-713**

441 P3

## REIMBURSEMENT AGREEMENT

Reimbursement Agreement, dated as of [\_\_\_\_], 2010 (this "Agreement") between **National Rural Utilities Cooperative Finance Corporation** ("CFC"), a cooperative association existing under the laws of the District of Columbia, and **Big Rivers Electric Corporation** (the "Company"), an electric cooperative corporation existing under the laws of the Commonwealth of Kentucky.

### RECITALS

**Whereas**, the County of Ohio, Kentucky (the "Issuer") and US Bank National Association, as Trustee (the "Trustee") will enter into or have entered into a trust indenture (the "Trust Indenture"), under which the Issuer will issue Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) in the aggregate principal amount of \$83,300,000 (the "Bonds"); and

**Whereas**, the Company and the Issuer have entered into a loan agreement under which the Issuer will provide a loan to the Company to refinance the Facilities by refunding the Refunded Bonds (the "Loan Agreement"); and

**Whereas**, the obligations of the Company pursuant to Section 5.1 of the Loan Agreement will be evidenced by the Company's First Mortgage Note payable to the order of the Issuer, for endorsement to the Trustee (the "Note"), which will be secured by the Big Rivers Indenture (as defined in the Trust Indenture); and

**Whereas**, the closing date for the issuance shall be the date upon which all conditions precedent to the issuance of the Bonds have been met and the Bonds have been issued by the Issuer (the "Closing Date"); and

**Whereas**, at the request of the Company, CFC has agreed to provide Credit Enhancement under the Trust Indenture by entering into a guaranty agreement with the Trustee, under which CFC will unconditionally guaranty payment of principal and interest on the Bonds under the terms set forth therein (the "Guaranty"); and

**Whereas**, the Company has agreed (i) to pay CFC the Guaranty Fee (as hereinafter defined), and (ii) to reimburse CFC for principal and interest payments made and expenses incurred by CFC pursuant to the Guaranty, and

**Whereas**, the Company has further agreed to purchase a Subordinated Term Certificate issued by CFC (the "STC") with funds borrowed under the terms of a loan agreement with CFC (the "CFC Loan Agreement"), and in connection therewith, to execute a promissory note payable to CFC (the "Equity Note");



**Now, Therefore,** for and in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, CFC and the Company agree and bind themselves as follows:

**ARTICLE I  
REPRESENTATIONS AND WARRANTIES**

**Section 1.01. The Company.** The Company represents and warrants to CFC as follows:

(a) The Company's principal executive office and chief place of business is located at the address stated herein as the address for notices to the Company.

(b) The Company (i) has been duly incorporated and is in good standing under the laws of Kentucky; (ii) is qualified to do business and is in good standing as a foreign corporation in each other state or other jurisdiction wherein the properties its owns or leases in such jurisdictions, or the nature of the business it transacts there, makes such qualification necessary; (iii) has complied in all material respects with the laws of such jurisdictions to the extent reasonably required for the maintenance and operation of its properties and business taken as a whole, except to the extent that the failure to so comply would not have a material adverse effect on the business or properties of the Company; (iv) holds all certificates, licenses, consents or approvals of governmental authorities that are required in order for the Company to engage in the business it transacts, except to the extent that the failure to hold any such certificates, licenses, consents or approvals would not have a material adverse effect on the business or properties of the Company.

(c) The Company has the power and authority to execute, deliver and perform its obligations under, this Agreement, the Loan Agreement, the Note, the CFC Loan Agreement, the Equity Note, the Big Rivers Indenture, the Guaranty, the Company Letter of Representation executed by the Company in connection with this bond issuance (such documents and instruments, collectively, the "Company Documents"). The Company has duly authorized the performance of each Company Document. Each of the Company Documents, when executed and delivered, and in the case of the Note, authenticated, will have been duly authorized, executed and delivered by the Company and will constitute a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms (subject, as to the enforcement of remedies, to any applicable bankruptcy, reorganization, insolvency or other similar laws affecting creditors' rights generally). The Note has been duly authorized, executed and delivered under the Big Rivers Indenture, and is entitled to the benefits and security afforded thereby.

(d) The execution and delivery of the Company Documents, the performance of the Company's obligations thereunder, and the consummation of the transactions contemplated thereby, does not and will not (i) violate any provision of law, any order, rule or regulation of any court or other agency of government, any award of any arbitrator, the articles of incorporation or bylaws of the Company, or any indenture, contract, agreement, mortgage, deed of trust or other

instrument to which the Company is a party or by which it or any of its property is bound (including the Big Rivers Indenture), (ii) be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time or both) a default under any such award, indenture, contract, agreement, mortgage, deed of trust or other instrument (including the Big Rivers Indenture), or (iii) result in the creation or imposition of any lien upon any of the property or assets of the Company other than liens created or imposed by the terms of the Big Rivers Indenture and the Trust Indenture.

(e) The Official Statement, dated [\_\_\_\_], 2010 as amended or supplemented (the "Official Statement") does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that the Company makes no representation as to information contained under the heading "Underwriting." The financial data with respect to the Company contained in the Official Statement has been prepared in accordance with generally accepted accounting principles applied on a consistent basis. The financial statements of the Company contained in the Official Statement describing the Company present fairly the financial position of the Company on and as of the dates indicated and the results of operations and changes in financial position of the Company for the periods covered, in conformity with generally accepted accounting principles applied on a consistent basis. There has been no material adverse change in such financial condition.

(f) There is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any judicial or administrative court, agency, department, board or instrumentality or before any arbitrator, pending or threatened against or affecting the Company wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated by this Agreement or the validity or enforceability of the Bonds, the Trust Indenture, the Guaranty, or any of the Company Documents.

(g) The Company has the power and authority to own, operate and maintain its properties and to carry on its business conducted or to be conducted by it as described in the Official Statement.

(h) The Company possesses good and marketable title to all real property, and good title to all personal property comprising part of the Trust Estate (as defined in the Big Rivers Indenture), in each case, free and clear of all liens and encumbrances other than the Big Rivers Indenture and those liens and encumbrances it permits, or liens and encumbrances with respect to which the Company has obtained all required consents or waivers.

(i) Except for the Company Documents, the Company has not signed any security agreement or filed any financing statement with respect to the Collateral, other than any such documents signed in connection with those liens and encumbrances permitted by the Big Rivers Indenture, or with respect to liens and encumbrances for which the Company has obtained all required consents or waivers. The Big Rivers Indenture constitutes a first lien on the Collateral, subject to Permitted Exceptions (as defined in the Big Rivers Indenture). There is no Event of Default (as defined in the Big Rivers Indenture) or event constituting default that with the giving

of notice or the passage of time would constitute an Event of Default (as defined in the Big Rivers Indenture).

(j) The Company has obtained all necessary approvals from the United States Department of Agriculture Rural Utilities Service, and requires no other license, consent or approval of any governmental authority to enable the Company to enter into this Agreement, the Company Documents, or to perform any of its obligations provided for herein or therein.

**Section 1.02. Survival.** All representations, warranties, agreements and covenants made by the Company in this Agreement or in any certificate delivered pursuant hereto shall survive (a) the making of any payment by CFC pursuant to the Guaranty and (b) notwithstanding the cancellation, termination, enforceability, or other legal status of the Bonds, the Trust Indenture, the Guaranty, or any of the Company Documents.

## ARTICLE II SUBORDINATED TERM CERTIFICATE; FEES

**Section 2.01. STC Purchase.** As conditions precedent to the execution and delivery by CFC of the Guaranty, the Company shall (a) duly authorize, execute and deliver to CFC the CFC Loan Agreement and Equity Note, and (b) purchase with the proceeds therefrom an STC in the amount of the Equity Note.

**Section 2.02. Fees and Costs.** The Company shall pay to CFC the following:

(a) Guaranty Fee. On the Closing Date and quarterly thereafter, the Company shall pay to CFC a non-refundable guaranty fee equal to the rate per annum, specified in a separate letter agreement between the Company and CFC, on the aggregate principal amount of Bonds outstanding (the "Guaranty Fee"). The initial Guaranty Fee shall be based upon the aggregate principal amount of Bonds outstanding on the Closing Date, and shall be calculated for the period from the Closing Date through March 31, 2010. Each calendar quarter thereafter, the Guaranty Fee shall be payable in advance, based upon the aggregate principal amount of Bonds outstanding and shall not be adjusted for any principal payments made during such period (whether by amortization, prepayment, acceleration, redemption or otherwise). CFC shall invoice the Company for the Guaranty Fee at the end of each calendar quarter following the Closing Date. For as long as the Guaranty is in effect, the Company shall pay the Guaranty Fee in the amount invoiced within 10 days of receipt thereof, and CFC's calculation of the invoiced amount shall be conclusive absent manifest error.

(b) Other Costs. The Company shall pay any and all costs that (1) the Company is obligated to pay under the Company Documents, (2) are incurred by CFC and not otherwise reimbursed that are related to the offering, sale or resale of the Bonds (regardless of whether such offering, sale or resale is consummated), including without limitation any obligations CFC has or may subsequently undertake to indemnify any party in connection therewith, all expenses it incurs or payments it is required to make under such indemnifications, the fees and expenses of all counsel, accountants, the Trustee, the Issuer and governmental authorities, and (3) are

incurred by CFC in connection with the enforcement of remedies hereunder or on its behalf by the Trustee under the Big Rivers Indenture and, if CFC has reasonable grounds to believe that such enforcement will be necessary, in connection with its preparation for such enforcement. Notwithstanding any other provision of this Agreement, the covenants contained in this subsection (b) shall survive the termination of this Agreement, and shall remain in effect until said covenant shall have been satisfied. In addition the Company will pay CFC upon demand, an amount equal to all payments made by CFC under the Guaranty.

### **ARTICLE III COVENANTS**

**Section 3.01. Recordation, Company Information, Company Compliance.** During the term of this Agreement, the Company shall:

(a) Cause the Big Rivers Indenture, any and all supplements thereto, any required financing and continuation statements and all other required papers to be filed and recorded, as applicable, in such manner and in such places required by law in order to perfect and to maintain perfection of the security interests granted in such instruments, and the Company shall pay all taxes and fees incidental thereto.

(b) Furnish to CFC each year, commencing in 2010, a copy of the opinion of counsel delivered to the trustee under the Big Rivers Indenture pursuant to Section 13.5B thereof, together with a letter of such counsel authorizing CFC to rely upon such opinion.

(c) Remain a member of CFC.

(d) Within 60 days after the close of each calendar year, deliver to CFC a written statement signed by its President and CEO, stating that such individual has furnished to the governing board of the Company a report of the activities of the Company, and of its performance under the Company Documents during such year, and that to the best of such person's knowledge, the Company has fulfilled all of its obligations under the Company Documents throughout such year, or if there has been a default in the fulfillment of any such obligations, specifying each such default and the nature and status thereof.

(e) Not create, incur, assume or suffer to exist any security interest, lien, charge or encumbrance on or of the Collateral, whether now owned or hereafter acquired, except those liens and encumbrances permitted by the Big Rivers Indenture, contemplated in the Company Documents.

(f) Provide to CFC such financial and other information about its business operations as CFC deems necessary in order to update information contained in any disclosure document issued in connection with the Bonds.

(g) Cause the proceeds from the sale of the Bonds to be applied solely for the purposes set forth in the Official Statement .

(h) Comply with all covenants and otherwise fulfill all of its obligations under the Company Documents.

(i) Comply with all covenants and otherwise fulfill all of its obligations under the Big Rivers Indenture and any credit agreement governing indebtedness secured by the Big Rivers Indenture.

(j) Promptly notify CFC in writing of any inquiry or audit by the Internal Revenue Service concerning the Bonds and of the response thereto concerning the same, and keep CFC advised concerning the progress of any such audit or inquiries and responses thereto.

(k) Take no action, or fail to take any action, that results in the loss of the exemption from Federal income taxation of the interest on the Bonds.

(l) At the request of CFC, provide (i) current information with respect to the Company in such detail as may be reasonably requested by CFC, (ii) financial statements of the Company covering such periods and in such detail as may be reasonably requested by CFC, including but not limited to its audited financial statements for the prior year within 30 days after such audited financial statements become available, and (iii) opinions of counsel, letters from its independent public accountants and representations and indemnities of the Company substantially equivalent to those provided in connection with the issuance of the Bonds under the Trust Indenture.

(m) Comply with its obligations under the Continuing Disclosure Undertaking of the Company.

(n) Not amend the Company Documents (other than the Big Rivers Indenture) without the prior written consent of CFC.

(o) Upon the direction of CFC, Company will exercise its rights under the Big Rivers Indenture to cause the removal of the Trustee.

**Section 3.02. Official Statement.** The Company consents to the use of the Official Statement and the information with respect to the Company contained therein, in connection with the offering and sale of the Bonds. The Company agrees that if, during such time as the Official Statement is used in connection with the offering and sale of the Bonds, any event known to the Company relating to or affecting the Company, the Issuer, the Facilities, the Trust Indenture, the Company Documents, or the Guaranty Agreement shall occur which might affect the correctness or completeness of any statement of a material fact contained in the Official Statement, the Company will promptly notify CFC of the circumstances and details of such event, provided that the Company makes no representation as to information contained under the heading "Underwriting."

**Section 3.03. Indemnity.** The Company shall indemnify and hold harmless CFC and its directors, officers, employees, agents, attorneys and representatives (each an "Indemnitee") for, from, and against all claims, damages, losses, liabilities, costs, and expenses (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees), and shall reimburse each Indemnitee for any legal or other expenses incurred by them in connection with investigating any claims and defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon (1) any untrue statement or alleged untrue statement of a material fact contained in the Official Statement, or any amendment or supplement thereto, or arise out of or are based upon any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that the Company makes no representation as to information contained under the heading "Underwriting" and "National Rural Guaranty Agreement", (2) any violation of law, rule or regulation, negligence, or willful misconduct by the Company or its employees, agents, directors or officers or (3) breach or default of the Company's obligations under any of the Company Documents. Promptly after receipt by an Indemnitee of notice of the commencement of any action against it in respect of which indemnity hereunder may be sought, CFC shall notify the Company in writing of the commencement thereof. The Company shall, upon request of CFC, assume the defense thereof with counsel satisfactory to CFC, but the Company shall have no right to assume the defense unless agreed to by CFC. The Company shall not be liable for any settlement of any action or claim covered by the foregoing indemnity entered into without its consent, which consent shall not be unreasonably withheld. The indemnity and other obligations set forth in this paragraph are solely for the benefit of CFC, each officer and director of CFC. Neither the Company, its successors or assigns, nor any other person shall acquire or have any indemnity right under or by virtue hereof. The obligations imposed upon the Company by this paragraph shall survive the repayment of the Note, the termination of this Agreement and the termination or release of the lien of the Big Rivers Indenture.

**Section 3.04. Opinions and Approvals.** On the Closing Date (a) the Company shall furnish to CFC opinions of counsel for the Company, dated as of the Closing Date, in a form reasonably acceptable to CFC and its counsel, and (b) deliver to CFC certified copies of all consents, licenses and approvals of governmental authorities that must be obtained in connection with this transaction.

#### **ARTICLE IV EVENTS OF DEFAULT**

**Section 4.01. Defaults.** Each of the following shall be an "Event of Default" under this Agreement:

(a) any representation or warranty made by the Company in Section 1.1 or in any certificate furnished by the Company hereunder shall in any material respect prove to have been incorrect at the time made;

(b) the Company's breach of, or its failure to perform, any covenant contained herein, provided, however, that such breach or failure with respect to the covenants contained in Section 3.1 (b), (c), (d), (f), (g), (h), (i), (j) and (m) shall not be an Event of Default unless such breach or failure shall remain unremedied for 20 days after written notice thereof shall have been given to the Company by CFC;

(c) any license, consent or approval of any governmental body or other regulatory authority required for the consummation of any transaction contemplated by this Agreement or necessary to the operation of the Company's business substantially as now conducted shall have been revoked, withdrawn, materially modified or withheld or shall otherwise fail to remain in full force and effect;

(d) the Company's failure to pay any obligation, whether direct or contingent, for borrowed money in excess of \$10,000,000;

(e) the Company shall cease to operate a substantial part of its electric system;

(f) the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any substantial part of its property, or make any general assignment for the benefit of creditors;

(g) a decree or order for relief shall be entered by a court or appropriate jurisdiction in respect of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company or for any substantial part of its property or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days;

(h) other than as provided in subsections (f) and (g) above, the dissolution or liquidation of the Company, or failure by the Company promptly to forestall or remove any execution, garnishment or attachment of such consequence as will impair its ability to continue its business or fulfill its obligations. The term "dissolution or liquidation of the Company," as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Company resulting either from a merger or consolidation of the Company into or with another corporation or a dissolution or liquidation of the Company following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions;

**Section 4.02. Remedies.** Upon an Event of Default, CFC may exercise any and all remedies available to it, whether at law or in equity, including without limitation suits or actions for damages, to collect sums owed it, for specific performance and for injunction or other or additional appropriate legal or equitable remedies, *provided, however*, that the occurrence of an Event of Default shall not relieve CFC of its obligations undertaken under the Guaranty.

**ARTICLE V  
MISCELLANEOUS**

**Section 5.01. No Modifications.** The Company shall not, without CFC's prior written approval, agree to any supplement to, or amendment or modification of, the Trust Indenture, the Loan Agreement, the Note or the Bonds, or to the rescission, waiver, release or termination of any provisions of any such instruments. This Agreement may only be amended in a writing executed by both parties.

**Section 5.02. Governing Law.** This Agreement shall be deemed to be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia. The Company hereby submits to the non-exclusive jurisdiction of the United States courts located in Virginia and of any state court so located for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Company irrevocably waives, to the fullest extent permitted by applicable law, any objections that it may now or hereafter have to the establishing of the venue of any such proceedings brought in such a court and any claim that any such proceeding has been brought in an inconvenient forum. The Company and CFC each hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

**Section 5.03. Transmittal of Notices.** Any notice, request, complaint, demand, communication or other paper hereunder shall be sufficiently given and shall be deemed given when delivered, or mailed by certified mail, postage prepaid, or sent by telecopy (with confirmation of receipt thereof), addressed as set forth below. Each party may designate by notice in accordance herewith any further or different addresses to which subsequent notices, certificates or other communications shall be sent.



If to the Company:

Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42420  
Attention: President and Chief Executive Officer  
Telephone: 270-827-2561  
Facsimile: 270-827-2558  
E-mail: Mark.Bailey@BigRivers.com

If to the Guarantor:

National Rural Utilities Cooperative Finance Corporation  
2201 Cooperative Way  
Herndon, VA 20171  
Attention: General Counsel  
Telephone: 703-709-6700  
Facsimile: 703-709-6774  
E-mail: [john.list@nrucfc.coop](mailto:john.list@nrucfc.coop)

**Section 5.04. No Waivers.** No failure or delay by CFC in exercising any right, power or privilege hereunder or under the Trust Indenture shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

**Section 5.05. Amendment and Waivers.** Any provision of this Agreement may be amended or waived only in a writing executed by the parties hereto.

**Section 5.06. Successors and Assigns.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**Section 5.07. Term.** The term of this Agreement shall extend through the date that the Company has fulfilled all of its obligations hereunder.

**Section 5.08. Severability of Provisions.** The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

**Section 5.09. Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 5.10. Definitions.** Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Indenture.

**Section 5.11. Recitals.** The clauses set forth above under the heading "RECITALS" are hereby incorporated by reference and made a part of this Agreement.

**Section 5.12. Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of the provisions or sections hereof.

**[EXECUTION ON FOLLOWING PAGE]**

**In Witness Whereof**, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first set forth above.

**National Rural Utilities Cooperative Finance Corporation,**

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

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

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

**Big Rivers Electric Corporation**

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

Name: Mark A. Bailey

Title: President and Chief Executive Officer



## EQUITY LOAN AGREEMENT

**THIS EQUITY LOAN AGREEMENT** (this "Agreement") dated as of \_\_\_\_\_ 2010, between BIG RIVERS ELECTRIC CORPORATION ("Borrower"), a Kentucky corporation organized and existing under the laws of the Commonwealth of Kentucky and NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION ("CFC"), a cooperative association organized and existing under the laws of the District of Columbia.

### RECITALS

**WHEREAS**, the County of Ohio, Kentucky (the "Issuer") and U.S. Bank National Association, as Trustee (the "Trustee") have entered into a trust indenture (the "Trust Indenture"), under which the Issuer will issue the Pollution Control Refunding Revenue Bonds Series 2010A (Big Rivers Electric Corporation Project) in the aggregate principal amount of \$83,300,000 (the "Bonds", and the above-described issuance thereof, the "Bond Transaction"); and

**WHEREAS**, at the request of the Borrower, CFC has agreed to be the Guarantor under the Trust Indenture and to enter into a Guaranty Agreement (the "Guaranty"), under which CFC will unconditionally guaranty payment of principal and interest on the Bonds under the terms set forth in the Trust Indenture and the Guaranty; and

**WHEREAS**, in connection with the Guaranty, Borrower agrees, pursuant to the terms of a reimbursement agreement executed by and between the Borrower and CFC (the "Reimbursement Agreement"), to purchase, with funds borrowed under the terms of this Agreement, a Subordinated Term Certificate (as hereinafter defined) issued by CFC and in connection therewith, agrees to execute a promissory note payable to CFC in the aggregate principal amount of the CFC Commitment (as hereinafter defined); and

**WHEREAS**, the Borrower has applied to CFC for a loan for the purpose purchasing the Subordinated Term Certificate and CFC is willing to make such a loan to the Borrower on the terms and conditions stated herein; and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01** For purposes of this Agreement, the following capitalized terms shall have the following meanings (such definitions to be equally applicable to the singular and the plural form thereof). Capitalized terms that are not defined herein shall have the meanings as set forth in the Trust Indenture (as hereinabove defined).

**"Accounting Requirements"** shall mean any system of accounts prescribed by a regulatory authority having jurisdiction over the Borrower, or in the absence thereof, the requirements of GAAP applicable to businesses similar to that of the Borrower.

**"Advance"** shall mean the advance of funds by CFC to the Borrower pursuant to the terms and conditions of this Agreement.

**"Big Rivers Indenture"** shall have the meaning assigned to it in the Trust Indenture.

**"Business Day"** shall mean any day that both CFC and the depository institution CFC utilizes for funds transfers hereunder are open for business.

**"CFC Commitment"** shall have the meaning as defined in Schedule 1.

**"Default Rate"** shall mean a rate per annum equal to the interest rate in effect for the Advance plus two hundred basis points.

**"Equity Note"** shall mean the promissory note, payable to the order of CFC, executed by the Borrower, dated as of even date herewith, pursuant to this Agreement as identified on Schedule 1 hereto, and shall include all substitute, amended or replacement promissory notes therefor. The note also is referred to as the "Equity Note" in the Reimbursement Agreement.

**"Event of Default"** shall have the meaning as described in Article VI hereof.

**"GAAP"** shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

**"Governmental Authority"** shall mean the government of the United States of America, any other nation or government, any state or other political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**"Loan"** shall mean the loan made by CFC to the Borrower, pursuant to this Agreement and the Equity Note, in an aggregate principal amount not to exceed the CFC Commitment.

**"Loan Documents"** shall mean this Agreement, the Equity Note and all other documents or instruments executed, delivered or executed and delivered by the Borrower and evidencing, securing, governing or otherwise pertaining to, the Loan.

**"Maturity Date"** with respect to the Equity Note shall have the meaning ascribed to it therein.

**"Obligations"** shall mean any and all liabilities, obligations or indebtedness owing by the Borrower to CFC, of any kind or description, irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

**"Payment Date"** shall mean the last day of each of the months referred to in Schedule 1.

**"Payment Notice"** shall mean a notice furnished by CFC to the Borrower that indicates the amount of each payment of interest or interest and principal and the total amount of each payment due.

**"Person"** shall mean natural persons, cooperatives, corporations, limited liability companies, limited partnerships, general partnerships, limited liability partnerships, joint ventures, associations, companies, trusts or other organizations, irrespective of whether they are legal entities, and Governmental Authorities.

**"RUS"** shall mean the Rural Utilities Service, an agency of the United States Department of Agriculture, or if at any time after the execution of this Agreement RUS is not existing and performing the duties of administering a program of rural electrification as currently assigned to it, then the entity performing such duties at such time.

**"Subordinated Term Certificate"** or **"STC"** shall mean the evidence of Borrower's purchase of equity in CFC pursuant to the Reimbursement Agreement, whether certificated or in book entry form of account.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01** The Borrower represents and warrants to CFC that as of the date of this Agreement:

**A. Good Standing.** The Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, is duly qualified to do business and is in good standing in those states in which it is required to be qualified to conduct its business. The Borrower is a member in good standing of CFC.

**B. Authority; Validity.** The Borrower has the power and authority to enter into this Agreement and the Equity Note; to make the borrowing hereunder; to execute and deliver all documents and instruments required hereunder and to incur and perform the obligations provided for herein and in the Equity Note, each of which has been duly authorized by all necessary and proper action; and no consent or approval of any Person, including, as applicable and without limitation, members of the Borrower, which has not been obtained is required as a condition to the validity or enforceability hereof or thereof.

Each of this Agreement and the Equity Note is, and when fully executed and delivered will be, legal, valid and binding upon the Borrower and enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity.

**C. No Conflicting Agreements.** The execution and delivery of the Loan Documents and performance by the Borrower of the obligations thereunder, and the transactions contemplated hereby or thereby, will not: (i) violate any provision of law, any order, rule or regulation of any court or other agency of government, any award of any arbitrator, the articles of incorporation or by-laws of the Borrower, or any indenture, contract, agreement, mortgage, deed of trust or other instrument to which the Borrower is a party or by which it or any of its property is bound; or (ii) be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under, any such award, indenture, contract, agreement, mortgage, deed of trust or other instrument, or result in the creation or imposition of any Lien (other than contemplated hereby) upon any of the property or assets of the Borrower.

The Borrower is not in default in any material respect, under any agreement or instrument to which it is a party or by which it is bound and no event or condition exists which constitutes a default, or with the giving of notice or lapse of time, or both, would constitute a default under any such agreement or instrument.

**D. Taxes.** The Borrower has filed or caused to be filed all federal, state and local tax returns which are required to be filed and has paid or caused to be paid all federal, state and local taxes, assessments, and governmental charges and levies thereon, including interest and penalties to the extent that such taxes, assessments, and governmental charges and levies have become due, except for such taxes, assessments, and governmental charges and levies which the Borrower is contesting in good faith by appropriate proceedings for which adequate reserves have been set aside.

**E. Financial Statements.** The balance sheet of the Borrower as at the date identified in Schedule 1 hereto, the statement of operations of the Borrower for the period ending on said date, and the interim financial statements of the Borrower, all heretofore furnished to CFC, are complete and correct. Said balance sheet fairly presents the financial condition of the Borrower as at said date and said statement of operations fairly reflects its operations for the period ending on said date. The Borrower has no contingent obligations or extraordinary forward or long-term commitments except as specifically stated in said balance sheet or herein. There has been no material adverse change in the financial condition or operations of the Borrower from that set forth in said financial statements except changes disclosed in writing to CFC prior to the date hereof.

**F. Required Approvals.** No license, consent or approval of any Governmental Authority is required to enable the Borrower to enter into this Agreement and the Equity Note, or to perform any of its Obligations provided for in such documents, including without limitation (and if applicable), that of any state public utilities commission and any state public service commission, except as disclosed in Schedule 1 hereto, all of which the Borrower has obtained prior to the date hereof.



## ARTICLE III

### LOAN

**Section 3.01 The Advance.** CFC shall make a single Advance under this Agreement. Borrower hereby irrevocably authorizes and instructs CFC to make the Advance automatically and concurrently with CFC's delivery of the Guaranty upon closing of the Bond Transaction, equal to 14.29% of the aggregate principal amount of the Bonds. The aggregate principal amount at any one time outstanding under the Loan shall not exceed the CFC Commitment. The obligation of the Borrower to repay the Advance shall be evidenced by the Equity Note.

**Section 3.02 Term; Amortization.** The Advance shall amortize on the same basis and over the same term as principal is required to be repaid on the Bonds, provided, however, that such period shall not extend beyond the Maturity Date, and provided further, that the amount outstanding on the Advance shall at all times be equal to 14.29% of the outstanding principal amount of the Bonds.

**Section 3.03 Use of Proceeds.** The Advance shall be made solely to purchase the STC required under the terms of this Agreement.

**Section 3.04 Payment.** CFC will furnish to the Borrower a Payment Notice at least ten (10) days before each Payment Date, *provided, however*, that CFC's failure to send a Payment Notice shall not constitute a waiver by CFC or be deemed to relieve the Borrower of its obligation to make payments as and when due as provided for herein. On each Payment Date, the Borrower shall promptly pay interest and principal in the amounts then due. If not sooner paid, any amount due on account of the unpaid principal, interest accrued thereon and fees, if any, shall be due and payable on the Maturity Date.

**Section 3.05 Application of Payments.** Each payment shall be applied first to any fees, costs, expenses or charges other than interest or principal, second to interest accrued, and the balance to principal.

**Section 3.06 Interest Rate.** The Advance shall bear interest at a rate equal to the fixed rate then available from CFC for loans having the same term as the Bonds or such shorter period as may be established by CFC before the Advance is made, as in effect on the date of closing hereunder, which rate shall be fixed to the Maturity Date. Interest on the Advance shall be computed for the actual number of days elapsed on the basis of a year of 365 days. No provision of this Agreement or of the Equity Note shall require the payment, or permit the collection, of interest in excess of the highest rate permitted by applicable law.

**Section 3.07 Prepayment.** The Borrower may not prepay the Equity Note except upon the maturity or termination of the Guaranty and Reimbursement Agreement, and each of Borrower's obligations thereunder. In such event, no prepayment fees shall be charged.

**Section 3.08 Security.** Borrower agrees that CFC shall retain possession of the original STC (which may be in book entry form) as security against payment hereunder, and upon the occurrence of an Event of Default, may exercise setoff rights with respect thereto.

## ARTICLE IV

### CONDITIONS OF LENDING

**Section 4.01** The obligation of CFC to make the Advance hereunder is subject to satisfaction of the following conditions in form and substance satisfactory to CFC:

**A. Legal Matters.** All legal matters incident to the consummation of the Bond Transaction hereby contemplated shall be satisfactory to counsel for CFC.

**B. Documents.** CFC shall have been furnished with (i) the executed Loan Documents, (ii) certified copies of all such organizational documents and proceedings of the Borrower authorizing the transactions hereby contemplated as CFC shall require, (iii) an opinion of counsel for the Borrower addressing such legal matters as CFC shall reasonably require, and (iv) all other such documents as CFC may reasonably request.

**C. Government Approvals.** The Borrower shall have furnished to CFC true and correct copies of all certificates, authorizations, consents, permits and licenses from Governmental Authorities necessary for the execution or delivery of the Loan Documents or performance by the Borrower of the obligations thereunder.

**D. Representations and Warranties.** The representations and warranties contained in Article II shall be true on the date of the making of the Advance hereunder with the same effect as though such representations and warranties had been made on such date; no Event of Default and no event which, with the lapse of time or the notice and lapse of time would become such an Event of Default, shall have occurred and be continuing or will have occurred after giving effect to the Advance on the books of the Borrower.

**E. Special Conditions.** CFC shall be fully satisfied that the Borrower has complied with all special conditions identified in Schedule 1 hereto.

## ARTICLE V

### COVENANTS

**Section 5.01 Affirmative Covenants.** The Borrower covenants and agrees with CFC that until payment in full of the Equity Note and performance of all obligations of the Borrower hereunder:

**A. Loan Proceeds.** The Borrower shall use the proceeds of this Loan solely for the purposes identified on Schedule 1 hereto.

**B. Notice.** The Borrower shall promptly notify CFC in writing of:

- (i) any material adverse change in the business, operations, prospects, assets, liabilities or financial condition of the Borrower;
- (ii) the institution or threat of any litigation or administrative proceeding of any nature involving the Borrower which could materially affect the business,

operations, prospects, assets, liabilities or financial condition of the Borrower;

- (iii) the occurrence of an Event of Default hereunder, or any event that, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

**C. Default Notices.** Upon receipt of any notices with respect to a default by the Borrower under the terms of any evidence of any indebtedness with parties other than CFC or of any loan agreement, mortgage or other agreement relating thereto, the Borrower shall deliver copies of such notice to CFC.

**D. Annual Certificates.** Within one hundred twenty (120) days after the close of each calendar year, commencing with the year in which the initial Advance hereunder shall have been made, the Borrower will deliver to CFC a written statement, in form and substance satisfactory to CFC, signed by the Borrower's General Manager or Chief Executive Officer, stating that during such year, and that to the best of said person's knowledge, the Borrower has fulfilled all of its obligations under this Agreement and the Equity Note throughout such year or, if there has been a default in the fulfillment of any such obligations, specifying each such default known to said person and the nature and status thereof.

**E. Financial Books; Financial Reports; Right of Inspection.** The Borrower will at all times keep, and safely preserve, proper books, records and accounts in which full and true entries will be made of all of the dealings, business and affairs of the Borrower, in accordance with GAAP. The Borrower will cause to be prepared and furnished to CFC within one hundred twenty (120) days of the end of each of the Borrower's fiscal years during the term hereof a full and complete consolidated and consolidating report of its financial condition and of its operations as of the end of such fiscal year, audited and certified by independent certified public accountants nationally recognized or otherwise satisfactory to CFC and accompanied by a report of such audit in form and substance satisfactory to CFC, including without limitation a consolidated and consolidating balance sheet and the related consolidated and consolidating statements of income and cash flow. CFC, through its representatives, shall at all times during reasonable business hours and upon prior notice have access to, and the right to inspect and make copies of, any or all books, records and accounts, and any or all invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in anyway pertaining to its property or business.

**F. Taxes.** The Borrower shall pay, or cause to be paid all taxes, assessments or governmental charges lawfully levied or imposed on or against it and its properties prior to the time they become delinquent, except for any taxes, assessments or charges that are being contested in good faith and with respect to which adequate reserves as determined in good faith by the Borrower have been established and are being maintained.

**G. Special Covenants.** The Borrower agrees that it will comply with any special covenants identified in Schedule 1 hereto.

**Section 5.02 Negative Covenant – Change in Borrower Information.** The Borrower covenants and agrees with CFC that until payment in full of the Equity Note and performance of all obligations of the Borrower hereunder, the Borrower will not, directly or indirectly, without CFC's prior written consent change its (i) state of incorporation, (ii) legal name, (iii) mailing

address, or (iv) organizational identification number, if it has one, unless the Borrower provides written notice to CFC at least thirty (30) days prior to the effective date of any such change together with all documentation reflecting any such change as CFC may reasonably require.

## ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.01** The following shall be “Events of Default” under this Agreement:

**A. Representations and Warranties.** Any representation or warranty made by the Borrower herein, or in any of the other Loan Documents, or in any certificate or financial statement furnished to CFC hereunder or under any of the other Loan Documents shall prove to be false or misleading in any material respect.

**B. Payment.** The Borrower shall fail to pay (whether upon stated maturity, by acceleration, or otherwise) any principal, interest, premium (if any) or other amount payable under the Equity Note and the Loan Documents within five (5) Business Days after the due date thereof.

**C. Other Covenants.**

**(i) No Grace Period.** Failure of the Borrower to observe or perform any covenant or agreement contained in Sections 5.01.A, 5.01.C, 5.01.D, 5.01.E or 5.02 of this Agreement.

**(ii) Thirty Day Grace Period.** Failure of the Borrower to observe or perform any other covenant or agreement contained in this Agreement or any of the other Loan Documents, which shall remain unremedied for thirty (30) calendar days after written notice thereof shall have been given to the Borrower by CFC.

**D. Other CFC Obligations.** The Borrower shall be in breach or default of any Obligation, which breach or default continues uncured beyond the expiration of any applicable grace period.

**E. Other Obligations.** The Borrower shall (i) fail to make any payment of any principal, premium or any other amount due or interest on any indebtedness having a principal amount in excess of \$10,000 with parties other than CFC which shall remain unpaid beyond the expiration of any applicable grace period, or (ii) be in breach or default with respect to any other term of any evidence of any other indebtedness with parties other than CFC having a principal amount in excess of \$10,000,000 or of any loan agreement, mortgage or other agreement relating thereto which breach or default continues uncured beyond the expiration of any applicable grace period, if the effect of such failure, default or breach is to cause the holder or holders of that indebtedness to cause that indebtedness to become or be declared due prior to its stated maturity (upon the giving or receiving of notice, lapse of time, both or otherwise).

**F. Monetary Judgment.** The Borrower shall suffer any money judgment not covered by insurance, writ or warrant of attachment or similar process involving an amount in excess of \$1,000,000 and shall not discharge, vacate, bond or stay the same within a period of sixty (60) days.

**G. Nonmonetary Judgment.** One or more nonmonetary judgments or orders (including, without limitation, injunctions, writs or warrants of attachment, garnishment, execution, distraint, replevin or similar process) shall be rendered against the Borrower that, either individually or in the aggregate, could reasonably be expected to have a material adverse effect upon the business, operations, prospects, assets, liabilities or financial condition of the Borrower which are not discharged, vacated, bonded or stayed within a period of sixty (60) days.

**H. Default under Reimbursement Agreement.** There shall be an Event of Default or the Borrower shall be in breach or default of any obligation or covenant under the Reimbursement Agreement, which Event of Default, breach or default continues uncured beyond the expiration of any applicable grace period.

## ARTICLE VII

### REMEDIES

**Section 7.01** If any of the Events of Default listed in Section 6 hereof shall occur after the date of this Agreement and shall not have been remedied within the applicable grace periods specified therein, then CFC may:

- (i) Declare all unpaid principal outstanding on the Equity Note, all accrued and unpaid interest thereon, and all other Obligations to be immediately due and payable and the same shall thereupon become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived;
- (ii) Exercise rights of setoff or recoupment and apply any and all amounts held, or hereby held, by CFC or owed to the Borrower or for the credit or account of the Borrower against any and all of the Obligations of the Borrower now or hereafter existing hereunder or under the Equity Note, including, but not limited to, patronage capital allocations and retirements, money due to Borrower from equity certificates or STC's purchased from CFC, and any membership or other fees that would otherwise be returned to Borrower. The rights of CFC under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which CFC may have. The Borrower waives all rights of setoff, deduction, recoupment or counterclaim;
- (iii) Pursue all rights and remedies available to CFC that are contemplated by the Loan Documents in the manner, upon the conditions, and with the effect provided in the Loan Documents, including, but not limited to, a suit for specific performance, injunctive relief or damages;
- (iv) Pursue any other rights and remedies available to CFC at law or in equity.

Nothing herein shall limit the right of CFC to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default. Each right, power and remedy of CFC shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.

**ARTICLE VIII****MISCELLANEOUS**

**Section 8.01 Notices.** All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the "Address for Notices" specified below; or, as to any party, at such other address as shall be designated by such party in a notice to each other party. All such communications shall be deemed to have been duly given (i) when personally delivered including, without limitation, by overnight mail or courier service, (ii) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (iii) in the case of notice by telecopy, upon transmission thereof, provided such transmission is promptly confirmed by either of the methods set forth in clauses (i) or (ii) above in each case given or addressed as provided for herein. The Address for Notices of each of the respective parties is as follows:

National Rural Utilities Cooperative Finance Corporation  
2201 Cooperative Way  
Herndon, Virginia 20171-3025  
Attention: Senior Vice President – Member Services  
Fax # 703-709-6776

The Borrower:

The address set forth in  
Schedule 1 hereto

**Section 8.02 Expenses.** Borrower shall reimburse CFC for any reasonable costs and out-of-pocket expenses paid or incurred by CFC (including, without limitation, reasonable fees and expenses of outside attorneys, paralegals and consultants) for all actions CFC takes, (a) to enforce the payment of any Obligation, or in preparation for such enforcement, (b) to restructure any of the Obligations, (c) to review, approve or grant any consents or waivers hereunder, (d) to prepare, negotiate, execute, deliver, review, amend or modify this Agreement, and (e) to prepare, negotiate, execute, deliver, review, amend or modify any other agreements, documents and instruments deemed necessary or appropriate by CFC in connection with any of the foregoing.

The amount of all such expenses identified in this Section 8.02 shall be payable upon demand, and if not paid, shall accrue interest at the Default Rate.

**Section 8.03 Late Payments.** If payment of any amount due hereunder is not received at CFC's office in Herndon, Virginia, or such other location as CFC may designate to the Borrower within five (5) Business Days after the due date thereof, the Borrower will pay to CFC, in addition to all other amounts due under the terms of the Loan Documents, any late-payment charge as may be fixed by CFC from time to time pursuant to its policies of general application as in effect from time to time.

**Section 8.04. Non-Business Day Payments.** If any payment to be made by the Borrower hereunder shall become due on a day which is not a Business Day, such payment

shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

**Section 8.05 Waiver; Modification.** No failure on the part of CFC to exercise, and no delay in exercising, any right or power hereunder or under the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise by CFC of any right hereunder, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. No modification or waiver of any provision of this Agreement, the Equity Note or the other Loan Documents and no consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing by the party granting such modification, waiver or consent, and then such modification, waiver or consent shall be effective only in the specific instance and for the purpose for which given.

**SECTION 8.06 GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.**

(A) THE PERFORMANCE AND CONSTRUCTION OF THIS AGREEMENT AND THE NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF VIRGINIA.

(B) THE BORROWER HEREBY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE UNITED STATES COURTS LOCATED IN VIRGINIA AND OF ANY STATE COURT SO LOCATED FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE BORROWER IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTIONS THAT IT MAY NOW OR HEREAFTER HAVE TO THE ESTABLISHING OF THE VENUE OF ANY SUCH PROCEEDINGS BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) THE BORROWER AND CFC EACH HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**SECTION 8.07 INDEMNIFICATION.** THE BORROWER HEREBY INDEMNIFIES AND AGREES TO HOLD HARMLESS, AND DEFEND CFC AND ITS MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS AND REPRESENTATIVES (EACH AN "INDEMNITEE") FOR, FROM, AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COSTS AND EXPENSES OF LITIGATION AND REASONABLE ATTORNEYS' FEES) ARISING FROM ANY CLAIM OR DEMAND IN RESPECT OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, THE MORTGAGED PROPERTY, OR THE TRANSACTIONS DESCRIBED IN THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ARISING AT ANY TIME, WHETHER BEFORE OR AFTER PAYMENT AND PERFORMANCE OF ALL OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS IN FULL, EXCEPTING ANY SUCH MATTERS ARISING SOLELY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CFC OR ANY INDEMNITEE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SECTION 8.09 HEREOF, THE OBLIGATIONS IMPOSED UPON

THE BORROWER BY THIS SECTION SHALL SURVIVE THE REPAYMENT OF THE NOTE, THE TERMINATION OF THIS AGREEMENT AND THE TERMINATION OR RELEASE OF THE LIEN OF THE MORTGAGE.

**Section 8.08 Complete Agreement.** This Agreement, together with the schedules to this Agreement, the Equity Note and the other Loan Documents, and the other agreements and matters referred to herein or by their terms referring hereto, is intended by the parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement. In the event of any conflict in the terms and provisions of this Agreement and any other Loan Documents, the terms and provisions of this Agreement shall control.

**Section 8.09 Survival; Successors and Assigns.** All covenants, agreements, representations and warranties of the Borrower which are contained in this Agreement shall survive the execution and delivery to CFC of the Loan Documents and the making of the Loan hereunder and shall continue in full force and effect until all of the obligations under the Loan Documents have been paid in full. All covenants, agreements, representations and warranties of the Borrower which are contained in this Agreement shall inure to the benefit of the successors and assigns of CFC. The Borrower shall not have the right to assign its rights or obligations under this Agreement without the prior written consent of CFC.

**Section 8.10 Use of Terms.** The use of the singular herein shall also refer to the plural, and vice versa.

**Section 8.11 Headings.** The headings and sub-headings contained in this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

**Section 8.12 Severability.** If any term, provision or condition, or any part thereof, of this Agreement, the Equity Note or the other Loan Documents shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement, the Equity Note and the other Loan Documents shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

**Section 8.13 Binding Effect.** This Agreement shall become effective when it shall have been executed by both the Borrower and CFC and thereafter shall be binding upon and inure to the benefit of the Borrower and CFC and their respective successors and assigns.

**Section 8.14 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

**Section 8.15 Schedule 1.** Schedule 1 attached hereto is an integral part of this Agreement.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.



**BIG RIVERS ELECTRIC  
CORPORATION**

(SEAL)

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

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

Attest: \_\_\_\_\_  
Secretary

**NATIONAL RURAL UTILITIES  
COOPERATIVE FINANCE CORPORATION**

(SEAL)

By: \_\_\_\_\_  
Assistant Secretary-Treasurer

Attest: \_\_\_\_\_  
Assistant Secretary-Treasurer

## SCHEDULE 1

1. The purpose of the Loan is to fund the purchase of the STC and the proceeds thereof shall be used solely for such purpose in connection with the Bond Transaction, in accordance with Section 3.03. Borrower further agrees that CFC shall retain a security interest in the STC and possession of the original certificate, if any, as security against payment hereunder.
2. The aggregate CFC Commitment is \$11,903,570.00, 14.29% of the aggregate principal amount.
3. The form of Equity Note executed pursuant hereto is attached as Exhibit A to this Agreement. The Advance shall amortize in accordance with Section 3.02.
4. The Payment Date months are February, May, August and November.
5. The date of the Borrower's balance sheet referred to in Section 2.01.E is [\_\_\_\_\_].
6. The Borrower's exact legal name is: Big Rivers Electric Corporation
7. The Borrower's organizational type is: a Kentucky Corporation.
8. The Borrower is organized under the laws of the Commonwealth of: Kentucky.
9. The Borrower's organizational identification number is: 0004242.
10. The Governmental Authority referred to in Section 2.01.F. is: Kentucky Public Service Commission.
11. The special condition referred to in Section 4.01.E is:  
Borrower shall be in compliance with the covenants, terms and conditions of the Reimbursement Agreement, as it may have been, or shall be, supplemented, amended, restated, or consolidated from time to time.
12. The special covenant referred to in Section 5.01.I is as follows:  
At all times during the term of this Agreement, Borrower shall remain in compliance with the covenants, terms and conditions of the Reimbursement Agreement as it may have been, or shall be, supplemented, amended, restated, or consolidated from time to time.
13. The address for notices to the Borrower referred to in Section 8.01 is: Big Rivers Electric Corporation, 201 Third Street, Henderson, KY 42420, Attention: [\_\_\_\_\_], Fax: (270) 827-2558.

**EXHIBIT A**

**PROMISSORY NOTE**

\$83,300,000.00

\_\_\_\_\_, 2010

On [ \_\_\_\_\_ ] (the "Maturity Date") BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation organized under the laws of Kentucky (the "Borrower"), for value received, hereby unconditionally promises to pay, without setoff, deduction, recoupment or counterclaim, to the order of NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION (the "Payee"), at its office in Herndon, Virginia or such other place as Payee may designate, the principal sum of the aggregate unpaid principal amount of the Advance made by the Payee pursuant to that certain loan agreement between the Borrower and the Payee, dated as of even date herewith (the "Loan Agreement"), in lawful money of the United States, and to pay interest on all amounts remaining unpaid hereunder from the date of the Advance in like money, at said office. Interest shall be due and payable quarterly in accordance with the Payee's regular billing cycles.

The interest rate on the Advance will be at the rate set forth in the Loan Agreement, fixed through the Maturity Date.

The Borrower waives demand, presentment for payment, notice of dishonor, protest, notice of protest and notice of non-payment of this Equity Note and waives the defense of usury.

This Equity Note is the note referred to in, and has been executed and delivered pursuant to the Loan Agreement dated as of even date herewith.

All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Loan Agreement.

BIG RIVERS ELECTRIC CORPORATION

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

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

Attest: \_\_\_\_\_  
Secretary

(SEAL)



**ESCROW DEPOSIT AGREEMENT**

**among**

**COUNTY OF OHIO, KENTUCKY**

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee and Escrow Deposit Trustee**

**and**

**BIG RIVERS ELECTRIC CORPORATION**

**Dated as of [\_\_\_\_], 2010**

**THIS ESCROW DEPOSIT AGREEMENT** made and entered into as of [\_\_\_\_], 2010, by and among **COUNTY OF OHIO, KENTUCKY** (the “County”), **U.S. BANK TRUST NATIONAL ASSOCIATION**, as trustee under the 2001 Indenture hereinafter referred to (the “Trustee” and in its capacity as escrow deposit trustee hereunder, the “Escrow Deposit Trustee”), and **BIG RIVERS ELECTRIC CORPORATION** (“Big Rivers”):

**WITNESSETH:**

**WHEREAS**, the County has heretofore issued its Pollution Control Refunding Revenue Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the “2001 Bonds”) pursuant to the Trust Indenture, dated as of August 1, 2001, between the County and the Trustee (the “2001 Indenture”); and

**WHEREAS**, Article VIII of the 2001 Indenture provides that all or any portion of the 2001 Bonds shall be deemed paid and no longer outstanding upon certain conditions, including the deposit with the Trustee, of either moneys in an amount which shall be sufficient, or obligations of or guaranteed as to principal and interest by the United States of America, or certificates of an ownership interest in the principal or interest of obligations of or guaranteed as to principal and interest by the United States of America, which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of, premium, if any, and interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Trustee or the Co-Paying Agent under the 2001 Indenture at the same time, shall be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on such 2001 Bonds on and prior to the redemption date or maturity date thereof; and

**WHEREAS**, concurrently with the execution and delivery of this Agreement, in order to refund the 2001 Bonds currently outstanding (the “Defeased Bonds”), the County is issuing its Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the “Refunding Bonds”) pursuant to a Trust Indenture, dated as of [\_\_\_\_], 2010, between the County and U.S. Bank National Association, as bond trustee; and

**WHEREAS**, the total amount to be deposited in the Escrow Fund created by this Agreement is \$[\_\_\_\_\_] [which amount includes \$83,300,000 from the proceeds of the Refunding Bonds and \$[\_\_\_\_\_] from available funds of Big Rivers]; and

**WHEREAS**, such total amount deposited in such Escrow Fund is sufficient without any reinvestment thereof, to pay when due the principal of, premium, if any, and interest on the Defeased Bonds; and

**WHEREAS**, in order to provide for the investment of moneys placed with the Trustee, in its capacity as Escrow Deposit Trustee, in investments permitted by the 2001 Indenture and to provide for the proper and timely application of such investments, and investment income and earnings derived therefrom, to the payment of the principal of and interest on all Defeased Bonds, the County wishes to enter into this Agreement with the Trustee, in its capacity as

Trustee and Escrow Deposit Trustee, on behalf of the holders from time to time of the Defeased Bonds, and Big Rivers.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants herein set forth and in order to secure the payment of the principal of and interest on all of the Defeased Bonds, according to their tenor and effect, the County, the Trustee, in its capacity as Trustee and Escrow Deposit Trustee, and Big Rivers agree as follows:

**SECTION 1. Pledge of Refunding Bond Proceeds.** To provide for the payment of the redemption price of the Defeased Bonds which redemption price is equal to the principal amount of the Defeased Bonds, plus accrued interest on the Defeased Bonds to the redemption date thereof, the County hereby irrevocably deposits with the Trustee, in its capacity as Escrow Deposit Trustee, in trust, and irrevocably appropriates and sets aside exclusively for such payment, subject to the terms and conditions hereinafter set forth, the following amounts:

(a) \$83,300,000 derived from the proceeds of the sale of the Refunding Bonds to be used to pay the redemption price of the Defeased Bonds in an amount equal to the principal amount of the Defeased Bonds; and

(b) \$[ ] from Big Rivers to pay accrued interest on the Defeased Bonds to the redemption date thereof.

The foregoing total amount of \$[ ] shall be deposited by the Trustee, in its capacity as Escrow Deposit Trustee, in the Escrow Fund hereinafter referred to, and the Trustee, in its capacity as Escrow Deposit Trustee, acknowledges receipt of the foregoing amounts.

**SECTION 2. Establishment of Escrow Fund; Deposits of Moneys.** There is hereby created and established with the Trustee, in its capacity as Escrow Deposit Trustee, a special and irrevocable trust fund designated the "County of Ohio, Kentucky 2001 Bonds Escrow Fund" (the "Escrow Fund") to be held in the custody of the Trustee, in its capacity as Escrow Deposit Trustee, as a trust fund separate and apart from all other funds of the County or of the Trustee, for the benefit of the holders of the Defeased Bonds. All moneys and Government Securities (as hereinafter defined) set aside and held in trust in the Escrow Fund shall be applied to and used solely for the payment of the Defeased Bonds (including the redemption price thereof and interest on the principal amount thereof).

**SECTION 3. Purchase of Government Securities.** The Trustee, in its capacity as Escrow Deposit Trustee, acknowledges receipt of the moneys described in Section 1 and agrees immediately to invest \$[ ] of the moneys described in clauses (a) and (b) of Section 1 hereof in the direct, non-callable United States Treasury Securities set forth in Exhibit I hereto and to deposit such Treasury Securities in the Escrow Fund. The securities described in Exhibit I hereto are herein referred to collectively as the "Government Securities".

**SECTION 4. Payment of Redemption Price of and Accrued Interest on Defeased Bonds.** On the redemption date for the Defeased Bonds, the Trustee shall cause sufficient moneys from the matured principal of and interest on the Government Securities held in the Escrow Fund, or other moneys held in such Fund, to be applied to the payment of the redemption price of and interest on the Defeased Bonds becoming due on such date.

**SECTION 5. Irrevocable Deposits; Express Lien.** The deposit of the moneys and Government Securities in the Escrow Account shall constitute an irrevocable deposit in trust solely for the payment of the Defeased Bonds (including the redemption price thereof and accrued interest to the date of redemption thereof) pursuant to the terms of the 2001 Indenture and this Agreement. The holders of the Defeased Bonds shall have an express lien on the principal and interest on the Government Securities, and on any moneys on deposit in the Escrow Fund, until the proceeds thereof are paid out, used or applied in accordance with this Agreement.

**SECTION 6. Redemption.** Big Rivers, in accordance with Section 9.1 and 9.2 of the Financing Agreement (as defined in the 2001 Indenture) hereby notifies the County and the Trustee of its election to optionally prepay all the unpaid balance of the Note (as defined in the 2001 Indenture) by taking the actions required by the 2001 Indenture to discharge the lien thereof through payment of the Defeased Bonds under Section 3.01 of the 2001 Indenture. The Defeased Bonds will be redeemed in their entire outstanding principal amount on [ ] in accordance with Sections 3.01 and 3.03 of the 2001 Indenture. Big Rivers, pursuant to Sections 3.03 and 8.01 of the 2001 Indenture, hereby irrevocably instructs the Trustee to call the Defeased Bonds for redemption on [ ], in accordance with Article III of the 2001 Indenture. The Trustee acknowledges receipt of irrevocable instructions of Big Rivers delivered pursuant to Section 8.01 of the 2001 Indenture calling the Defeased Bonds for redemption on [ ]. The Trustee agrees to cause proper notice of such redemption to be given in accordance with the requirements of the 2001 Indenture, including, without limitation, Sections 3.01 and 3.03 thereof.

**SECTION 7. Transfer of Funds after all Payments Required by this Agreement are Made.** After all principal of and interest on the Defeased Bonds have been paid, all remaining moneys and Government Securities, together with any income and interest thereon, in the Escrow Fund shall be transferred by the Trustee, in its capacity as Escrow Deposit Trustee, to Big Rivers or as directed in writing by Big Rivers, in accordance with Section 7.01 of the 2001 Indenture.

**SECTION 8. Fees.** Big Rivers agrees to pay the Trustee a mutually agreeable fee for the Trustee's performance under this Agreement.

**SECTION 9. Defeasance.** The County and the Trustee, in its capacity as Trustee and Escrow Deposit Trustee, agree that the obligations of the County under the 2001 Indenture and the pledges, charges, trusts, covenants and agreements of the County made or provided for in the 2001 Indenture have been fully discharged and satisfied as to each Defeased Bond and the Defeased Bonds shall no longer be deemed to be outstanding within the meaning and with the effect expressed in the 2001 Indenture.

**SECTION 10. Incorporation by Reference.** The applicable and necessary provisions of the 2001 Indenture (including without limitation Article VIII thereof) and the immunities, rights, exculpations, indemnities and standard of care of the Trustee as set forth therein, are incorporated herein by reference. Reference herein to or citation herein of any provisions of the 2001 Indenture shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.



**SECTION 11. Amendments to this Agreement.** This Agreement is made for the benefit of the County and the holders from time to time of the Defeased Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Trustee, in its capacity as Trustee or Escrow Deposit Trustee, as applicable, the County and Big Rivers; provided, however, that the County, the Trustee and Big Rivers may, without the consent of or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant to, or confer upon, the Trustee, for the benefit of the holders of the Defeased Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Trustee; and
- (c) to subject to this Agreement additional funds, securities or properties.

The Trustee shall be entitled to rely exclusively upon an unqualified opinion of nationally recognized attorneys on the subject of municipal bonds with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Defeased Bonds or that any instrument executed hereunder complies with the conditions and provisions of this Section.

**SECTION 12. Indemnity.** Big Rivers will indemnify and hold harmless the Escrow Deposit Trustee to the same extent and with the same limitations as it has agreed to indemnify and hold harmless the County and the Trustee pursuant to the Section 5.4 of the Financing Agreement (as defined in the 2001 Indenture).

**SECTION 13. Severability.** If any one or more of the covenants or agreements provided in this Agreement on the part of the County, the Trustee, in its capacity as Trustee or Escrow Deposit Trustee, as applicable, or Big Rivers to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

**SECTION 14. Agreement Binding.** All the covenants, promises and agreements in this Agreement contained by or on behalf of the County, by or on behalf of the Trustee, in its capacity as Trustee or Escrow Deposit Trustee, as applicable, or by or on behalf of Big Rivers shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

**SECTION 15. Termination.** This Agreement shall terminate when all transfers and payments required to be made by the Trustee under the provisions hereof shall have been made.

**SECTION 16. Governing Law.** This Agreement shall be governed by the applicable law of the Commonwealth of Kentucky.

**SECTION 17. Notices.** Except as otherwise provided in this Agreement, all notices, certificates, requests or other communications by the Escrow Deposit Trustee, the Trustee or Big Rivers pursuant to this Agreement shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, addressed as follows: If to the County, to: Ohio County Fiscal Court, 301 South Main, Hartford, Kentucky 42347, Attention: County Judge/Executive; if to Big Rivers, to: Big Rivers Electric Corporation, 201 Third Street, Henderson, Kentucky 42420, Attention: President and Chief Executive Officer; if to the Bond Trustee or the Escrow Deposit Trustee, to: U.S. Bank National Association, 225 Asylum Street, 23rd Floor, Hartford, Connecticut 06103, Attention: Philip G. Kane, Jr. (Big Rivers 2010 Indenture). Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

**SECTION 18. Execution by Counterparts.** This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed by its duly authorized officers and attested as of the date first above written.

**COUNTY OF OHIO, KENTUCKY**

By: \_\_\_\_\_  
County Judge/Executive

**Attest:**

\_\_\_\_\_  
County Court Clerk

**U.S. BANK TRUST NATIONAL  
ASSOCIATION,**  
as Trustee and, to the extent set forth herein, as  
Escrow Deposit Trustee

By: \_\_\_\_\_  
[Vice President]

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
President and Chief Executive Officer

**Attest:**

\_\_\_\_\_  
[Assistant] Secretary

**EXHIBIT I**

**United States Treasury Securities**

<b>Type of Security</b>	<b>Maturity</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Purchase Price</b>
[State and Local Government Securities]				
[Cash Deposit]				
[Total Escrow Cost]				



## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”) dated as of [\_\_\_\_], 2010 is executed and delivered by Big Rivers Electric Corporation (“Big Rivers”) and U.S. Bank Trust National Association (the “Trustee”). This Disclosure Agreement relates to the \$83,300,000 aggregate principal amount of Ohio County, Kentucky’s Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the “Bonds”). The Bonds have been issued by said County (the “County”) pursuant to a Trust Indenture dated as of [\_\_\_\_], 2010 (the “Indenture”) between the County and the Trustee and the proceeds thereof have been loaned to Big Rivers.

The parties hereto covenant and agree as follows:

SECTION 1. *Purpose of the Disclosure Agreement.* This Disclosure Agreement is being executed and delivered by Big Rivers for the benefit of the Owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5). Big Rivers and the Trustee acknowledge that the County has undertaken no responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement, and shall have no liability to any person, including any holder, owner or Beneficial Owner of the Bonds, with respect to any such reports, notices or disclosures.

SECTION 2. *Definitions.* In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by Big Rivers pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

“Dissemination Agent,” shall mean Big Rivers, or any successor Dissemination Agent designated in writing by Big Rivers and which has filed with Big Rivers and the Trustee a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“Offering Statement” shall mean Big Rivers’s final Offering Statement relating to the Bonds.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange

Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

### SECTION 3. *Provision of Annual Reports.*

(a) Big Rivers shall, or shall cause the Dissemination Agent to, not later than 6 months after the end of Big Rivers’s fiscal year (which shall be June 30 of each year, so long as Big Rivers’ fiscal year ends on December 31), commencing with the report for the 2009 fiscal year (which is due not later than June 30, 2010), provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement, with a copy to the Trustee. The Annual Report must be submitted in electronic format, accompanied by such identifying information as is prescribed by the MSRB, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided, that the audited financial statements of Big Rivers may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If Big Rivers’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The Annual Report shall be submitted on a standard form in use by industry participants or other appropriate form and shall identify the Bonds by name and CUSIP number.

(b) Not later than fifteen (15) Business Days prior to said date, Big Rivers shall provide the Annual Report to the Dissemination Agent (if other than Big Rivers). If Big Rivers is unable to provide to the MSRB an Annual Report by the date required in subsection (a), Big Rivers shall send a notice to the MSRB in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall (if the Dissemination is other than Big Rivers) file a report with Big Rivers certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided to the MSRB.

SECTION 4. *Content of Annual Reports.* Big Rivers’s Annual Report shall contain or include by reference the following:

1. The audited financial statements of Big Rivers for the preceding fiscal year, prepared in accordance with generally accepted accounting principles. If Big Rivers’ audited financial statements are not available by the time the Annual Report is required to be provided to the MSRB pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Offering Statement, and the audited financial statements shall be provided to the MSRB in the same manner as the Annual Report when they become available.

2. [Updated versions of the financial information and operating data contained under the indicated captions in the Offering Statement as follows:][**TO BE UPDATED BASED ON OFFERING STATEMENT**]
- a. [“SECURITY AND SOURCES OF PAYMENT FOR THE 2010 BONDS – 2010 Note Secured by the Mortgage”]: the numbers set forth in the first paragraph thereof;
  - b. “BIG RIVERS ELECTRIC CORPORATION – Introduction – General”]: the numbers set forth in the second and third paragraphs thereof;
  - c. “BIG RIVERS ELECTRIC CORPORATION – Introduction – The Members”]: the numbers set forth in the second paragraph thereof;
  - d. “BIG RIVERS ELECTRIC CORPORATION – Income Tax Status”]: the numbers set forth in the third paragraph thereof;
  - e. “SELECTED BIG RIVERS’ FINANCIAL DATA – Statement of Revenue and Expenses and Balance Sheet”];
  - f. “SELECTED BIG RIVERS’ FINANCIAL DATA – Management’s Discussion and Analysis of Financial Condition and Results of Operations”]: all of the information contained therein other than forecasted capital expenditures;
  - g. “SELECTED BIG RIVERS’ FINANCIAL DATA – Capitalization”];
  - h. “SELECTED BIG RIVERS’ FINANCIAL DATA – Big Rivers’ Debt”]: the numbers set forth under this caption;
  - i. “GENERATION FACILITIES AND THE STATION TWO FACILITY – General”]: the table set forth therein;
  - j. “GENERATION FACILITIES AND THE STATION TWO FACILITY – Kenneth C. Coleman Plant, Robert D. Green Plant, Robert A. Reid Plant, D. B. Wilson Unit No. 1 Plant and Station Two Facility”]: the numbers set forth under such captions;
  - k. “GENERATION FACILITIES AND THE STATION TWO FACILITY – Other Power Supply Resources – SEPA Allocation”]: the numbers set forth under such caption;
  - l. “GENERATION FACILITIES AND THE STATION TWO FACILITY – Forecast of Member Load and Big Rivers’ Resources”]: the numbers set forth in the second paragraph under such caption and information for the prior fiscal year for the information contained under the table “Power Resources and Member Load”];



m. "GENERATION FACILITIES AND THE STATION TWO FACILITY – Big Rivers' Wholesale Rates to the Members": the table set forth therein;

n. "TRANSMISSION FACILITIES – Transmission Systems": the numbers set forth under such caption;

o. "TRANSMISSION FACILITIES – Transmission Capital Expenditures"; the information for the prior fiscal year for capital expenditures for transmission facilities;

p. "THE MEMBERS – Competition and Rate Comparisons": the numbers set forth in the table under such caption; and

q. "THE MEMBERS – Member Financial and Statistical Information": the tables set forth therein.]

Any or all of the items listed above may be set forth in one or a set of documents or may be included by specific reference to other documents, including disclosure documents relating to security issues of Big Rivers, which have been made available to the public on the MSRB's website. Big Rivers shall clearly identify each such other document so included by reference.

#### SECTION 5. *Reporting of Significant Events.*

(a) Pursuant to the provisions of this Section 5, Big Rivers shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers or their failure to perform;
6. adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. modifications to rights of Bond holders;
8. unscheduled or contingent Bond calls;
9. defeasances;

10. release, substitution, or sale of property securing repayment of the Bonds;  
or
11. rating changes.

(b) Whenever Big Rivers obtains knowledge of the occurrence of a Listed Event, Big Rivers shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) If Big Rivers determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, Big Rivers shall promptly file a notice of such occurrence with the MSRB in electronic format, accompanied by such identifying information as is prescribed by the MSRB. Notwithstanding the foregoing, notice of the Listed Events described in subsection (a)(8) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Owners of affected Bonds pursuant to the Indenture.

SECTION 6. *Termination of Reporting Obligation.* Big Rivers's obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, Big Rivers shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

SECTION 7. *Dissemination Agent.* Big Rivers may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by Big Rivers pursuant to this Disclosure Agreement. The initial Dissemination Agent shall be Big Rivers.

SECTION 8. *Amendment; Waiver.* Notwithstanding any other provision of this Disclosure Agreement, Big Rivers may amend this Disclosure Agreement, and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of the Trustee or nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, Big Rivers shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by Big Rivers. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. *Additional Information.* Nothing in this Disclosure Agreement shall be deemed to prevent Big Rivers from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If Big Rivers chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, Big Rivers shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. *Default.* In the event of a failure of Big Rivers to comply with any provision of this Disclosure Agreement the Trustee may (and, at the request of any Participating Underwriter or the Owners of at least 50% aggregate principal amount of Outstanding Bonds, shall), or any Owner or Beneficial Owner of the Bonds may (unless Big Rivers has so complied within 20 days after written notice from the Trustee of its failure to comply) take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause Big Rivers to comply with its obligations under this Disclosure Agreement. The Trustee shall not be required to take any enforcement action unless the Trustee has been furnished with security and indemnity satisfactory to the Trustee. A default under this Disclosure Agreement shall not be deemed a default or an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of Big Rivers to comply with this Disclosure Agreement shall be an action to compel performance.

SECTION 11. *Beneficiaries.* This Disclosure Agreement shall inure solely to the benefit of Big Rivers, the Trustee, the Dissemination Agent, the Participating Underwriter and Owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

IN WITNESS WHEREOF, the parties have each caused this Disclosure Agreement to be executed by their duly authorized representatives, all as of the date first above written.

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
President and Chief Executive Officer

**U.S. BANK TRUST NATIONAL  
ASSOCIATION**

By: \_\_\_\_\_  
An Authorized Representative

Attest:

By: \_\_\_\_\_  
Counsel to U.S. Bank Trust  
National Association

**EXHIBIT A**

**FORM OF NOTICE TO THE MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT**

Name of Provider: Big Rivers Electric Corporation

Name of Bond Issue: Ohio County, Kentucky "Pollution Control Refunding Revenue Bonds,  
Series 2010A (Big Rivers Electric Corporation Project)"

Date of Issuance: [\_\_\_\_], 2010

NOTICE IS HEREBY GIVEN that Big Rivers has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement dated [\_\_\_\_], 2010. [Big Rivers anticipates that the Annual Report will be filed by\_\_\_\_\_.]

Dated: \_\_\_\_\_, \_\_\_\_\_

**BIG RIVERS ELECTRIC CORPORATION**

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

cc: Trustee



RECEIVED

NOV 13 2009

PUBLIC SERVICE  
COMMISSION

\$83,300,000  
County of Ohio, Kentucky  
Pollution Control Refunding Revenue Bonds, Series 2010A  
(Big Rivers Electric Corporation Project)

COMPANY LETTER OF REPRESENTATION

\_\_\_\_\_, 2010

Fiscal Court of the County of Ohio  
Hartford, Kentucky

Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

1. Big Rivers Electric Corporation (the "**Company**"), in order to induce Goldman, Sachs & Co. (the "**Underwriter**") and County of Ohio, Kentucky (the "**Issuer**") to enter into a Purchase Contract dated the date hereof (the "**Purchase Contract**") relating to the purchase by the Underwriter from the Issuer of \$83,300,000 aggregate principal amount of County of Ohio, Kentucky Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the "**Bonds**") does hereby execute and deliver this Letter of Representation.

The Bonds will be issued under and pursuant to a Trust Indenture dated as of \_\_\_\_\_, 2010 (the "**Bond Indenture**"), by and between the Issuer and U.S. Bank National Association, as trustee (the "**Bond Trustee**"). The Bond proceeds shall be paid by the Issuer to U.S. Bank National Association, the current trustee, as successor (the "**2001 Trustee**"), under the Trust Indenture between the Issuer and the 2001 Trustee, dated as of August 1, 2001 (the "**2001 Trust Indenture**"), and shall be used by the 2001 Trustee, together with other moneys provided by the Company, to refund by redemption the Issuer's Pollution Control Revenue Refunding Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the "**Refunded Bonds**"). The Bond proceeds and such other moneys shall be deposited with the 2001 Trustee pursuant to the Escrow Deposit Agreement, dated as of \_\_\_\_\_, 2010 (the "**Escrow Deposit Agreement**"), among the Issuer, the Company and U.S. Bank National Association, in its capacity as 2001 Trustee and as Escrow Deposit Trustee (as defined in the Escrow Deposit Agreement).

The payment by the Issuer of a portion of the proceeds of the Bonds to the Company is provided for by the provisions of the Loan Agreement, dated as of \_\_\_\_\_, 2010 (the "**Financing Agreement**"), between the Issuer and the Company, and the obligations thereunder to repay the principal amount of the Bonds when due at maturity and interest on the Bonds when due shall be evidenced by a note of the Company dated the date of issuance of the Bonds (the "**Note**"). The Note will be in the form specified in the Supplemental Indenture (as hereinafter

defined) and the Financing Agreement and will be an Obligation secured under the Indenture, dated as of July 1, 2009, between the Company and U.S. Bank National Association, as trustee (the “**Mortgage Indenture Trustee**”) as supplemented by the First Supplemental Indenture, dated as of \_\_\_\_\_, 2010 (the “**Supplemental Indenture**”), between the Company and the Mortgage Indenture Trustee (the “**Mortgage Indenture**”).

In connection with the issuance of the Bonds, principal and interest due on the Bonds will be unconditionally guaranteed by CFC pursuant to that certain Guaranty Agreement, dated as of \_\_\_\_\_, 2010 (the “**Guaranty**”), between CFC and the Bond Trustee. In addition, the Company and CFC will enter into that certain Reimbursement Agreement, dated as of \_\_\_\_\_, 2010 (the “**Reimbursement Agreement**”), establishing the rights and obligations between CFC and the Company with respect to matters involving the Bonds.

The Company and the Issuer have caused to be prepared the following information: (i) a Preliminary Offering Statement, dated \_\_\_\_\_, 2010 (together with the appendices thereto, the “**Preliminary Offering Statement**”), (ii) the Pricing Supplement attached as Appendix C to the Purchase Contract (the “**Pricing Supplement**”), and (iii) the electronic road show made available to investors via the Internet (not including telephone question and answer sessions with investors) (the “**Electronic Road Show**”). The Preliminary Offering Statement, together with the Pricing Supplement, is referred to herein as the “**Disclosure Package**.”

Capitalized terms used herein, if not otherwise defined herein, shall have the meanings assigned to such terms in the Purchase Contract, and, if not defined therein, in the Preliminary Offering Statement.

In consideration of the execution and delivery of the Purchase Contract, the Company represents, warrants and covenants to and with the Underwriter and the Issuer as follows:

(a) The Preliminary Offering Statement, as of its date, and the Disclosure Package, as of 12:00 p.m., New York city time, on \_\_\_\_\_, 2010 (the “**Initial Sale Time**”), did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; as of the Initial Sale Time, the Electronic Road Show, when considered together with the Disclosure Package, did not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations or warranties in this Section 2(a) shall not apply to information contained in or omitted from the Disclosure Package (or any supplement or amendment thereto) in reliance upon information furnished to the Company in writing by or on behalf of the Underwriter expressly for use in the Preliminary Offering Statement under the heading “**UNDERWRITING**” or by or on behalf of CFC expressly for use in the Preliminary Offering Statement under the heading “**CFC GUARANTY AGREEMENT**.” The Company authorizes the Underwriter to use the Disclosure Package and the Offering Statement in connection with the public offering and sale of the Bonds.



(b) The Company has full legal right, power and authority to execute and deliver this Letter of Representation, the Mortgage Indenture, the Supplemental Indenture, the Financing Agreement, the Company Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note and the Reimbursement Agreement. As of the date hereof, this Letter of Representation is, and as of the Closing, the Mortgage Indenture, the Supplemental Indenture, the Financing Agreement, the Company Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note and the Reimbursement Agreement will have been, duly authorized, executed and delivered by the Company and will be in or are in full force and effect and will or do constitute the valid and binding obligations of the Company enforceable in accordance with their respective terms (except as to enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors' rights and by equitable rights where equitable remedies are sought and except that rights to indemnity and remedies for breach of representations and warranties relating to the Disclosure Package or the Offering Statement may be limited under the federal securities laws or other applicable laws), and performance by the Company thereunder will not violate, or result in a breach of any of the provisions of, or constitute a default under (i) the Company's Articles of Incorporation, as amended, or its Bylaws, as amended, or (ii) any agreement or instrument to which, or any law, administrative regulation or court decree by which, the Company is bound, except in the case of clause (i) above, for any such violation, breach or default that would not individually or in the aggregate, be reasonably expected to have a material adverse effect on the business or operations or current or future financial position, patronage capital, margins or results of operations of the Company or on the performance by the Company of its obligations under the 2010 Financing Documents (a "**Material Adverse Effect**").

(c) The Company agrees to assist the Issuer in providing to the Underwriter the Offering Statement in the quantities and at the times required by Section 5(a)(1) of the Purchase Contract.

(d) During the period commencing on the date hereof and ending on the earlier of (i) ninety (90) days following the End of the Underwriting Period (as defined in the Purchase Contract), or (ii) the time when the Offering Statement is available to any person from a nationally recognized municipal securities information repository, but in the case of this clause (ii), no less than twenty-five (25) days following the End of the Underwriting Period, if any event shall occur which in the reasonable opinion of the Underwriter would cause the Offering Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and if in the reasonable opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Offering Statement, the Company will assist in amending or supplementing the Offering Statement in a form and manner approved by the Issuer, the Underwriter and Bond Counsel so that the Offering Statement will not contain any untrue statement of a material fact or omit to

state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; provided, however, that all expenses incurred in connection with any such supplement or amendment will be paid by the Company. The Company agrees to notify the Underwriter of any event of the type described in this paragraph of which it has knowledge.

(e) Except as contemplated herein or as contemplated or set forth in the Disclosure Package, or as the result of operations in the ordinary course of business as described in the Disclosure Package, the Company, subsequent to the dates as of which information is given in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made (being the date of this Letter of Representation and, pursuant to clause 5(i) of paragraph (e) of Section 9 of the Purchase Contract, the Closing Date), has not incurred any material liabilities or obligations, direct or contingent; and, except as contemplated or set forth in the Disclosure Package, subsequent to the dates as of which information is given in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made, there has been no material adverse change in the condition, financial or otherwise, of the Company.

(f) The Company has been duly incorporated and is now validly existing and in good standing as a rural electric cooperative corporation under the laws of the State of Kentucky. The Company has been duly qualified as a foreign corporation in each jurisdiction in which such qualification is required and is in good standing under the laws of each such jurisdiction or is not subject to any material liability or disability by reason of the failure to be so qualified in any such jurisdiction.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending, other than as described in the Disclosure Package, or known to the Company to be threatened against or affecting the Company, nor to the best of the Company's knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(h) The Company will cause the proceeds from the sale of the Bonds to be applied as provided for in the Bond Indenture and the Financing Agreement.

(i) All consents, approvals, authorizations and orders of any governmental authority, board, agency or commission or filings or registrations with any governmental authority of the State of Kentucky or the United States of America required in connection with, or the absence of which would materially adversely affect the execution and delivery by the Company of, the Financing Agreement, the Company Continuing Disclosure Agreement, the Mortgage Indenture, the Supplemental Indenture, the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note, the Reimbursement Agreement and this Letter of Representation, the performance by the Company of its obligations thereunder and hereunder and of the transactions contemplated in the Disclosure Package, except as described in the Disclosure Package, and the issuance and sale of the Bonds, have been obtained or made and are in full force and effect; provided,

however, that no representation is made concerning compliance with the federal securities laws or the securities or “blue sky” laws of the various jurisdictions of the United States of America.

(j) The Company will notify the Underwriter if, prior to the Closing Date, any event occurs which, in the judgment of the Company, makes the Disclosure Package or the Offering Statement contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and the Company will change the Disclosure Package or the Offering Statement so that it does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements, in light of the circumstances under which they were made, not misleading.

(k) The Company will diligently cooperate with the Underwriter to qualify the Bonds for offer and sale under the securities or “blue sky” laws of such jurisdictions as the Underwriter may request; provided that in no event shall the Company be obligated to qualify to do business in any jurisdictions where it is not now so qualified or to take any action which would subject it to the general service of process in any jurisdictions where it is not now so subject. The Company will not be responsible for compliance with or the consequences of failure to comply with applicable “blue sky” laws.

(l) The Company will pay the reasonable expenses to be paid by it pursuant to Section 12 of the Purchase Contract (subject to the terms and conditions set forth therein).

(m) The Preliminary Offering Statement was, as of its date, deemed “final,” within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (“**Rule 15c2-12**”), by the Company on behalf of the Issuer as of the date thereof and as of the date hereof, and is deemed to be a “final official statement” within the meaning of Rule 15c2-12.

(n) The Company is in compliance with all of its continuing disclosure undertakings entered into pursuant to Rule 15c2-12 and has not failed to comply with such undertakings during the last five years.

(o) The consolidated audited financial statements of the Company for the fiscal years ended December 31, 2007 and December 31, 2008 contained in Appendix \_\_\_ to the Preliminary Offering Statement present fairly the consolidated financial position of the Company as of the dates indicated and the results of operations and changes in cash flows for the periods specified, and such financial statements have been prepared in conformity with generally accepted accounting principles. There has been no material adverse change in the condition, financial or otherwise, of the Company since December 31, 2008, from that set forth in the financial statements, as of and for the period ended that date, except as disclosed in the Disclosure Package.

(p) The Company has taken all action required to perfect the security interest created by the Mortgage Indenture wherever such security interest can be perfected by the filing of financing statements under the Uniform Commercial Codes of the

jurisdictions where such filings are made, including any recording or re-recording of the Mortgage Indenture in all counties where the Company owns substantial assets, as security for the Obligations referred to therein, including the Note.

(q) The Company has good and marketable title to the mortgaged property (as described and defined in the Mortgage Indenture) subject to Permitted Exceptions and Prior Liens permitted by Section 13.6 the Mortgage Indenture, all as such terms are defined in the Mortgage Indenture.

(r) Each of the Wholesale Power Contracts (each, a “**Wholesale Power Contract**” and, collectively, the “**Wholesale Power Contracts**”), between the Company and those Members identified in the Preliminary Offering Statement as parties to such Wholesale Power Contracts, have been duly authorized, executed and delivered by the Company and constitute legal, valid and binding obligations of the Company enforceable in accordance with their respective terms, subject, as to enforcement, to bankruptcy, insolvency reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles. **[We will need to discuss an additional rep re: the enforceability of Smelter Contracts.]**

2. The acceptance and confirmation of this Letter of Representation on behalf of the Issuer shall constitute a representation and warranty by the Issuer to the Company that the representations and warranties contained in Section 7 of the Purchase Contract are true as of the date hereof and will be true in all material respects as of the Closing Date, as if made on the Closing Date.

3. (a) The Company agrees to indemnify and hold harmless the Underwriter, and each person, if any, who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (the “**Securities Act**”), and the Issuer, to the extent permitted under applicable law, against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) arising out of or based on (i) the failure to register any security under the Securities Act or to qualify any indenture under the Trust Indenture Act of 1939, as amended, in connection with the offering of the Bonds or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the Offering Statement, or in any amendment or supplement thereto, arising out of or based on any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages, liabilities or expenses arising out of or based on any such untrue statement or omission or allegation thereof in reliance upon and in conformity with written information furnished to the Company by the Underwriter expressly for use in the Disclosure Package and the Offering Statement under the heading “UNDERWRITING” or by CFC expressly for use in the Disclosure Package and the Offering Statement under the heading “CFC GUARANTY AGREEMENT.”

(b) If any action or claim (including any governmental investigation) shall be brought or asserted against the Underwriter or any person so controlling the Underwriter, or the Issuer, based upon the Disclosure Package or Offering Statement or any amendment or supplement thereto, and in respect of which indemnity may be sought from the Company pursuant to subsection (a) hereof, the Underwriter or such controlling

person or the Issuer, as the case may be, shall promptly notify the Company in writing, and the Company shall assume the defense thereof, including the employment of counsel and the payment of all expenses. The Underwriter or any such controlling person or the Issuer, as the case may be, shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Underwriter or such controlling person or the Issuer, as the case may be, unless (i) the employment thereof has been specifically authorized by the Company, (ii) the Company has failed to assume the defense and employ counsel or (iii) the named parties to any such action (including any impleaded parties) include both the Underwriter or such controlling person or the Issuer and the Company, and representation of the Underwriter or such controlling person or the Issuer and the Company by counsel representing the Company would be inappropriate due to actual or potential differing interests between the Company and the other named party (in which case the Company shall not have the right to assume the defense of such action on behalf of the Underwriter or such controlling person or the Issuer, it being understood, however, that the Company shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any point in time for the Underwriter and such controlling persons, and one separate firm of attorneys for the Issuer, which respective firms shall be designated in writing by the Underwriter and the Issuer). The Company shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Company or if there is a final judgment for the plaintiff in any such action, the Company will indemnify and hold harmless any indemnified person from and against any loss or liability by reason of such settlement or judgment. The Company shall not, without the prior written consent of the Underwriter, effect any settlement of any pending or threatened proceeding in respect of which the Underwriter is or could have been a party and indemnity could have been sought hereunder by the Underwriter, unless such settlement (i) includes an unconditional release of the Underwriter from any liability or claims that are the subject matter of such proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of the Underwriter.

(c) The Underwriter agrees to indemnify and hold harmless the Company and the Issuer to the same extent as the foregoing indemnity from the Company to the Underwriter and the Issuer, but only with respect to written information furnished by the Underwriter to the Company expressly for use in the Disclosure Package and the Offering Statement under the heading "UNDERWRITING." If any action or claim shall be brought against the Company or the Issuer based upon the Disclosure Package and the Offering Statement and in respect of which indemnity may be sought against the Underwriter, the Underwriter shall have the rights and duties given to the Company; and the Company or the Issuer, as the case may be, shall have the rights and duties given to the Underwriter by subparagraph (b) hereof. The indemnity agreement of this subparagraph (c) shall extend upon the same terms and conditions to each officer and director of the Company or the Issuer, as applicable, and to each person, if any, who controls the Company or the Issuer, as applicable, within the meaning of Section 15 of the Securities Act.

(d) If the indemnification provided for in this Section is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (c) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriter, on the other, from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (b), then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company, on the one hand, and the Underwriter, on the other, in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriter, on the other, shall be deemed to be in the same proportion as the total net proceeds from the sale of the Bonds (before deducting expenses) received by the Company to the total fee received by the Underwriter. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Underwriter, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriter agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim (which shall be limited as provided in subsection (b) above if the indemnifying party has assumed the defense of any such action in accordance with the provisions thereof). Notwithstanding the provisions of this subsection (d), the Underwriter shall not be required to contribute any amount in excess of the amount by which the total price at which the Bonds were offered to the public exceeds the amount of any damages which the Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The indemnity agreements contained in this Section 3 shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Underwriter or any person so controlling the Underwriter or by or on behalf of the Company or by or on behalf of the Issuer. A successor of the Underwriter or the Company or of the Issuer, as the case may be, shall be entitled to the benefits of the

indemnity and reimbursement agreements contained in this Section 3; the term “successor” shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

4. The Underwriter agrees that, if the Purchase Contract is terminated pursuant to Section 10 thereof, the Company shall not have any further obligations to the Underwriter under this Letter of Representation other than as set forth in clause (l) of Section 1 hereof.

5. This Letter of Representation is made solely for the benefit of the Issuer and its directors, officers and agents, the Underwriter, persons controlling the Underwriter, and the Company and its directors and officers or any person who controls the Company within the meaning of Section 15 of the Securities Act, and their respective successors and assigns, and no other person, partnership, association or corporation shall acquire or have any right under or by virtue hereof. The terms “successors” and “assigns” shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

6. The execution and delivery of this Letter of Representation by the Company shall constitute the Company’s approval of and consent to the Issuer’s entering into, acceptance and execution of the Purchase Contract and performance thereunder.

7. Any notice or other communication to be given to the Company under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to the Company at 201 Third Street, Henderson, Kentucky 42420, Attention: Senior Vice President, Financial/Energy Services & CFO, or by facsimile (such notice to be deemed effective when sent) to the attention of the Senior Vice President, Financial/Energy Services & CFO of the Company at [fax number]. Any notice or other communication to be given to the Underwriter under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to Goldman, Sachs & Co. at 85 Broad Street, 20<sup>th</sup> Floor, New York, New York 10004, Attention: Mark Glotfelty, or by facsimile (such notice to be deemed effective when sent) to the attention of Mark Glotfelty at 646-835-3244, and any notice or communication to be given to the Issuer under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received), at County of Ohio, Kentucky, [Issuer address], Attention: County Judge/Executive, or by facsimile (such notice to be deemed effective when sent) to the attention of the County Judge/Executive of County of Ohio, Kentucky at [fax number]. The Company, the Issuer and the Underwriter shall each be fully entitled to rely upon notice given pursuant to this Paragraph and to act thereon.

8. This Letter of Representation shall become effective upon execution hereof and the effectiveness of the Purchase Contract referred to herein. It shall terminate upon termination of the Purchase Contract. The Company’s representations and warranties contained herein shall survive the Closing and shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds, and (c) any termination of the Purchase Contract or this Letter of Representation but only to the extent provided by subsection (l) of Section 1 hereof.

9. The Company acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to the Purchase Contract is an arm's-length commercial transaction between the Company and the Issuer on one hand, and the Underwriter on the other hand, (ii) in connection therewith and with the process leading to such transaction the Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in the Purchase Contract or this Letter of Representation and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriter has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

10. The Company and the Underwriter hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Letter of Representation, the Purchase Contract or the transactions contemplated hereby.

11. The validity, interpretation and performance of this Letter of Representation shall be governed by the laws of the State of New York.

[Signatures begin on the following page.]



Very truly yours,

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
[Name]  
[Title]

Accepted and confirmed as of the  
date first above written

**GOLDMAN, SACHS & CO.**

\_\_\_\_\_  
Goldman, Sachs & Co.

Accepted by County of Ohio, Kentucky pursuant to a resolution  
of the County of Ohio, Kentucky adopted at  
\_\_\_\_\_, Kentucky on \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
*County Judge/Executive  
of County of Ohio, Kentucky*



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**TRUST INDENTURE**

**Between**

**COUNTY OF OHIO, KENTUCKY**

**and**

**U.S. BANK NATIONAL ASSOCIATION**

**as Bond Trustee**

**Dated as of [\_\_\_\_], 2010**

**Authorizing**

**\$83,300,000**

**COUNTY OF OHIO, KENTUCKY**

**Pollution Control Refunding Revenue Bonds, Series 2010A  
(Big Rivers Electric Corporation Project)**

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## **TRUST INDENTURE**

This **TRUST INDENTURE** (this “Indenture”), is made and entered into as of [\_\_\_\_], 2010, by and between **COUNTY OF OHIO, KENTUCKY**, a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky (together with any successor to its duties and functions, the “County”), acting by and through its Fiscal Court which is the governing body of the County, and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association duly organized and existing under the laws of the United States of America and authorized to accept and execute trusts of the character herein set out (together with any successor to its duties and functions, the “Bond Trustee”).

### **WITNESSETH:**

**WHEREAS**, the County is a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky and is authorized and empowered by law, including particularly the provisions of the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended (collectively with all future acts supplemental thereto or amendatory thereof, the “Act”), to issue bonds and loan the proceeds thereof to a rural electric cooperative corporation to refund bonds previously issued by the County to finance the acquisition of pollution control facilities; and

**WHEREAS**, by a resolution adopted by the Fiscal Court of the County on September 9, 1980, the County agreed to finance the Facilities for Big Rivers Electric Corporation (“Big Rivers”); and

**WHEREAS**, the County initially financed the Facilities by issuing the 1982 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to pay a portion of the costs of the Facilities; and

**WHEREAS**, the County financed the refunding of the 1982 Bonds by issuing the 1985 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to retire the 1982 Bonds; and

**WHEREAS**, the County financed the refunding of the 1985 Bonds by issuing the 2001 Bonds and loaning to Big Rivers the proceeds thereof which Big Rivers used to retire the 1985 Bonds; and

**WHEREAS**, Big Rivers has requested the County to issue \$83,300,000 aggregate principal amount of its “Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)” (the “Bonds”) and to loan the proceeds thereof to Big Rivers for the purpose of providing funds to refund by redemption the 2001 Bonds; and

**WHEREAS**, the County and Big Rivers propose that the County so refund the 2001 Bonds by depositing into escrow the proceeds of the Bonds [and certain other funds in sufficient

amounts] to effect such refunding by redemption of the 2001 Bonds [on [\_\_\_\_]] in accordance with the terms of the 2001 Indenture and an Escrow Deposit Agreement, dated as of [\_\_\_\_], 2010 (the “Escrow Deposit Agreement”), among the County, Big Rivers and the trustee named therein; and

**WHEREAS**, the County will issue the Bonds under this Indenture and loan the proceeds thereof to Big Rivers under a Loan Agreement, dated as of [\_\_\_\_], 2010 (the “Financing Agreement”), pursuant to which (i) the County will loan to Big Rivers the proceeds of the Bonds and (ii) Big Rivers will agree to repay such loan by paying to the County an amount sufficient to pay the principal of the Bonds when due at maturity, the interest on the Bonds when due and any other expenses incurred by the County in connection with the Bonds, and the Bonds shall be secured by, among other things, a pledge of the Financing Agreement, certain revenues of the County received pursuant to the Financing Agreement and a note issued by Big Rivers to evidence its payment obligations under the Financing Agreement (the “Note”), which Note will be issued pursuant to the First Supplemental Indenture, dated as of [\_\_\_\_], 2010, supplemental to the Indenture, dated as of July 1, 2009, between Big Rivers and U.S. Bank National Association, as trustee (the “Big Rivers Indenture”), and secured on a parity basis with all other obligations secured thereunder; and

**WHEREAS**, the refunding by redemption of the 2001 Bonds shall also result in the prepayment of the 2001 Note issued to evidence Big Rivers’ obligation to repay the loan made by the County to Big Rivers under the 2001 Financing Agreement; and

**WHEREAS**, Big Rivers, by executing and delivering the Financing Agreement, has consented to the issuance of the Bonds and the loan of the proceeds thereof to Big Rivers; and

**WHEREAS**, the execution and delivery of this Indenture and the Financing Agreement and the issuance of the Bonds have been in all respects duly and validly authorized by an ordinance of the Fiscal Court of the County; and

**WHEREAS**, the Kentucky Department of Natural Resources and Environmental Protection has certified that the Facilities, as designed, are in furtherance of the purposes of abating or controlling atmospheric pollutants or contaminants or water pollution; and

**WHEREAS**, the County makes the following findings and determinations: (a) the Facilities constitute “pollution control facilities” within the meaning of Section 103.246 of the Act, (b) the acquisition and financing of the Facilities inures to the public interest and constitutes the performance of a proper governmental purpose with the result that atmospheric, solid waste and water pollution in the Commonwealth of Kentucky may be abated and controlled to the maximum possible extent, (c) the issuance of the Bonds is and will be for a public purpose and tends to further the purpose of the Act and, in addition, aids in the retention of existing industry through the control of pollution, (d) the Facilities are located wholly within the geographic boundaries of the County, (e) title to the Facilities is held by Big Rivers and will not be acquired by the County, (f) the statutory mortgage lien provided for by Section 103.250 of the Act shall not apply to the Facilities, (g) the principal amount of the Bonds (together with funds provided and to be provided by Big Rivers) is necessary to effect the refunding of the 2001 Bonds and to pay all premiums, expenses and commissions required to be paid in connection with the issuance

of the Bonds and the refunding of the 2001 Bonds, and (h) the issuance of the Bonds, the refunding of the 2001 Bonds, the loan of the proceeds of the Bonds to Big Rivers for this purpose and the execution, delivery and performance of the Bonds, this Indenture and the Financing Agreement are, in all respects, permitted by the Act and conform to the requirements of the Act.

**WHEREAS**, all other things necessary to make the Bonds, when issued, executed and delivered by the County and authenticated by the Bond Trustee pursuant to this Indenture, the valid and binding obligations of the County, and to constitute this Indenture a valid pledge of certain income and revenues derived from the Financing Agreement and the Note for the payment of the principal of and interest on the Bonds authenticated and delivered under this Indenture, have been performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have all been duly authorized;

**NOW, THEREFORE:**

The County, in consideration of the premises and the acceptance by the Bond Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Owners thereof and of the sum of One Dollar (\$1.00), lawful money of the United States of America, to it duly paid by the Bond Trustee at or before the execution and delivery of these presents and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and the performance and observance by the County of all the obligations and covenants expressed or implied herein and in the Bonds, does hereby grant, convey, pledge, transfer and assign to the Bond Trustee, and to its successors in trust, the following (herein called the "Trust Estate"):

*First*, the amounts required from time to time to be deposited in or credited to the account of the Bond Fund in accordance with this Indenture and the Financing Agreement and the Note from time to time held by the Bond Trustee or a Co-Paying Agent for the benefit of the Owners of the Bonds pursuant to this Indenture, together, as provided herein, with any investments and reinvestments made with such amounts and moneys and the proceeds thereof; and

*Second*, all of the County's right, title and interest in and to the Note, and payments made thereon, delivered by Big Rivers to the Bond Trustee pursuant to the Financing Agreement; and

*Third*, all of the County's right, title and interest in and to the Receipts and Revenues of the County from the Financing Agreement and all of the County's right, title and interest in and to the Financing Agreement together with all powers, privileges, options and other benefits of the County contained in the Financing Agreement which are not specifically described in the First Granting Clause above other than the rights of the County set forth in Sections 5.4, 5.6 and 9.4 of the Financing Agreement; *provided, however*, that nothing in this clause shall impair, diminish or otherwise affect the County's obligations under the Financing Agreement or, except as otherwise provided in this Indenture, impose any such obligations on the Bond Trustee; and

*Fourth*, any and all property of every kind or description which may from time to time hereafter be sold, transferred, conveyed, assigned, hypothecated, endorsed, deposited, pledged,

mortgaged, granted or delivered to, or deposited with, the Bond Trustee as additional security hereunder by the County or anyone on its behalf or with its written consent, or which pursuant to any of the provisions hereof or of the Financing Agreement may come into the possession or control of the Bond Trustee, or of a lawfully appointed receiver, as such additional security; and the Bond Trustee is hereby authorized to receive any and all such property as and for additional security for the payment of the Bonds and to hold and apply all such property subject to the terms hereof.

**TO HAVE AND TO HOLD** the said Trust Estate, whether now owned or held or hereafter acquired, unto the Bond Trustee, its successors and assigns, forever.

**IN TRUST NEVERTHELESS**, upon the terms and trusts herein set forth for the equal and proportionate benefit and security of all present and future Owners of the Bonds without preference of any Bond over any other, and for enforcement of the payment of the Bonds, in accordance with their terms, and all other sums payable hereunder or on the Bonds and for the performance of and compliance with the obligations, covenants and conditions of this Indenture, as if all the Bonds at any time outstanding had been authenticated, executed and delivered simultaneously with the execution and delivery of this Indenture, all as herein set forth.

**IT IS HEREBY COVENANTED, DECLARED AND AGREED** that this Indenture creates a continuing lien to secure equally and ratably the payment in full of the principal of and interest on all Bonds which may, from time to time, be outstanding hereunder, and that the Bonds are to be issued, authenticated and delivered; and that the Trust Estate is to be held, dealt with and disposed of by the Bond Trustee, upon and subject to the terms, covenants, conditions, uses, agreements and trusts set forth in this Indenture, as follows:

## **ARTICLE I**

### **DEFINITIONS**

The terms defined in this Article I shall, for all purposes of this Indenture, have the meanings herein specified, unless the context clearly requires otherwise:

“*Act*” shall mean the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended, and all acts supplemental thereto or amendatory thereof.

“*Administration Expenses*” shall mean the reasonable and necessary expenses incurred by the County with respect to the Financing Agreement, this Indenture and any transaction or event contemplated by the Financing Agreement or this Indenture, including the compensation and expenses paid to the Bond Trustee.

“*Big Rivers*” shall mean Big Rivers Electric Corporation, a nonprofit rural electric cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky, and its lawful successors and assigns.

“*Big Rivers Indenture*” shall mean the Indenture, dated as of July 1, 2009, between Big Rivers and U.S. Bank National Association, as trustee, as supplemented or amended from time to

time, including as supplemented by the First Supplemental Indenture, providing for the issuance of the Note, and as also amended and supplemented by any alternate indenture or mortgage.

“*Big Rivers Representative*” shall mean any one of the following officers and/or employees of Big Rivers: (i) the President and Chief Executive Officer, (ii) the Senior Vice President, Financial and Energy Services and Chief Financial Officer or (iii) any other officer or employee of Big Rivers at the time designated to act on behalf of Big Rivers by a written certificate furnished to the County and the Bond Trustee containing the specimen signature of such person and signed on behalf of Big Rivers by any one of the above-described officers and/or employees. Such certificate may designate one or more alternates.

“*Bond Fund*” shall mean the fund created by Section 4.01 hereof.

“*Bond Trustee*” shall mean U.S. Bank National Association, and its successor or successors hereunder, as trustee and Paying Agent under this Indenture.

“*Bondowner*” or “*Owner*” shall mean the person in whose name a Bond of any series is registered upon the registration books maintained by the Registrar.

“*Bonds*” or “*Bond*” shall mean the County’s “Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project),” authorized under Section 2.02 hereof.

“*Book Entry Bond*” shall mean a Bond of any series authorized to be issued hereunder and issued to and, except as provided in Section 2.11(d) hereof, restricted to being registered in the name of, a Securities Depository for the participants in such Securities Depository or the beneficial owners of such Bond.

“*Business Day*” shall mean any day on which (i) banks located in New York, New York, and the cities in which the principal offices of both the Bond Trustee and the Guarantor are located are not required or authorized to be closed and (ii) The New York Stock exchange is open.

“*Co-Paying Agent*” shall mean any co-paying agent appointed in accordance with Sections 9.20 and 9.21 hereof.

“*County*” shall mean County of Ohio, Kentucky, a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky.

“*Escrow Deposit Agreement*” shall mean the Escrow Deposit Agreement dated as of [\_\_\_\_], 2010 among Big Rivers, the County and the Escrow Deposit Trustee.

“*Escrow Deposit Trustee*” shall mean U.S. Bank National Association, in its capacity as trustee under the Escrow Deposit Agreement.

“*Event of Default*” shall have the meaning specified in Section 8.01 hereof.

“*Facilities*” shall mean those air and water pollution control and sewage and solid waste disposal facilities located at the Plant which were financed with the proceeds of the 1982 Bonds. The Facilities are listed on Exhibit A to the Financing Agreement.

“*Financing Agreement*” shall mean the Loan Agreement, dated as of [\_\_\_\_], 2010, between the County and Big Rivers, as amended or supplemented by any and all Supplemental Financing Agreements.

“*First Supplemental Indenture*” shall mean the First Supplemental Indenture, dated as of [\_\_\_\_], 2010, between Big Rivers and U.S. Bank National Association, as trustee.

“*Fiscal Court*” shall mean the Fiscal Court of the County or any successor governing body of the County.

“*Guarantor*” shall mean the National Rural Utilities Cooperative Finance Corporation, a District of Columbia cooperative association.

“*Guaranty*” shall mean the Guaranty Agreement, dated as of [\_\_\_\_], 2010, between the Guarantor and the Bond Trustee, guaranteeing when due the timely payment of scheduled principal of and interest on the Bonds as provided therein.

“*Indenture*” shall mean this Trust Indenture of the County, as amended or supplemented by any and all Supplemental Indentures.

“*Interest Payment Date*” shall mean [January 1/15] and [July 1/15] of each year, commencing [\_\_\_\_], 2010.

“*Investment Securities*” shall mean the following obligations or securities (only to the extent investment therein would not violate the laws of the Commonwealth of Kentucky), maturing or redeemable at the option of the holder thereof at such time or times as to enable disbursements to be made from the Bond Fund in accordance with the terms hereof, or which shall be marketable prior to the maturities thereof:

(i) Direct obligations of, or obligations guaranteed by, the United States of America;

(ii) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America:

- Export-Import Bank,
- Farm Credit System Financial Assistance Corporation,
- Farmers Home Administration,
- General Services Administration,
- U.S. Maritime Administration,
- Small Business Administration,
- Government National Mortgage Association (GNMA),
- U.S. Department of Housing & Urban Development (PHA's), and
- Federal Housing Administration;

(iii) U.S. dollar denominated certificates of deposit (whether negotiable or non-negotiable), demand deposits, time deposits and banker's acceptances with any bank or trust company organized under the laws of any state of the United States of America or any national banking association whose deposit obligations on the date of purchase are rated either "A-1" or better by Standard & Poor's Rating Group, a division of The McGraw-Hill Companies, Inc. ("S&P") and "P-1" or better by Moody's Investors Service, Inc. ("Moody's") (provided that a rating on a holding company shall not be deemed to be such rating on a subsidiary bank);

(iv) Commercial paper which is rated at the time of purchase either "A-1" or better by S&P and "P-1" or better by Moody's and which matures not more than 270 days after the date of purchase;

(v) Senior debt obligations rated "AAA" by S&P and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(vi) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P;

(vii) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

- (1) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's or any successors thereto; or
- (2) (A) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (a) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate and (B) which escrow is sufficient, as verified by a nationally recognized firm of independent certified public accountants, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate.

"*Maturity Date*" shall mean, with respect to the Bonds, [\_\_\_\_\_].

"*1954 Code*" shall mean the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder.

“1982 Bonds” shall mean the \$82,500,000 aggregate principal amount of the County’s “Pollution Control Interim Bonds, Series 1982 (Big Rivers Electric Corporation Project)” previously issued by the County to finance a portion of the cost of the Facilities. The 1982 Bonds were retired with the proceeds of the 1985 Bonds and are no longer outstanding.

“1985 Bonds” shall mean the \$83,300,000 aggregate principal amount of the County’s “Variable Rate Demand Pollution Control Refunding Bonds, Series 1985 (Big Rivers Electric Corporation Project)” previously issued by the County to refund the 1982 Bonds. The 1985 Bonds were retired with the proceeds of the 2001 Bonds and are no longer outstanding.

“1986 Act” means the Tax Reform Act of 1986.

“1986 Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Note” shall mean the first mortgage note issued by Big Rivers under the First Supplemental Indenture and the Financing Agreement, which Note is secured by the Big Rivers Indenture on a parity with all other notes secured by the Big Rivers Indenture.

“Offering Statement” shall mean the Offering Statement, dated [\_\_\_\_\_], relating to the Bonds.

“Opinion of Bond Counsel” shall mean an opinion in writing signed by an attorney or firm of attorneys experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds and who is acceptable to the Bond Trustee.

“Outstanding under this Indenture,” “Outstanding hereunder,” or “Outstanding” when used in reference to the Bonds shall mean, as at any particular date, the aggregate of all Bonds authenticated and delivered under this Indenture except:

- (a) Bonds cancelled at or prior to such date or delivered to or acquired by the Bond Trustee at or prior to such date for cancellation or, in the case of Book Entry Bonds, to the extent provided in Section 2.11(f) hereof, portions of Bonds deemed to have been cancelled;
- (b) Bonds (or, in the case of Book Entry Bonds, as provided in Section 2.11(f) hereof, portions thereof) for the payment of which cash shall have been theretofore deposited with the Bond Trustee in an amount equal to the principal amount thereof and interest thereon to maturity;
- (c) Bonds otherwise deemed to be paid in accordance with Article VII hereof; and
- (d) Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Indenture, unless proof satisfactory to the Bond Trustee and Big Rivers is presented that such Bonds are held by a bona fide holder in due course.



*provided, however,* that Bonds paid with proceeds of the Guaranty will remain Outstanding for all purposes under this Indenture.

“*Plant*” shall mean the D.B. Wilson Plant Unit No. 1, a coal-fired steam electric generating plant located within the geographic boundaries of the County and wholly-owned by Big Rivers.

“*Principal Office*” shall mean, (i) for the Bond Trustee and Registrar, the principal corporate trust office of the Bond Trustee, which office at the date of acceptance by the Bond Trustee of the duties and obligations imposed on the Bond Trustee by this Indenture is located at 225 Asylum Street, 23rd Floor, Hartford, Connecticut 06103, Attention: Philip G. Kane, Jr. (Big Rivers 2010 Indenture), and (ii) for a Co-Paying Agent, the office of such Co-Paying Agent designated in writing to the Bond Trustee.

“*Purchase Contract*” shall mean that certain Purchase Contract providing for the purchase by Goldman, Sachs & Co., as underwriter, of the Bonds from the County.

“*Receipts and Revenues of the County from the Financing Agreement*” shall mean all moneys paid to the County by Big Rivers pursuant to Section 5.1 of the Financing Agreement, and pursuant to the Note, and all receipts of the Bond Trustee credited under the provisions of this Indenture against such payments.

“*Record Date*” shall mean the fifteenth (15th) day (whether or not a Business Day) next preceding an Interest Payment Date.

“*Registrar*” shall mean the Bond Trustee acting in its capacity as Registrar of the Bonds.

“*Securities Depository*” shall mean, with respect to a Book Entry Bond, the person, firm, association or corporation specified to serve as the securities depository for such Book Entry Bond, or its nominee, and its successor or successors and any other person, firm, association or corporation which may at any time be substituted in its place pursuant to this Indenture.

“*Supplemental Financing Agreement*” shall mean any agreement between the County and Big Rivers amending or supplementing the Financing Agreement in accordance with the terms of this Indenture.

“*Supplemental Indenture*” shall mean any Indenture of the County modifying, altering, amending, supplementing or confirming this Indenture.

“*Tax Certificate and Agreement*” shall mean the Tax Certificate and Agreement by and between the County and Big Rivers.

“*2001 Bonds*” shall mean the \$83,300,000 aggregate principal amount of the County’s “Pollution Control Refunding Revenue Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS)”.

“2001 Financing And Loan Agreement” shall mean that certain Financing And Loan Agreement dated as of August 1, 2001 between the County and Big Rivers relating to the 2001 Bonds.

“2001 Indenture” shall mean the Trust Indenture dated as of August 1, 2001 between the County and U.S. Bank Trust National Association, as trustee, under which the 2001 Bonds were issued and secured.

“2001 Trustee” shall mean U.S. Bank Trust National Association, the current trustee (as successor) under the 2001 Indenture.

## ARTICLE II

### THE BONDS

**SECTION 2.01** *Limited Obligations Of County; Payment And Security.* All Bonds issued under this Indenture and at any time Outstanding shall in all respects be equally and ratably secured hereby, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds, so that all Bonds at any time issued and Outstanding hereunder shall have the same right, lien and preference under and by virtue of this Indenture. The Bonds shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the County be subject to any liability thereon. No holder or holders of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the County to pay any such Bonds or the interest thereon, nor to enforce payment thereon against any property of the County. The Bonds shall not constitute a charge, lien nor encumbrance, legal or equitable, upon any property of the County. Each Bond shall recite in substance that the Bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, as authorized in the Act, and that the Bond does not constitute a debt of the County within the meaning of any constitutional or statutory limitation.

**SECTION 2.02** *Authorization And Terms Of Bonds.* The Bonds entitled to the benefit, protection and security of this Indenture are hereby authorized in the aggregate principal amount of \$83,300,000 and shall be designated “Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project).” The Bonds shall be dated their date of issuance and shall mature (subject to provisions for prior redemption upon the terms and conditions hereinafter set forth) on the Maturity Date. The Bonds shall bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) from the date of delivery thereof, or from the most recent Interest Payment Date to which interest has been paid, and shall be payable on [January 1/15] and [July 1/15] of each year, commencing [\_\_\_\_], 2010 until the Maturity Date or until the date fixed for redemption, and until payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions of this Indenture, at the rate of [\_\_\_\_]% per annum.

The Bonds shall be issued as fully registered bonds without coupons in the denomination of \$5,000 and integral multiples thereof and shall be numbered from 1 consecutively upwards prefixed by the letter “R”.

For the payment of interest on the Bonds, the County shall cause to be deposited in the Bond Fund, at the Principal Office of the Bond Trustee on or prior to each Interest Payment Date, out of the Receipts and Revenues of the County from the Financing Agreement and other moneys pledged therefor, an amount sufficient to pay the interest to become due on such Interest Payment Date. Any amount in the Bond Fund available for the payment of interest on such Bonds shall be credited against any amount required to be caused to be so deposited in the Bond Fund.

For the payment of the principal of the Bonds upon maturity, the County shall cause to be deposited in the Bond Fund, at the Principal Office of the Bond Trustee on or prior to the Maturity Date of the Bonds, out of the Receipts and Revenues of the County from the Financing Agreement and other moneys pledged therefor, an amount sufficient to pay the principal of the Bonds on the Maturity Date. Any amount in the Bond Fund available for the payment of the principal of the Bonds shall be credited against any amount required to be caused to be so deposited in the Bond Fund.

Subject to Section 2.11 hereof with respect to Book Entry Bonds, principal of and interest on the Bonds shall be payable at the Principal Office of the Bond Trustee or, at the option of the Owner, at the Principal Office of the Co-Paying Agent. Payment as aforesaid shall be made in such coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts; *provided, however*, that, subject to Section 2.11 hereof, interest may be payable, at the option of the Bond Trustee, by check or draft drawn upon the Bond Trustee and mailed to the registered address of the Owner as it shall appear on the registration books maintained by the Registrar as of the close of business on the Record Date for a particular Interest Payment Date, or, at the written request of any Owner of Bonds in an aggregate principal amount greater than or equal to \$1,000,000 delivered to the Bond Trustee on or prior to such Record Date prior to such Interest Payment Date, by wire transfer per the instructions of such Owner as set forth in such request.

Any Bond issued on or subsequent to the first Interest Payment Date thereon shall be dated as of the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be an Interest Payment Date to which interest on such Bond has been paid in full or duly provided for, in which case it shall be dated as of such date of authentication; *provided, however*, that if, as shown by the records of the Bond Trustee, interest on such Bond shall be in default, the Bond issued in exchange for such Bond surrendered for transfer or exchange shall be dated as of the date to which interest has been paid in full on the Bond surrendered.

**SECTION 2.03 *Application Of Proceeds Of The Bonds.*** The proceeds from the sale of the Bonds shall be transferred to the Escrow Deposit Trustee for deposit pursuant to the Escrow Deposit Agreement and used to pay the principal of the 2001 Bonds on the date fixed for their redemption.

**SECTION 2.04 *Execution Of Bonds; Signatures.***

(a) The Bonds shall be executed on behalf of the County by the County Judge/Executive of the County and [shall have affixed, impressed or reproduced thereon the seal

of the County,] attested by the County Court Clerk. Each of such officers of the County may execute or cause to be executed the Bonds with a facsimile signature in lieu of his or her manual signature provided that the signature of such officer, certified by such officer under oath, is on file with the Auditor of the County. Except as provided in the preceding sentence, the signatures of the said officers of the County on Bonds shall be manual signatures.

(b) In case any officer of the County whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the authentication by the Bond Trustee and delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery; and any Bond may be signed on behalf of the County by such persons as, at the time of execution of such Bond or coupon, shall be the proper officers of the County, even though at the date of such Bond or of the adoption of this Indenture any such person was not such officer.

**SECTION 2.05 *Authentication of Bonds by Bond Trustee.*** Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form hereinafter set forth manually executed by the Bond Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Bond Trustee, and such executed certificate of the Bond Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Bond Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed with an authorized signature of the Bond Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder.

**SECTION 2.06 *Prerequisites to Authentication of Bonds.*** The County shall execute and deliver to the Bond Trustee and the Bond Trustee shall authenticate the Bonds and deliver the Bonds to the initial purchasers thereof as may be directed hereinafter pursuant to this Section 2.06. Prior to the delivery by the Bond Trustee of any authenticated Bonds, there shall be or have been delivered to the Bond Trustee:

- (a) A duly certified copy of this Indenture.
- (b) A duly certified copy of the Financing Agreement.
- (c) The Note in an aggregate principal amount equal to the aggregate principal amount of the Bonds.
- (d) A duly certified copy of the Big Rivers Indenture.
- (e) A duly certified copy of the Guaranty.
- (f) A duly certified copy of the Escrow Deposit Agreement executed by the Escrow Deposit Trustee, the County and Big Rivers.
- (g) A request and authorization to the Bond Trustee on behalf of the County and signed by Big Rivers Representative to authenticate and deliver the Bonds to the purchaser or purchasers therein identified upon payment to the Bond Trustee, but for the account of the

County, of a sum specified in such request and authorization, in the aggregate principal amount determined by this Indenture.

(h) A copy of the notice from Big Rivers instructing the 2001 Trustee under the 2001 Indenture to redeem the 2001 Bonds and establishing the redemption date therefor.

(i) A written statement on behalf of Big Rivers, executed by a Big Rivers Representative, (i) approving the issuance and delivery of the Bonds and (ii) consenting to each and every provision of this Indenture.

(j) A copy of the Opinion of Bond Counsel addressed to the County in the form set forth as Appendix [ ] to the Offering Statement, together with a reliance letter addressed to the Bond Trustee solely for the benefit of the Bond Trustee as if the Bond Trustee were one of the Owners of the Bonds.

(k) A copy of the opinion of counsel to Big Rivers addressed to the underwriter for the Bonds in the form set forth in Appendix [ ] of the Purchase Contract.

(l) A copy of the opinion of counsel to the County addressed to the underwriter for the Bonds in the form set forth in Appendix [ ] of the Purchase Contract.

**SECTION 2.07 *Bonds Mutilated, Lost, Stolen Or Destroyed.*** In the event any Bond is mutilated, lost, stolen or destroyed, the County may execute and the Bond Trustee may authenticate a new Bond of like date, maturity and denomination and bearing the same number (supplemented to permit specific identification of such new Bond) as that mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Bond Trustee evidence of such loss, theft or destruction satisfactory to the Bond Trustee, together with indemnity satisfactory to the Bond Trustee and Big Rivers. Upon the issuance of any substitute Bond, the County and the Bond Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto. In the event any such Bond shall have matured or is about to mature, or has been called for redemption, instead of issuing a substitute Bond the County may, with the consent of the Bondowner, pay the same without surrender thereof if there shall be first furnished to the Bond Trustee evidence of such loss, theft or destruction satisfactory to the Bond Trustee, together with indemnity satisfactory to the Bond Trustee and Big Rivers. The Bond Trustee may charge the Owner of such Bond with the Bond Trustee's reasonable fees and expenses in connection with any transaction described in this Section 2.07. Every substitute Bond issued pursuant to the provisions of this Section 2.07 by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute an additional contractual obligation of the County, whether or not the lost, stolen or destroyed Bond shall be at any time enforceable, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder.

**SECTION 2.08 *Transfer, Registration And Exchange.*** All the Bonds issued under this Indenture shall be negotiable, subject to the provisions for registration and transfer contained in this Indenture and in the Bonds. The Bond Trustee shall be the Registrar for the Bonds. So

long as any of the Bonds shall remain Outstanding, the Registrar shall, on behalf of the County, maintain and keep, at its Principal Office, books for the registration and transfer of Bonds; and, upon presentation thereof for such purpose at said Principal Office, the Registrar shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as the Registrar may prescribe, any Bond entitled to registration or transfer. So long as any of the Bonds remain Outstanding, the Registrar shall make all necessary provisions to permit the exchange of Bonds at its Principal Office.

Each Bond shall be transferable only upon the books of the Registrar, which shall be kept for that purpose at the Principal Office of the Registrar, at the written request of the Owner thereof or its attorney duly authorized in writing, upon surrender thereof at said office, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or its duly authorized attorney. Upon the transfer of any Bond or Bonds, the County shall issue in the name of the transferee, in authorized denominations, a new Bond or Bonds of the same series, aggregate principal amount, maturity and interest rate as the surrendered Bond or Bonds.

The County, the Bond Trustee and any Co-Paying Agent may deem and treat the Owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon its order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and none of the County, the Bond Trustee or any Co-Paying Agent shall be affected by any notice to the contrary.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the County shall execute and the Bond Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled and destroyed by the Bond Trustee. Counterparts of the certificates of destruction evidencing such destruction shall be furnished by the Bond Trustee to the County and Big Rivers. For every such exchange or transfer of Bonds, whether temporary or definitive, the County, the Registrar or the Bond Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the fifteen (15) days next preceding an Interest Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the mailing of notice of such redemption. The Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption.

**SECTION 2.09 *Temporary Bonds.*** Pending the preparation of definitive Bonds, the County may execute and the Bond Trustee shall authenticate and deliver temporary Bonds (printed, lithographed or typewritten). Temporary Bonds shall be issuable as registered Bonds without coupons, of any authorized denomination, and substantially in the form of the definitive Bonds but with such omissions, insertions and variations as may be appropriate for temporary Bonds, all as may be determined by the County. Temporary Bonds may be issued without specific redemption prices and may contain such reference to any provisions of this Indenture as

may be appropriate. Every temporary Bond shall be executed by the County and be authenticated by the Bond Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. As promptly as practicable the County shall execute and shall furnish definitive fully registered Bonds and thereupon temporary Bonds may be surrendered in exchange therefor without charge at the Principal Office of the Bond Trustee, and the Bond Trustee shall authenticate and deliver in exchange for such temporary Bonds a like aggregate principal amount of definitive Bonds of authorized denominations and of the same series. Until so exchanged the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds.

**SECTION 2.10 *Bonds Or Other Obligations Under Other Indentures.*** The County expressly reserves the right to issue, to the extent permitted by law, additional or refunding bonds or other obligations under another indenture to provide for additional costs of construction or for additional facilities or to refund any of the Outstanding Bonds, or any combination thereof.

**SECTION 2.11 *Book Entry Bonds.***

(a) Anything in this Indenture to the contrary notwithstanding, the Bonds shall be issued as Book Entry Bonds.

(b) For all purposes of this Indenture, the Owner of a Book Entry Bond shall be the Securities Depository therefor and none of the County, the Bond Trustee, the Registrar or any Co-Paying Agent shall have any responsibility or obligation to the beneficial owner of such Bond or to any direct or indirect participant in such Securities Depository. Without limiting the generality of the foregoing, none of the County, the Bond Trustee, the Registrar or any Co-Paying Agent shall have any responsibility or obligation to any such participant or to the beneficial owner of a Book Entry Bond with respect to (i) the accuracy of the records of the Securities Depository or any participant with respect to any beneficial ownership interest in such Bond, (ii) the delivery to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any notice with respect to such Bond, including any notice of the redemption thereof, or (iii) the payment to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any amount with respect to the principal or redemption price of, or interest on, such Bond. The County, the Registrar, the Bond Trustee and any Co-Paying Agent may treat the Securities Depository as the absolute owner of a Book Entry Bond for all purposes whatsoever, including, but not limited to, (w) payment of the principal or redemption price of, and interest on, such Bond, (x) giving notices of redemption and of other matters with respect to such Bond, (y) registering transfers with respect to such Bond and (z) giving to the County or the Bond Trustee any notice, consent, request or demand pursuant to this Indenture for any purpose whatsoever. The Bond Trustee and any Paying Agent shall pay the principal or redemption price of, and interest on, a Book Entry Bond only to or upon the order of the Securities Depository therefor, and all such payments shall be valid and effective to satisfy fully and discharge the County's obligations with respect to such principal or redemption price, and interest, to the extent of the sum or sums so paid. Except as otherwise provided in subsection (d) of this Section 2.11, no person other than the Securities Depository shall receive a Bond or other instrument evidencing the County's obligation to make payments of the principal thereof and interest thereon.

(c) Subject to Section 2.12 hereof, the County, in its sole discretion and without the consent of any other person, may, by notice to the Bond Trustee and a Securities Depository, terminate the services of such Securities Depository with respect to the Book Entry Bonds for which such Securities Depository serves as securities depository if the County determines that (i) the Securities Depository is unable to discharge its responsibilities with respect to such Bonds or (ii) a continuation of the requirement that all of the Bonds issued as Book Entry Bonds be registered in the registration books of the County in the name of the Securities Depository is not in the best interests of the beneficial owners of such Bonds or of the County.

(d) Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to clause (ii) of subsection (c) of this Section 2.11, such Bond no longer shall be restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository. Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to clause (i) of subsection (c) of this Section 2.11, the County may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the County, is willing and able to undertake the functions of Securities Depository under this Indenture upon reasonable and customary terms. If no such successor can be found within such period, such Book Entry Bond shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository. In the event that a Book Entry Bond shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository, (i) the County shall execute and the Bond Trustee shall authenticate and deliver, upon presentation and surrender of the Book Entry Bond, Bond certificates as requested by the Securities Depository so terminated of like series, principal amount, maturity and interest rate, in authorized denominations, to the identifiable beneficial owners in replacement of such beneficial owners' beneficial ownership interests in such Book Entry Bond and (ii) the Bond Trustee shall notify the Registrar and any Co-Paying Agents that such Bond is no longer restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository.

(e) Anything in this Indenture to the contrary notwithstanding, payment of the redemption price of a Book Entry Bond, or portion thereof, called for redemption prior to maturity may be paid to the Securities Depository by check or draft mailed to the Securities Depository or by wire transfer. Anything in this Indenture to the contrary notwithstanding, such redemption price may be paid without presentation and surrender to the Bond Trustee of the Book Entry Bond, or portion thereof, called for redemption; *provided, however*, that payment of (i) the principal payable at maturity of a Book Entry Bond and (ii) the redemption price of a Book Entry Bond as to which the entire principal amount thereof has been called for redemption shall be payable only upon presentation and surrender of such Book Entry Bond to the Bond Trustee; and *provided, further*, that no such redemption price shall be so payable without presentation and surrender unless such Book Entry Bond shall contain or have endorsed thereon a legend substantially to the following effect (provided that such legend may be modified as may be determined necessary or desirable by the County or a particular Securities Depository):

“AS PROVIDED IN THE INDENTURE REFERRED TO  
HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF  
BOOK-ENTRY-ONLY TRANSFERS THROUGH [NAME OF



SECURITIES DEPOSITORY] (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE INDENTURE, "THE SECURITIES DEPOSITORY"), AND NOTWITHSTANDING ANY OTHER PROVISION OF THE INDENTURE TO THE CONTRARY, (A) THIS BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO A NOMINEE OF THE SECURITIES DEPOSITORY, OR BY A NOMINEE OF THE SECURITIES DEPOSITORY TO THE SECURITIES DEPOSITORY OR A NOMINEE OF THE SECURITIES DEPOSITORY TO ANY SUCCESSOR SECURITIES DEPOSITORY OR ANY NOMINEE THEREOF AND (B) A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE TRUSTEE. THE SECURITIES DEPOSITORY OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF THE SECURITIES DEPOSITORY OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE INDENTURE."

Anything in this Indenture to the contrary notwithstanding, upon any such payment to the Securities Depository without presentation and surrender, for all purposes of (i) the Book Entry Bond as to which such payment has been made and (ii) this Indenture, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so paid. In such event, the Bond Trustee shall notify forthwith the Registrar as to the particular Book Entry Bond as to which such payment has been made, and the principal amount of such Bond so paid, the Registrar shall note such payment on the registration books maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection (e).

(f) For all purposes of this Indenture authorizing or permitting the purchase of Bonds, or portions thereof, by, or for the account of, the County for cancellation, and anything in this Indenture to the contrary notwithstanding, a portion of a Book Entry Bond may be deemed to have been purchased and cancelled without surrender thereof upon delivery to the Registrar of a certificate executed by the County and a participant of the Securities Depository therefor to the effect that a beneficial ownership interest in such Bond, in the principal amount stated therein, has been purchased by, or for the account of, the County through the participant of the Securities Depository executing such certificate; *provided, however*, that any purchase for cancellation of the entire principal amount of a Book Entry Bond shall be effective for purposes of this Indenture only upon surrender of such Book Entry Bond to the Bond Trustee; and *provided, further*, that no portion of a Book Entry Bond may be deemed to have been so purchased and cancelled without surrender thereof unless such Book Entry Bond shall contain or have endorsed thereon the legend(s) referred to in subsection (e) of this Section 2.11. Anything in this Indenture

to the contrary notwithstanding, upon delivery of any such certificate to the Registrar, for all purposes of (i) the Book Entry Bond to which such certificate relates and (ii) this Indenture, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so purchased. In such event, the Registrar shall notify forthwith the Bond Trustee as to the particular Book Entry Bond as to which a beneficial ownership interest therein has been so purchased, and the principal amount of such Bond so purchased, and the Registrar shall note such reduction in principal amount of such Book Entry Bond Outstanding on the registration books maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection (f).

(g) Anything in this Indenture to the contrary notwithstanding, a Securities Depository may make a notation on a Book Entry Bond (i) redeemed in part or (ii) purchased by, or for the account of, the County in part for cancellation, to reflect, for informational purposes only, the date of such redemption or purchase and the principal amount thereof redeemed or deemed cancelled, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in subsection (e) or (f) of this Section 2.11 as the case may be.

(h) Anything in this Indenture to the contrary notwithstanding, in the case of a Book Entry Bond, the County shall be authorized to redeem or purchase (by or for the account of the County), or issue additional or refunding bonds or other obligations to refund, all or less than all of the entire Outstanding principal amount thereof (in portions thereof of \$5,000 or integral multiples thereof), and in the event of such partial defeasance, redemption, purchase or refunding, the provisions of this Indenture relating to the defeasance, redemption or purchase refunding of a Bond or Bonds shall be deemed to refer to the redemption, purchase or refunding of a portion of a Bond.

**SECTION 2.12 *The Depository Trust Company As Initial Securities Depository For The Bonds.***

(a) The Depository Trust Company, New York, New York (“DTC”), is hereby appointed as the initial Securities Depository for the Bonds.

(b) The Bonds shall be initially issued in the form of a single fully registered bond in the aggregate principal amount thereof. So long as DTC serves as Securities Depository for the Bonds, the registered holder of all Bonds shall be, and each of the Bonds shall be registered in the name of, Cede & Co. (“Cede”), as nominee of DTC. Upon delivery by DTC to the Bond Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions of this Indenture, the word “Cede” in this Indenture shall refer to such new nominee of DTC. So long as any Bonds are registered in the name of Cede, as nominee of DTC in its capacity as Securities Depository for the Bonds, all payments with respect to the principal or redemption price of, and interest on, such Bonds and all notices with respect to such Bonds shall be made or given, as the case may be, to DTC as provided in the representation letter of the County and the Bond Trustee, dated the date of the issuance of such Bonds and addressed to DTC, with respect to such Bonds, as such representation letter may be amended and supplemented from time to time.

(c) (i) DTC may determine to discontinue providing its services as Securities Depository for the Bonds at any time by giving reasonable notice thereof to the County or the Bond Trustee, which notice shall include a certification that DTC has discharged its responsibilities with respect to the Bonds under applicable law. Upon the discontinuance of the services of DTC as Securities Depository for the Bonds pursuant to the immediately preceding sentence of this paragraph, the County may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the County, is willing and able to undertake the functions of Securities Depository under this Indenture upon reasonable and customary terms. If no such successor can be found within such period, the Bonds shall no longer be restricted to being registered in the registration on books kept by the Registrar in the name of a Securities Depository.

(ii) If the Bonds no longer shall be restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository as provided in paragraph (i) of this subsection (c), (A) the County shall execute and the Bond Trustee shall authenticate and deliver, upon presentation and surrender of the Bonds, the applicable Bond certificates as requested by the Securities Depository therefor of like series, aggregate principal amount, maturity and interest rate, in authorized denominations, to the identifiable beneficial owners in replacement of such beneficial owners' beneficial ownership interests in such Bonds, if applicable and (B) the Bond Trustee shall notify the Registrar and any Paying Agent that the Bonds are no longer restricted to being registered on the books kept by the Registrar in the name of a Securities Depository.

### ARTICLE III

#### REDEMPTION

**SECTION 3.01 *Optional Redemption.*** The Bonds are subject to redemption in whole or in part (and if less than all of the Bonds are to be redeemed, by lot or in such manner as shall be determined by the Bond Trustee) prior to maturity at any time on or after [ ] by the County, upon the exercise by Big Rivers of its option to prepay all or a part of the unpaid balance of the Note, at a redemption price of 100 percent of the principal amount thereof, together with interest accrued thereon to the date fixed for redemption.

**SECTION 3.02 *Selection of Bonds To Be Redeemed.*** If less than all of the Bonds shall be called for redemption pursuant to Section 3.01 hereof, the applicable Bonds or portions of registered Bonds of such maturity to be redeemed shall be selected by the Bond Trustee by lot or in such manner as the Bond Trustee in its discretion may deem proper; *provided, however*, that the portion of any such Bonds to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof and that, in selecting the applicable Bonds for redemption, the Bond Trustee shall treat each such Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. Subject to Section 2.11 hereof, if it is determined that one or more, but not all of the \$5,000 units of principal amount represented by any such Bonds is to be called for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Owner of any such Bonds shall forthwith surrender such Bond or Bonds to the Bond Trustee for (1) payment of the redemption price (including the interest to the date fixed for redemption) of the \$5,000 unit or units of principal amount called for redemption and

(2) exchange for a new Bond or Bonds, of the aggregate principal amount of the unredeemed balance of the principal amount of such Bonds and of like maturity and interest rate, and such new Bond or Bonds shall be numbered corresponding to the numbers of the \$5,000 units of principal amount not called for redemption. New Bonds representing the unredeemed balance of the principal amount of such Bonds shall be issued to the registered Owner thereof, without charge therefor. Subject to Section 2.11 hereof, if the Owner of any such a denomination greater than \$5,000 shall fail to present such Bonds to the Bond Trustee for payment and exchange as aforesaid, such Bonds shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the \$5,000 unit or units of principal amount called for redemption (and to that extent only).

### **SECTION 3.03 *Procedure for Redemption.***

(a) Any Bonds may be called for redemption pursuant to Section 3.01 hereof only upon the written notice of Big Rivers, and from amounts representing prepayment of the Note in accordance with the terms of the Note and the Financing Agreement. Such notice shall be given by Big Rivers to the County and the Bond Trustee at any time during the period beginning with (and including) the 45th day prior to the date of redemption and ending with (and including) the 30th day prior to the date of redemption. Such notice shall specify that Big Rivers is electing to prepay the Note and have the amount of such prepayment applied to the redemption of the principal amount of the Bonds specified in the notice (together with any required premium) on the date for their redemption specified in such notice (which must be a date permitted by Section 3.01 hereof). If, at the time Big Rivers gives this notice, the Bond Trustee does not have on deposit sufficient available funds to pay the principal of, premium, if any, and interest accrued and to accrue through the redemption date on the Bonds so called for redemption, then Big Rivers' notice of redemption is conditional and revocable; that is, Big Rivers is under no obligation to provide, or cause to be provided, to the Bond Trustee funds to effect such redemption and, if it does not elect to do so by 12:00 noon, New York City time, on the redemption date, then the Bonds called for redemption shall not be redeemed pursuant to the above-mentioned notice of redemption or the notice of redemption given by the Bond Trustee pursuant to subsection (b) of this Section 3.03. Neither Big Rivers nor the County shall be liable to any Bondowner if Big Rivers does not provide, or cause to be provided, funds sufficient to effect redemption of any such Bonds with the result that such Bonds are not redeemed on the redemption date specified in such notices. If, at the time Big Rivers gives this notice, the Bond Trustee has on deposit sufficient funds to effect such redemption, then Big Rivers' notice is unconditional and irrevocable and the Bonds specified in the notice of Big Rivers and given by the Bond Trustee pursuant to subsection (b) of this Section 3.03 shall become due and payable at the specified redemption price on the specified redemption date.

(b) In the event any Bonds are called for redemption, the Bond Trustee shall give notice to the Bondowners of those Bonds subject to redemption, in the name of the County, of the redemption of such Bonds, which notice shall specify the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable, which shall be the Principal Office of the Bond Trustee as Paying Agent for the Bonds, and the Principal Office of any Co-Paying Agent for such Bonds, and, if less than all of the Bonds are to be redeemed, the numbers of such Bonds to be redeemed. Such notice shall be given by mailing a copy of the redemption notice by first-class, postage prepaid, mail at least

thirty (30) days prior to the date fixed for redemption to the Bondowners of the Bonds to be redeemed at the addresses shown on the registration books maintained by the Bond Trustee, as Registrar; *provided, however*, that failure duly to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of such Bonds. If Big Rivers' notice of redemption for such Bonds given pursuant to subsection (a) of this Section 3.03 is conditional and revocable, then the notice of redemption given by the Bond Trustee pursuant to this subsection (b) shall so state and shall further state (i) that the redemption of such Bonds is conditional upon Big Rivers providing, or causing to be provided, to the Bond Trustee, by 12:00 noon, New York City time, on the redemption date, funds sufficient to effect such redemption, (ii) that if such funds are not so provided, such Bonds will not be redeemed on such date and the Bond Trustee's notice of the redemption of such Bonds given pursuant to this subsection (b) will be of no force or effect, (iii) that Big Rivers is under no obligation to provide, or cause to be provided, such funds and, (iv) that neither Big Rivers nor the County shall be liable to any Bondowner if Big Rivers does not provide, or cause to be provided, funds sufficient to effect such redemption with the result that such Bonds are not redeemed on the redemption date specified in such notice. If the Big Rivers notice is unconditional and irrevocable, then the Bond Trustee's notice shall so state, and shall also state (i) that the Bond Trustee has on deposit sufficient funds to effect such redemption and (ii) that such Bonds shall become due and payable at the specified redemption price (plus accrued interest) on the redemption date specified in the notice. If such moneys shall not have been so received, the Bond Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. Subject to Section 2.11 hereof, on presentation and surrender of such Bonds so called for redemption at the place or places of payment, such Bonds shall be paid and redeemed.

(c) Any Bonds so called for redemption which are deemed to be not Outstanding under the provisions of Section 7.01 hereof, will cease to bear interest on the specified redemption date and shall no longer be protected under this Indenture.

(d) On or prior to the date the Bond Trustee first gives to the Bondowners any notice of redemption of Bonds, the Bond Trustee shall provide the County and Big Rivers a copy of such notice.

**SECTION 3.04 *Cancellation and Destruction Of Bonds.*** All Bonds which have been redeemed or delivered to or acquired by the Bond Trustee for cancellation shall be cancelled and destroyed by the Bond Trustee and shall not be reissued. Counterparts of the certificates of destruction evidencing such destruction shall be furnished by the Bond Trustee to Big Rivers.

**SECTION 3.05 *Partial Redemption after Default; Minimum Sum.*** No redemption of less than all of the Bonds at the time Outstanding shall be made pursuant hereto unless the total amount of funds available and to be used for such partial redemption is equal to or more than \$50,000. Anything in this Indenture to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default defined in clause (a) or (b) of Section 8.01 hereof, there shall be no redemption of less than all of the Bonds at the time Outstanding, except in the case of any Bonds notice of the redemption of which has been given pursuant to Section 3.02 hereof and moneys or obligations for the payment of which have been deposited with or paid to the Bond Trustee prior to the occurrence of such Event of Default.

**SECTION 3.06 *Payment to Bond Trustee upon Redemption.*** For the redemption of any Bonds, the County shall cause to be deposited in the Bond Fund, before 12:00 noon, New York City time, at the Principal Office of the Bond Trustee on the redemption date, but only out of the Receipts and Revenues of the County from the Financing Agreement (and subject to the right of Big Rivers to elect not to provide funds sufficient for such redemption as provided in Section 3.02 hereof), an amount sufficient to pay the principal of, premium, if any, and interest to become due on such redemption date. Any amount in the Bond Fund available to pay such redemption price shall be credited against any amount required to be caused to be so deposited in the Bond Fund.

## **ARTICLE IV**

### **THE BOND FUND**

**SECTION 4.01 *Creation Of Bond Fund.*** There is hereby created and established with the Bond Trustee a trust fund in the name of the County to be designated “County of Ohio, Kentucky, Pollution Control Refunding Revenue Bonds, Bond Fund (Big Rivers Electric Corporation Project),” which shall be used by the Bond Trustee to pay the principal of the Bonds when due at maturity and interest on the Bonds when due.

**SECTION 4.02 *Receipts And Revenues To Be Remitted To Bond Trustee.*** The Receipts and Revenues of the County from the Financing Agreement are to be remitted directly to the Bond Trustee for the account of the County and deposited in the Bond Fund as provided in this Indenture. Said payments shall be sufficient in amount to pay the principal of the Bonds when due at maturity and interest on the Bonds when due. The entire amount of Receipts and Revenues of the County from the Financing Agreement are pledged to the payment of the principal of the Bonds when due at maturity and interest on the Bonds when due. The County hereby covenants and agrees that it will not create any lien upon the Receipts and Revenues of the County from the Financing Agreement other than the lien hereby created.

**SECTION 4.03 *Deposits Into Bond Fund.*** There shall be paid into the Bond Fund:

- (a) all payments by Big Rivers on the Note; and
- (b) all other moneys received by the Bond Trustee under and pursuant to any of the provisions of the Financing Agreement when accompanied by written directions by Big Rivers that such moneys are to be paid into the Bond Fund. The County hereby covenants and agrees that so long as any of the Bonds issued hereunder are Outstanding, it will deposit, or cause to be deposited, in the Bond Fund sufficient sums from the Receipts and Revenues of the County from the Financing Agreement promptly to meet and pay the principal of the Bonds when due at maturity and interest on the Bonds when due.

**SECTION 4.04 *Use Of Moneys In Bond Fund.***

- (a) Except as provided in this Section 4.04, moneys in the Bond Fund shall be used solely for the payment of the principal of the Bonds when due at maturity and interest on the Bonds when due. Notwithstanding anything to the contrary contained herein, if moneys have been deposited into the Bond Fund sufficient to pay the principal of, premium, if any, and

interest due on the Bonds to the date such Bonds had been called for redemption in accordance with the terms of this Indenture, and are at the time available for such purpose, then such moneys shall be applied to the redemption of such Bonds.

(b) Any amounts remaining in the Bond Fund after payment in full of the principal of and interest on all Bonds (or provision for payment thereof as provided in this Indenture), the fees, charges and expenses of the Bond Trustee and the Co-Paying Agent, and the fees and expenses of the Registrar, and all other amounts required to be paid hereunder, shall be paid to Big Rivers.

**SECTION 4.05 *Custody And Application Of Bond Fund.*** The Bond Fund shall be in the custody of the Bond Trustee but in the name of the County and the County hereby authorizes and directs the Bond Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of the Bonds when due at maturity, the interest on the Bonds when due and any other amounts payable from the Bond Fund as the same shall become due and payable.

**SECTION 4.06 *Bonds Not Presented When Due.***

(a) Subject to Section 2.11 hereof, in the event any Bonds shall not be presented for payment when the principal thereof and premium, if any, becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, if moneys sufficient to pay such Bonds are on deposit in the Bond Fund for the benefit of the Owners thereof, all liability of the County to the Owners thereof for the payment of such Bonds shall forthwith cease, terminate and be completely discharged, and it shall be the duty of the Bond Trustee to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of Owners of such Bonds, who shall thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to such Bonds. Such segregated funds shall not be subject to investment.

(b) Any money deposited with the Bond Trustee or any Co-Paying Agent in trust for the payment of the principal of or interest on any Bond and remaining unclaimed for two years and eleven months after such principal or interest has become due and payable shall, upon Big Rivers' request to the Bond Trustee, be paid to Big Rivers; *provided, however,* that before the Bond Trustee or such Co-Paying Agent shall be required to make any such repayment, the Bond Trustee may at the written request and expense of Big Rivers cause to be mailed by first class mail, postage prepaid, to each of the Bondowners at the addresses thereof as listed on the registration books kept by the Registrar, a notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such mailing, any unclaimed balance of such money then remaining will be repaid to Big Rivers. After the payment of such unclaimed moneys to Big Rivers, the Owner of such Bond shall thereafter look only to Big Rivers for the payment thereof, and all liability of the Bond Trustee or such Co-Paying Agent with respect to such money shall thereupon cease.

## ARTICLE V

### INVESTMENTS

**SECTION 5.01 *Investment Of Moneys Held In Bond Fund.*** The moneys in the Bond Fund shall be invested and reinvested by the Bond Trustee in such Investment Securities as Big Rivers shall direct in writing by a Big Rivers Representative; *provided, however,* that such moneys shall not be invested in such manner as will violate the provisions of Section 6.09 hereof. All income or other gain from such investments shall be carried to the credit of the Bond Fund, and any loss resulting from such investments shall be charged to the Bond Fund.

As and when any amounts thus invested may be needed for disbursements from the Bond Fund, the Bond Trustee shall cause a sufficient amount of Investments Securities to be sold or otherwise converted into cash to the credit of the Bond Fund. So long as no Event of Default (as defined in Section 8.01 hereof) shall have occurred and be continuing, Big Rivers shall have the right to designate the investments to be sold and to otherwise direct the Bond Trustee in writing with respect to the sale or conversion to cash of the investments made with the moneys in the Bond Fund.

Moneys credited to any account or fund maintained hereunder which are uninvested pending disbursement or receipt of proper investment directions or as directed herein, may be deposited to and held in a non-interest bearing demand deposit account established with the commercial banking department of the Bond Trustee or with any bank affiliated with the Bond Trustee, without the pledge of securities to or other collateralization of such deposit accounts. The Bond Trustee may invest in Investment Securities through its own trust department and such moneys may be deposited in time deposits, or certificates of deposit issued by the Bond Trustee or its affiliates.

## ARTICLE VI

### GENERAL COVENANTS

**SECTION 6.01 *No General Obligation, Pecuniary Liability, Or Charge Against General Credit Or Taxing Powers Of County.*** Each and every covenant herein made, including all covenants made in the various sections of this Article VI, is predicated upon the condition that any obligation for the payment of money incurred by the County shall not be the general obligation of the County and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers, but shall be payable solely from the Receipts and Revenues of the County from the Financing Agreement, which are required to be set apart and transferred to the Bond Fund, and which, along with the balance of the Trust Estate, are hereby specifically pledged to the payment thereof in the manner and to the extent in this Indenture specified, and nothing in the Bonds or in this Indenture shall be considered as pledging any other funds or assets of the County.

The Bonds shall not constitute an indebtedness of the County within the meaning of the Constitution of Kentucky, but shall be payable as to principal and interest solely from the



revenues derived from the payments made by Big Rivers under the Note and from the other Receipts and Revenues of the County from the Financing Agreement.

The County will promptly cause to be paid solely from the sources stated herein the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bond, according to the true intent and meaning thereof.

**SECTION 6.02 *County Will Perform Obligations; Due Authorization And Enforceability Thereof.*** The County will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder, and in all proceedings pertaining thereto. The County covenants that it is duly authorized under the Constitution and laws of the Commonwealth of Kentucky to issue the Bonds authorized hereby, to enter into the Financing Agreement, and to pledge to the Bond Trustee the Receipts and Revenues of the County from the Financing Agreement and to pledge and assign to the Bond Trustee all the County's right, title and interest under the Financing Agreement, and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the County according to the import thereof.

**SECTION 6.03 *Corporate Existence Of County; Compliance With Laws.*** The County will at all times maintain its corporate existence or assure the assumption of its obligations under this Indenture by any public body succeeding to its powers under the Act, and it will use its best efforts to maintain, preserve and renew all the rights and powers provided to it by the Act; and it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Financing Agreement.

**SECTION 6.04 *County Will Enforce And Not Amend Obligations Of Big Rivers.*** So long as any Bonds are Outstanding, upon receipt of written notification from the Bond Trustee the County will enforce the obligation of Big Rivers to pay, or cause to be paid, all the payments and other costs and charges payable by Big Rivers under the Financing Agreement and the Note. The County will not enter into any agreement with Big Rivers amending the Financing Agreement or the Note without the prior written consent of the Bond Trustee and compliance with Sections 11.06 and 11.07 hereof.

**SECTION 6.05 *Execution And Delivery Of Instruments By County.*** The County will, upon the reasonable request of the Bond Trustee, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Indenture; *provided, however,* that no such instruments or actions shall pledge the credit or taxing power of the Commonwealth of Kentucky, the County, or any other political subdivision of said State.

**SECTION 6.06 *No Other Disposition Of Receipts And Revenues.*** Except for the pledge and assignment to the Bond Trustee, the County will not sell, lease, pledge, assign or otherwise dispose of or encumber its interest in the Receipts and Revenues of the County from the Financing Agreement or any interest in the Note, or its rights and interest under the

Financing Agreement or the Note; and will promptly pay or cause to be discharged or make adequate provision to satisfy and discharge any lien or charge on any part thereof.

**SECTION 6.07 *Bond Trustee's Access To County Books.*** All books and documents in the possession of the County relating to the Facilities and the Financing Agreement and the moneys, revenues and receipts derived from the Financing Agreement shall at all reasonable times be open to inspection by such accountants or other agencies as the Bond Trustee may from time to time designate.

**SECTION 6.08 *Filing Of Financing Statements By County.*** In order to perfect the interest of the Bond Trustee in the Receipts and Revenues of the County from the Financing Agreement, the County will cause appropriate financing statements, naming the Bond Trustee as pledgee of the Receipts and Revenues of the County from the Financing Agreement and of the other moneys pledged under this Indenture for the payment of the principal of and interest on the Bonds, and as pledgee and assignee of certain of the County's rights and interest under the Financing Agreement, to be duly filed and recorded in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in the Commonwealth of Kentucky and any other applicable jurisdiction, as from time to time amended. The Bond Trustee, at the sole expense of Big Rivers, will file and record, with such assistance as necessary from the County, such necessary continuation statements from time to time as may be required pursuant to the provisions of said Uniform Commercial Code or other similar law to protect the interest of the Bond Trustee.

**SECTION 6.09 *Tax Covenants Of The County.***

(a) The County covenants to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes pursuant to Section 103(a) of the 1954 Code, and will take, or require to be taken, such acts as may from time to time be required under applicable law and regulation to continue the exclusion of the interest on the Bonds from gross income for federal income tax purposes; and in furtherance of such covenants, the County agrees to comply with the Tax Certificate and Agreement executed in connection with the Bonds and the provisions of the 1954 Code as amended by the 1986 Act.

(b) The County covenants that it will not take any action or fail to take any action with respect to the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of such term as used in Section 148 of the 1986 Code, as incorporated into the 1954 Code by the 1986 Act.

(c) The County shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Bonds pursuant to Section 148(f) of the 1986 Code, as incorporated into the 1954 Code by the 1986 Act, from amounts on deposit in the funds and accounts established under this Indenture and available therefor.

(d) The County covenants that it will not use or permit the use of any property financed or refinanced with the proceeds of the Bonds by any person (other than a state or local governmental unit) in such manner or to such extent as would result in a loss of exclusion of the

interest on the Bonds from gross income for federal income tax purposes (other than during the period the Bonds are held by a “substantial user” of the facilities financed or refinanced with proceeds of the Bonds or a “related person” within the meaning of Section 103(b)(6)(C) of the 1954 Code).

(e) Notwithstanding any other provisions of this Indenture to the contrary, so long as necessary in order to maintain the exclusion of interest on the Bonds from gross income under Section 103(a) of the 1954 Code, the covenants in this Section 6.09 shall survive the payment of the Bonds and the interest thereon, including any payment or defeasance thereof pursuant to Section 7.01 hereof.

**SECTION 6.10 *Supplemental Indentures; Recordation Of Indenture And Supplemental Indentures.*** The County will execute and deliver all Supplemental Indentures, and will cause this Indenture, the Financing Agreement and all supplements thereto as well as all security instruments as may be required at all times to be recorded, registered, filed and to be kept recorded, registered and filed in such manner and in such places as may be required by law in order fully to preserve and protect the security of the Bondowners and all rights of the Bond Trustee hereunder.

**SECTION 6.11 *Notices By Bond Trustee.*** The Bond Trustee shall give the same notices to the County that it is required to give to Big Rivers pursuant to any of the terms of this Indenture.

## **ARTICLE VII**

### **DEFEASANCE**

#### **SECTION 7.01 *Defeasance.***

(a) If and when the Bonds secured hereby shall become due and payable in accordance with their terms or through redemption proceedings as provided in this Indenture, or otherwise, and the whole amount of the principal of, premium, if any, and interest so due and payable upon all of the Bonds shall be paid, or provision shall have been made for the payment of the same, together with all other sums payable hereunder by the County, including the payment of the fees and expenses of the Bond Trustee, then and in that case, the right, title and interest of the Bond Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the County to the Bondowners shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon request of the County or Big Rivers, the Bond Trustee shall assign and transfer to Big Rivers all property and funds then held by the Bond Trustee pursuant to this Indenture and shall execute and deliver such documents as may be reasonably required by the County or Big Rivers for such purpose. If and when the Bond Trustee shall hold sufficient moneys hereunder to provide for payment of the whole amount of the principal of, premium, if any, and interest due and payable and thereafter to become due and payable upon all the Bonds, together with all other sums payable or which may thereafter become payable hereunder by the County, notwithstanding that all the Bonds have not yet become due and payable and that consequently the right, title and interest of the Bond Trustee in and to the Trust Estate shall not have ceased, terminated and become void pursuant to the

foregoing provisions of this Section 7.01, the Bond Trustee, on demand of the County or Big Rivers, shall turn over to Big Rivers any surplus in the Bond Fund and in any other fund created under this Indenture in excess of the sum sufficient to pay the whole amount of the principal of, premium, if any, and interest due and payable and thereafter to become due and payable upon all the Bonds, together with all other sums payable or which may thereafter become payable hereunder by the County, including the payment of the fees and expenses of the Bond Trustee.

(b) Any Bond shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in this Section 7.01 if (i) in case such Bond is to be redeemed on any date prior to its maturity, Big Rivers and the County shall have given to the Bond Trustee in form satisfactory to it unconditional and irrevocable instructions and notice to give on a date in accordance with the provisions of Section 3.03 hereof notice of redemption of such Bond on said redemption date, such notice to be given in accordance with the provisions of Section 3.03 hereof, (ii) there shall have been deposited with the Bond Trustee either moneys in an amount which shall be sufficient, or obligations of or guaranteed as to principal and interest by the United States of America, or certificates of an ownership interest in the principal of or interest on obligations of or guaranteed as to principal and interest by the United States of America, which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of, premium, if any, and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Bond Trustee or any Co-Paying Agent at the same time, shall be sufficient to pay when due the principal of and interest due and to become due on such Bond on and prior to the redemption date or maturity date thereof, as the case may be, and (iii) in the event such Bond does not mature or is not by its terms subject to redemption within the next succeeding 60 days, Big Rivers and the County shall have given the Bond Trustee in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as a notice of redemption is given pursuant to Section 3.03 hereof, a notice to the Owners of such Bond that the deposit required by (ii) above has been made with the Bond Trustee and that said Bond is deemed to have been paid in accordance with this Section 7.01 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of and interest on such Bond. Neither the obligations nor moneys deposited with the Bond Trustee pursuant to this Section 7.01 nor principal or interest payments on any such obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on such Bond; provided that any cash received from such principal or interest payments on such obligations deposited with the Bond Trustee, (x) to the extent such cash will not be required at any time for such purpose, shall be paid over to Big Rivers as received by the Bond Trustee, free and clear of any trust, lien or pledge, and (y) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in obligations or certificates of the type described in clause (ii) of this subsection (b) maturing at times and in amounts sufficient to pay when due the principal of and interest to become due on such Bond on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to Big Rivers, as received by the Bond Trustee, free and clear of any trust, lien or pledge.

(c) Any release of the obligations of the County under this Section 7.01 shall be without prejudice to the right of the Bond Trustee to be paid reasonable compensation for all

services rendered by it hereunder and all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees, incurred on and about the administration of the trusts hereby created and the performance of its powers and duties hereunder.

## ARTICLE VIII

### DEFAULTS AND REMEDIES

**SECTION 8.01 “Events Of Default” Enumerated; Acceleration.** Each of the following events shall constitute and is referred to in this Indenture as an “Event of Default”:

(a) payment of the principal of any of the Bonds (whether by maturity, upon a call for redemption or otherwise) or interest on any of the Bonds shall not be made within one day of when due with the result that such principal or interest remains unpaid as of such date; or

(b) an “event of default” as defined in Section 9.1(a) of the Financing Agreement shall have occurred and be continuing; or

(c) acceleration of payment of any Obligation (as defined in the Big Rivers Indenture) secured by the Big Rivers Indenture pursuant to an “event of default” as such term is defined in Section 8.1 of Article VIII of the Big Rivers Indenture; or

(d) Big Rivers shall file a petition in bankruptcy or is adjudicated as bankrupt or insolvent, or makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, or proceedings instituted by others for its reorganization are not dismissed within thirty (30) days after the institution thereof, or a receiver or liquidator of Big Rivers or of any substantial portion of its property is appointed and the order appointing such receiver or liquidator shall not be vacated within thirty (30) days after the entry thereof.

Upon the occurrence and continuance of an Event of Default described in clause (c) of this Section 8.01, and subject to Section 9.05 hereof, the Bond Trustee shall, and upon the occurrence and continuance of any other Event of Default, the Bond Trustee may, and (i) so long as the Guaranty is in effect and the Guarantor is not in breach of any of the provisions thereof, at the written direction of the Guarantor, or (ii) upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding and with the written consent of the Guarantor, the Bond Trustee shall, declare the principal amount of all Bonds then Outstanding and the interest accrued thereon to be immediately due and payable and said principal and interest shall thereupon become immediately due and payable, and the Bond Trustee shall give notice thereof in writing to the County, Big Rivers and the Guarantor, and notice to Bondowners in the same manner as a notice of redemption under Section 3.03 hereof. Upon any declaration of acceleration hereunder, the County and the Bond Trustee shall immediately declare all payments due on the Note to be immediately due and payable as provided in Section 9.2 of the Financing Agreement.

If at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with interest on

such overdue installments of principal and interest to the extent permitted by law and the reasonable and proper charges, expenses and liabilities of the Bond Trustee, and all other sums then payable by the County under this Indenture (except the principal of and interest accrued since the next preceding Interest Payment Date on the Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the County or provision satisfactory to the Bond Trustee and the Guarantor shall be made for such payment, and all defaults under the Bonds or under this Indenture (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be made good or be secured to the satisfaction of the Bond Trustee or provision deemed by the Bond Trustee to be adequate shall be made therefor, then (i) so long as the Guaranty is in effect and the Guarantor is not in breach of any of the provisions thereof, by the written notice of the Guarantor, or (ii) by written notice of the Owners of 50% in aggregate principal amount of the Bonds Outstanding and with the consent of the Guarantor, to the County and to the Bond Trustee, the Bond Trustee shall rescind such declaration and annul such default in its entirety. In such event, the Bond Trustee shall rescind any declaration of acceleration of the maturity of the Note and the interest thereon as provided in Section 9.5 of the Financing Agreement.

As set forth in Section 9.7 of the Financing Agreement, if at any time following a declaration of acceleration pursuant to an Event of Default under Section 8.01(c) hereof, and prior to payment of the Bonds pursuant to such acceleration, the Bond Trustee shall receive written notice that the acceleration of the Obligations under the Big Rivers Indenture has been rescinded, then the Bond Trustee shall rescind any declaration of acceleration of the maturity of principal of and interest on the Bonds. In the event of such rescission of a declaration of acceleration of the Bonds, the Bond Trustee shall also rescind any declaration of acceleration of the maturity of the Note.

In case of any rescission, then and in every such case the County, the Bond Trustee and the Bondowners shall be restored to their former positions and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon, nor shall such rescission extend to any instance in which the holder of any Obligation under the Big Rivers Indenture other than the Note has subsequent to a request for rescission declared all unpaid principal of and accrued interest on such other Obligation to be due and payable immediately.

**SECTION 8.02 *Exercise Of Remedies By Bond Trustee.*** (a) Upon the happening of any Event of Default or upon the failure by the County to observe and perform any covenant, condition, agreement or provision contained in the Bonds or this Indenture, then and in every such case the Bond Trustee in its discretion may, and upon the written request of the Bondowners of not less than 25% in principal amount of the Bonds then Outstanding and receipt of indemnity to its satisfaction, shall, in its own name and as the Bond Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondowners, and require the County or Big Rivers to carry out any agreements with or for the benefit of the Bondowners and to perform its or their duties under the Act, the Financing Agreement, the Note and this Indenture;

- (ii) bring suit upon the Bonds;
- (iii) by action or suit in equity require the County to account as if it were the trustee of an express trust for the Bondowners; or
- (iv) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondowners.

(b) Anything in this Indenture to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default as defined herein or an event of default under the Financing Agreement, the Guarantor shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondowners or the Bond Trustee for the benefit of the Bondowners under this Indenture or the Financing Agreement, including, without limitation: (i) the right to accelerate the principal of the Bonds as described in this Indenture, and (ii) the right to annul any declaration of acceleration, and the Guarantor shall also be entitled to approve all waivers of events of default.

**SECTION 8.03 *Restoration To Former Position.*** In case any proceeding taken by the Bond Trustee to enforce any right under this Indenture shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Bond Trustee, then and in every case the County, the Bond Trustee and the Bondowners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Bond Trustee shall continue as though no such proceeding had been taken.

**SECTION 8.04 *Bondowner Direction Of Remedial Proceedings.*** Anything in this Indenture to the contrary notwithstanding, so long as the Guaranty is in effect and the Guarantor is not in breach of any of the provisions thereof, the Guarantor shall have the right alone or, with the written consent of the Guarantor, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding hereunder shall have the right, by an instrument in writing executed and delivered to the Bond Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Bond Trustee under this Indenture or exercising any trust or power conferred on the Bond Trustee by this Indenture; *provided, however,* the Guarantor shall have no rights in respect of remedies against the Guarantor.

**SECTION 8.05 *Limitations On Proceedings By Bondowners.*** No Bondowner shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or on said Bonds, unless such Bondowner previously shall have given to the Bond Trustee written notice of an Event of Default as hereinabove provided and unless the Bondowners of not less than 25% in principal amount of the Bonds then Outstanding shall have made written request of the Bond Trustee so to do, after the right to institute said suit, action or proceeding shall have accrued, and shall have afforded the Bond Trustee a reasonable opportunity to proceed to institute the same in either its or their name, and unless there also shall have been offered to the Bond Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Bond Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Bond Trustee, to be conditions precedent to the institution of said suit,

action or proceeding; it being understood and intended that no one or more of the Bondowners shall have any right in any manner whatever by its or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Bondowners.

**SECTION 8.06 *No Impairment Of Certain Rights Of Bondowners.*** Notwithstanding any other provision in this Indenture, the right of any Bondowner to receive payment of the principal of and interest on any Bond on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after such respective date, shall not be impaired or affected without the consent of such Bondowner.

**SECTION 8.07 *Bond Trustee May Act Without Possession Of Bonds.*** All rights of action under this Indenture or under any of the Bonds secured hereby which are enforceable by the Bond Trustee may be enforced by it without the possession of any of the Bonds, or the production thereof on the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Bond Trustee shall be brought in its name for the equal and ratable benefit of the Bondowners and the Guarantor, subject to the provisions of this Indenture.

**SECTION 8.08 *No Remedy Exclusive.*** No remedy herein conferred upon or reserved to the Bond Trustee or to Bondowners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**SECTION 8.09 *No Waiver Of Remedies.*** No delay or omission of the Bond Trustee or of any Bondowner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article VIII to the Bond Trustee and to the Bondowners may be exercised from time to time and as often as may be deemed expedient.

**SECTION 8.10 *Application Of Moneys Recovered.*** Any moneys received by the Bond Trustee, by any receiver or by any Bondowner pursuant to any right given or action taken under the provisions by this Article VIII, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Bond Trustee, shall be deposited in the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds that have matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows:

- (i) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied (i) first, to the payment to the persons entitled thereto of all installments of interest then due on the Bonds, with interest on overdue installments, if lawful, at the same rate or rates per annum as specified in the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment with such interest, then to the payment



ratably, according to the amounts due on such installment, and (ii) second, to the payment to the persons entitled thereto of the unpaid principal of the Bonds which shall have become due at maturity (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds at their respective rates from the respective dates upon which they became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, in each case to the persons entitled thereto, without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, with interest on overdue interest and principal, as aforesaid, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(iii) If the principal of all the Bonds shall have become due and payable, and if such event shall thereafter have been rescinded and annulled under the provisions of this Article VIII then, subject to the provisions of paragraph (ii) of this Section 8.10 which shall be applicable in the event that the principal of all the Bonds shall later become due and payable, the moneys shall be applied in accordance with the provisions of paragraph (i) of this Section 8.10.

Whenever moneys are to be applied pursuant to the provisions of this Section 8.10, such moneys shall be applied at such times, and from time to time, as the Bond Trustee shall determine having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Bond Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal, premium and interest to be paid on such dates shall cease to accrue. The Bond Trustee shall give such notice by mailing as it may deem appropriate of the deposit with it of any such moneys and of the filing of any such date to any Bondowner until such Bond shall be presented to the Bond Trustee for appropriate endorsement or for cancellation if fully paid.

**SECTION 8.11 Severability Of Remedies.** It is the purpose and intention of this Article VIII to provide rights and remedies to the Bond Trustee and Bondowners which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Bond Trustee and the Bondowners shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

## ARTICLE IX

### TRUSTEE AND CO-PAYING AGENTS

**SECTION 9.01** *Acceptance Of Trusts By Bond Trustee.* By executing the certificate of authentication endorsed upon the Bonds, the Bond Trustee shall signify its acceptance and agree to execute the trusts hereby created, but only upon the additional terms set forth in this Article IX, to all of which the County agrees and the respective Bondowners agree by their acceptance of delivery of any of the Bonds. The Bond Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Bond Trustee.

**SECTION 9.02** *Bond Trustee Not Responsible For Recitals, Statements And Representations In Indenture.* The recitals, statements and representations contained in this Indenture or in the Bonds, other than the Bond Trustee's authentication upon the Bonds, shall be taken and construed as made by and on the part of the County, and not by the Bond Trustee and the Bond Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof. The Bond Trustee makes no representations as to the validity or condition of the Trust Estate or any part thereof, or as to the title of the County thereto or as to the security afforded thereby or hereby, or as to the validity or genuineness of any securities at any time pledged and deposited with the Bond Trustee hereunder or as to the validity or sufficiency of this Indenture or any of the Bonds.

**SECTION 9.03** *Bond Trustee Not Liable Except For Own Negligence Or Bad Faith.* The Bond Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Bond Trustee shall not be answerable for the default or misconduct of any such attorney, agent, or employee selected by it with reasonable care and the written advice of such counsel selected by the Trustee with due care or any Opinion of Bond Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon. The Bond Trustee shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatever in connection with the trust except only for its own negligence or bad faith.

**SECTION 9.04** *Compensation And Reimbursement Of Bond Trustee.* The Bond Trustee shall be entitled to reasonable compensation for its services rendered hereunder and to reimbursement for its actual out-of-pocket expenses (including counsel fees) necessarily incurred in connection therewith except as a result of its negligence or bad faith. In the Financing Agreement, Big Rivers has agreed that it will pay to the Bond Trustee such compensation and reimbursement but Big Rivers may, without creating a default hereunder, contest in good faith the necessity for and reasonableness of any such fees or expenses.

**SECTION 9.05** *Limitations On Required Notice By Bond Trustee.* The Bond Trustee shall not be required to take notice, or be deemed to have notice, of any Event of Default under subsection (c) of Section 8.01 hereof, unless specifically notified in writing of such Event of Default by the Bondowners of at least 25% in principal amount of the Bonds then

Outstanding. The Bond Trustee shall be required to take notice, or be deemed to have notice, of any Event of Default under subsections (a) of Section 8.01 hereof. The Bond Trustee may, however, at any time, in its discretion, require of the County full information and advice as to the performance of any of the covenants, conditions and agreements contained herein.

In the event the Bond Trustee does not timely receive any payment on the Note in accordance with Section 5.1 of the Financing Agreement, the Bond Trustee shall immediately give telephonic or electronic notice thereof to Big Rivers, but the Bond Trustee shall incur no liability for failure to give such notice and such failure shall have no effect on the rights of the Bond Trustee or the Bondowners set forth in this Indenture or any Bond.

**SECTION 9.06 *Limitations On Obligations Of Bond Trustee.*** The Bond Trustee shall be under no obligation to take any action in respect of any default, Event of Default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested so to do by Owners of at least 25% in principal amount of the Bonds then Outstanding, and if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and indemnity satisfactory to it; but the foregoing provisions are intended only for the protection of the Bond Trustee, and shall not affect any discretion or power given by any provisions of this Indenture to the Bond Trustee to take action in respect of any default without such notice or request from the Bondowners, or without such security or indemnity.

**SECTION 9.07 *Bond Trustee Protected In Relying Upon Communications And Actions Believed Genuine.*** The Bond Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture or the Financing Agreement, and the Bond Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Bond Trustee shall not be bound to recognize any person as a Bondowner or to take any action at its request unless such person's Bond shall be deposited with the Bond Trustee or satisfactory evidence of the ownership of such Bond shall be furnished to the Bond Trustee.

**SECTION 9.08 *Bond Trustee May Deal In Bonds And With County And Big Rivers.*** The Bond Trustee may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder and secured by this Indenture, and may join in any action which any Bondowner may be entitled to take with like effect as if the Bond Trustee were not a party to this Indenture. The Bond Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the County or Big Rivers, and may act as depository, trustee or agent for any committee or body of Bondowners secured hereby or other options of the County as freely as if it were not Bond Trustee hereunder.

**SECTION 9.09 Construction Of Indenture By Bond Trustee.** The Bond Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Bond Trustee in good faith shall be binding upon the Bondowners.

**SECTION 9.10 Resignation Of Bond Trustee.** No resignation of the Bond Trustee will be effective until the appointment of, and acceptance of such appointment by, a successor Bond Trustee. The Bond Trustee may resign and be discharged of the trusts created by this Indenture at any time by executing any instrument in writing resigning such trust, and filing the same with the Clerk of the County, and by giving notice of such resignation mailed by first class mail, postage prepaid, to Big Rivers, the Guarantor and the Bondowners at their addresses as they appear on the registration books maintained by the Registrar. If an instrument of acceptance by a successor Bond Trustee is not delivered to the resigning Bond Trustee with 45 days after the giving of such notice of resignation, the resigning Bond Trustee may petition any court of competent jurisdiction for the appointment of a successor Bond Trustee.

**SECTION 9.11 Removal Of Bond Trustee.** (a) The Bond Trustee may be removed at any time by filing with the Bond Trustee so removed, with the County and with Big Rivers an instrument in writing, appointing a successor, executed by the Bondowners of not less than a majority in principal amount of the Bonds then Outstanding.

(b) At any time other than during the continuance of an Event of Default, the Bond Trustee may be removed for any reason by an instrument in writing, executed by an authorized officer of the County, removing the Bond Trustee and appointing a successor, filed with the Bond Trustee so removed and Big Rivers, provided that prior to the appointment of such successor Bond Trustee, the County shall consult in good faith with Big Rivers regarding such appointment. Other than during the continuance of an Event of Default, the Bond Trustee may also be removed for any reason by Big Rivers with the approval of the County and the Guarantor (which consent shall not be unreasonably withheld), by an instrument in writing, executed by a Big Rivers Representative, removing the Bond Trustee and designating a successor Bond Trustee, filed with the Bond Trustee so removed and the County.

(c) If the Guaranty is in effect and the Guarantor is not in breach of any provision thereof, during the continuance of an Event of Default, the Bond Trustee may be removed for any reason by filing with the Bond Trustee so removed, with the County and with Big Rivers an instrument in writing executed by the Guarantor.

**SECTION 9.12 Appointment Of Successor Bond Trustee.** In case at any time the Bond Trustee shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of Bond Trustee and a successor may be appointed, and in case at any time the Bond Trustee shall resign, then or may be appointed, by filing with the County and Big Rivers an instrument in writing, executed by the Bondowners of not less than a majority in principal amount of Bonds then outstanding. Copies of such instrument shall be promptly delivered by the County to the predecessor Bond Trustee and to the Bond Trustee so appointed.

Until a successor Bond Trustee shall be appointed by the Bondowners as herein authorized, Big Rivers may appoint a successor Bond Trustee. After any appointment by Big Rivers, it shall cause notice of such appointment to be mailed by first class mail, postage paid, to the County, the Guarantor and the Bondowners at their addresses as they appear on the registration books maintained by the Registrar. Any successor Bond Trustee so appointed by Big Rivers shall immediately and without further act be superseded by a Bond Trustee appointed by the Bondowners in the manner above provided.

If the Guaranty is in effect and the Guarantor is not in breach of any provision thereof, any successor Bond Trustee so appointed by the Bondowners or Big Rivers shall be reasonably acceptable to the Guarantor.

**SECTION 9.13 *Qualifications Of Successor Bond Trustee.*** Every successor Bond Trustee shall be a bank or trust company or a national bank with trust powers, having a combined capital stock, undivided profits and surplus of at least \$100,000,000 if there be such a trust company, bank and trust company or national bank willing and able to accept the trust on reasonable and customary terms.

**SECTION 9.14 *Acceptance Of Trusts By Successor Bond Trustee.*** Any successor appointed hereunder shall execute, acknowledge and deliver to the County an instrument accepting such appointment hereunder, and thereupon such successor Bond Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Bond Trustee herein. Upon request of such Bond Trustee, such predecessor Bond Trustee and the County shall execute and deliver an instrument transferring to such successor Bond Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Bond Trustee and such predecessor Bond Trustee shall pay over to the successor Bond Trustee all moneys and other assets at the time held by it hereunder.

**SECTION 9.15 *Successor Bond Trustee Upon Merger, Consolidation Or Succession.*** Any corporation into which any Bond Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Bond Trustee hereunder shall be a party or any corporation succeeding to all or substantially all of the corporate trust business of the Bond Trustee, shall be the successor Bond Trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

**SECTION 9.16 *Standard Of Care In Exercise Of Rights And Power.*** Notwithstanding any other provisions of this Article IX, the Bond Trustee shall, during the existence of an Event of Default as to which the Bond Trustee has actual notice, exercise such of the rights and powers vested in it by this Indenture and use the same degree of skill and care in their exercise as a prudent man would use and exercise under the circumstances in the conduct of his own affairs.

**SECTION 9.17 *Bond Trustee To Notify Registered Owners Of Event Of Default.*** If an Event of Default occurs of which the Bond Trustee by Section 9.05 hereof is required to take notice and deemed to have notice, or any other Event of Default as so defined occurs of which

the Bond Trustee has been specifically notified in accordance with Section 9.05 hereof, and any such Event of Default shall continue for at least two Business Days after the Bond Trustee acquires actual notice thereof, the Bond Trustee shall give written notice thereof by first-class mail to the Guarantor and to the last known Owners of all registered Bonds then Outstanding addressed to such Owners at their addresses appearing on the registration books maintained by the Registrar.

**SECTION 9.18 *Intervention By Bond Trustee In Certain Litigation.*** In any judicial proceeding to which the County is a party and which in the opinion of the Bond Trustee and its counsel has a substantial bearing on the interests of Bondowners, the Bond Trustee may intervene on behalf of the Bondowners and the Guarantor (so long as the Guaranty is in effect and the Guarantor is not in breach of any provision thereof) and shall, upon receipt of indemnity satisfactory to it, do so if requested in writing by the Owners of at least 25% in principal amount of Bonds then Outstanding if permitted by the court having jurisdiction in the premises.

**SECTION 9.19 *Bond Trustee; The Paying Agent; Co-Paying Agents.*** The Bond Trustee shall be the Paying Agent for the Bonds. The County may at any time or from time to time, with the approval of Big Rivers, appoint one or more Co-Paying Agents for the Bonds, in the manner and subject to the conditions set forth in Section 9.20 hereof for the appointment of a Co-Paying Agent. Each Co-Paying Agent shall designate to the Bond Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it by written instrument of acceptance deposited with the County and the Bond Trustee under which such Co-Paying Agent will agree with the Bond Trustee that such Co-Paying Agent will:

- (i) hold all sums held by it for the payment of the principal of and premium, if any, or interest on Bonds in trust for the benefit of the Bondowners until such sums shall be paid to such Bondowners or otherwise disposed of as herein provided; and
- (ii) upon the written request of the Bond Trustee, forthwith pay to the Bond Trustee all sums so held in trust by such Co-Paying Agent.

The County hereby covenants and agrees to cooperate with the Bond Trustee to cause the necessary arrangements to be made through the Bond Trustee and to be thereafter continued whereby funds derived from the sources specified in Section 4.03 hereof will be made available for the payment of such of the Bonds as are presented when due at the appropriate offices of the Co-Paying Agents.

**SECTION 9.20 *Qualifications Of Co-Paying Agent; Resignation; Removal.*** Any Co-Paying Agent appointed by the County, with the approval of Big Rivers, shall be a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$100,000,000 and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture. Any Co-Paying Agent may at any time resign and be discharged of the duties and obligations created by Indenture by giving at least sixty (60) days written notice to the County, Big Rivers and the Bond Trustee. Any Co-Paying Agent may be removed at any time with the consent of Big Rivers by an instrument filed with such Co-Paying Agent and the Bond Trustee and signed by the County.

In the event of the resignation or removal of any Co-Paying Agent, such Co-Paying Agent shall pay over, assign and deliver any moneys held by it as Co-Paying Agent to its successor, or if there be no successor, to the Bond Trustee.

**SECTION 9.21 *Moneys Held by Trustee.*** Money and investments held in trust by the Bond Trustee or any paying agent hereunder shall be held in one or more trust accounts hereunder but need not be segregated from other funds except to the extent required in this Indenture or required by law. The Bond Trustee or any paying agent shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the County or otherwise specifically provided in this Indenture.

**ARTICLE X**

**EXECUTION OF INSTRUMENTS BY BONDOWNERS  
AND PROOF OF OWNERSHIP OF BONDS**

**SECTION 10.01 *Execution Of Instruments By Bondowners And Proof Of Ownership Of Bonds.***

(a) Any request, direction, consent or other instrument in writing whether or not required or permitted by this Indenture to be signed or executed by Bondowners, may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Bond Trustee with regard to any action taken by it under such instrument if the fact and date of the execution by any person of any such instrument shall be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution. Nothing contained in this Article X shall be construed as limiting the Bond Trustee to such proof, it being intended that the Bond Trustee may accept any other evidence of matters herein stated which to it may seem sufficient.

(b) The ownership of Bonds, the amount, number and other identification thereof and the date of ownership shall be proved by the registration books maintained by the Registrar.

(c) Any request or consent of any Bondowner shall bind every future Owner of the same Bond or any Bond or Bonds issued in lieu thereof in respect of anything done by the Bond Trustee or the County in pursuance of such request or consent.

**ARTICLE XI**

**MODIFICATION OF THIS INDENTURE, THE FINANCING AGREEMENT, THE  
BIG RIVERS INDENTURE AND THE NOTE**

**SECTION 11.01 *No Modification Except Pursuant To Article XI.*** Neither this Indenture, the Financing Agreement, nor the Note shall be modified or amended in any respect

subsequent to the first issuance of the Bonds except as provided in and in accordance with and subject to the provisions of this Article XI.

**SECTION 11.02 *Supplemental Indenture Without Bondowner Consent.***

(a) The County and the Bond Trustee may, from time to time and at any time, without the consent of or notice to Bondowners, enter into Supplemental Indentures as follows:

(i) To specify and determine any matters and things relative to the Bonds which are not contrary to or inconsistent with this Indenture and which shall not adversely affect the interests of the Bondowners; or

(ii) To cure any ambiguity, or to cure, correct or supplement any defect, omission or inconsistent provisions contained in this Indenture, the Financing Agreement, the Big Rivers Indenture or the Note or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and if such action does not in the sole opinion of the Bond Trustee adversely affect the interests of the Bondowners; or

(iii) To grant to or confer upon the Bond Trustee for the benefit of the Bondowners any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Indenture as theretofore in effect; or

(iv) To add to the covenants and agreements of the County in this Indenture, other covenants and agreements to be observed by the County which are not contrary to or inconsistent with this Indenture as theretofore in effect; or

(v) To add to the limitations and restrictions in this Indenture, other limitations and restrictions to be observed by the County which are not contrary to or inconsistent with this Indenture as theretofore in effect; or

(vi) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Indenture, of the Receipts and Revenues of the County from the Financing Agreement or of any other moneys, securities or funds; or

(vii) To comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended; or

(viii) To subject to this Indenture additional revenues; or

(ix) To make any other changes which do not in the sole opinion of the Bond Trustee materially adversely affect the interests of the Bondowners.

The Bond Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment the interests of any Bondowners would be adversely affected by any modification or amendment of this Indenture and any such determination shall be binding



and conclusive on the County, Big Rivers and all Bondowners, and the Bond Trustee shall have no liability as a result of any such determination made in good faith. The interests of a Bondowner shall be deemed to be adversely affected by any modification or amendment of this Indenture if such modification or amendment adversely affects or diminishes the rights of such Bondowner.

(b) Before the County shall enter into any Supplemental Indenture pursuant to this Section 11.02 there shall have been filed with the Bond Trustee an Opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and complies with its terms, and that it will be valid and binding upon the County in accordance with its terms; *provided, however*, that such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other similar laws, judicial decisions and principles of equity relating to or affecting creditors' rights or contractual obligations generally.

### **SECTION 11.03 *Supplemental Indentures With Bondowner Consent.***

(a) Except for any Supplemental Indenture entered into pursuant to Section 11.02 hereof, subject to the terms and provisions contained in this Section 11.03 and not otherwise, (i) the Bondowners of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, and (ii) in case of a change in the terms of any sinking fund installment (except as provided in clause (A) of the proviso of this Section 11.03(a) below), the Bondowners of not less than a majority in aggregate principal amount of each maturity of Bonds so affected and Outstanding shall have the right, from time to time, to consent to and approve the execution by the County and the Bond Trustee of any Supplemental Indenture as shall be deemed necessary or desirable by the County for the purposes of modifying, altering, amending, supplementing or rescinding in any particular, any of the terms or provisions contained in this Indenture; *provided, however*, that, unless approved in writing by the Bondowners of all affected Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, (A) a change in the times, amounts or currency of payment of the principal of and interest on any Outstanding Bond, or a reduction in the principal amount or redemption price of any Outstanding Bond or the rate of interest thereon or in any maturity with respect thereto or any sinking fund payment with respect to any Bond, or (B) the creation of a claim or lien upon, or a pledge of, the Receipts and Revenues of the County from the Financing Agreement ranking prior to or on a parity with the claim, lien or pledge created by this Indenture, or (C) a preference or priority of any Bonds over any other Bonds, or (D) a reduction in the aggregate principal amount of Bonds the consent of the Bondowners of which is required for any such Supplemental Indenture.

(b) If at any time the County shall determine to enter into any Supplemental Indenture for any of the purposes of this Section 11.03, it shall cause notice of the proposed Supplemental Indenture to be mailed, postage prepaid, to all Owners of the Bonds and the Guarantor. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that a copy thereof is on file at the Principal Office of the Bond Trustee for inspection by all Bondowners.

(c) Within one year after the date of such notice, the County may enter into such Supplemental Indenture in substantially the form described in such notice only if there shall have first been filed with the Bond Trustee (i) the written consents of Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding or, if required hereunder, all Bondowners and (ii) an Opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and complies with its terms, and that upon execution and delivery it will be valid and binding upon the County in accordance with its terms; *provided, however,* that such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other similar laws, judicial decisions and principles of equity relating to or affecting creditors' rights or contractual obligations generally.

(d) If the Bondowners of not less than the percentage of Bonds required by this Section 11.03 shall have consented to and approved the execution thereof as herein provided, no Bondowner shall have any right to object to the execution and delivery of such Supplemental Indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution and delivery thereof, or to enjoin or restrain the County from executing and delivering the same or from taking any action pursuant to the provisions thereof.

**SECTION 11.04 *Effect Of Supplemental Indenture.*** Upon the execution and delivery of any Supplemental Indenture pursuant to the provisions of this Article XI, this Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the County, the Bond Trustee and all Owners of Bonds then Outstanding shall thereafter be determined, exercised, and enforced under this Indenture subject in all respects to such modifications and amendments.

**SECTION 11.05 *When Big Rivers Consent Required.*** Anything herein to the contrary notwithstanding, any Supplemental Indenture under this Article XI which affects any rights, powers and authority of Big Rivers under this Indenture or the Financing Agreement or the Note or requires a revision of the Financing Agreement, the Note or the Big Rivers Indenture shall not become effective unless and until Big Rivers shall have consented in writing to such Supplemental Indenture.

**SECTION 11.06 *Amendment Of Financing Agreement Or The Note without Bondowner Consent.*** Without the consent of or notice to the Bondowners, the County and the Bond Trustee may consent to any amendment, change or modification of the Financing Agreement or the Note as may be required (i) by the provisions of the Financing Agreement, the Note and this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) to conform to any modifications to or alterations permitted by the Big Rivers Indenture or this Indenture, if such provisions are necessary or desirable and do not in the sole opinion of the Bond Trustee materially adversely affect the interests of the Bondowners, or (iv) in connection with any other change therein which, in the judgment of the Bond Trustee, is not to the prejudice of the Bond Trustee, or materially adverse to the interests of the Bondowners. The Bond Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment the interests of the Owners of the Bonds would be adversely affected by any such modification or amendment, and any such determination by the Bond Trustee shall be binding and conclusive on the County, Big Rivers and all Bondowners;

and the Bond Trustee shall have no liability as a result of any such determination made in good faith.

**SECTION 11.07 *Other Amendments Of Financing Agreement.*** Except in the case of amendments, changes or modifications referred to in Section 11.06 hereof, the County and the Bond Trustee shall not consent to any amendment, change or modification of the Financing Agreement, without first giving notice and receipt of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding given and procured as in Section 11.03 hereof provided. If at any time the County or Big Rivers shall request the consent of the Bond Trustee to any such proposed amendment, change or modification of the Financing Agreement, the Bond Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 11.03 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Bond Trustee for inspection by all Bondowners.

**SECTION 11.08 *Amendments To Big Rivers Indenture.*** The Bond Trustee shall not exercise any of the rights of a holder of the Note under the Big Rivers Indenture to permit any amendment, modification, supplement or consolidation of the Big Rivers Indenture or said Note, whereby any such amendment, modification, supplement or consolidation results in changing the times, amounts or currency of payment of the payments due, on the Note, without the prior consent of the Bondowners adversely affected thereby. The Bond Trustee may otherwise consent to the amendment or modification of the Big Rivers Indenture or exercise any other rights thereunder of a holder of the Note either (i) without notice to or consent of any Bondowner if the Bond Trustee, in its sole discretion, deems the effects of such exercise, taken as a whole, to be not materially adverse to the interests of the Bondowners or (ii) in any event, upon notice by the Bond Trustee to the Bondowners of the action proposed to be taken and the consent thereto of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding; *provided, however,* that no such notice to or consent of the Bondowners shall be required in connection with any supplemental Indenture or other instrument as may be required by the provisions of the Big Rivers Indenture. The Bond Trustee hereby agrees to execute and deliver all such further instruments as may be required by the provisions of the Big Rivers Indenture. The Bond Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment the interests of the Owners of the Bonds would be adversely affected by any such modification or amendment, and any such determination by the Bond Trustee shall be binding and conclusive on the County, Big Rivers and all Bondowners; and the Bond Trustee shall have no liability as a result of any such determination made in good faith.

**ARTICLE XII**  
**THE GUARANTY**

**SECTION 12.01**     ***Demands under the Guaranty.*** As long as the Guaranty shall be in full force and effect, Big Rivers, the Bond Trustee and any Paying Agent agree to comply with the following provisions:

(a) At least one (1) Business Day prior to any date for payment of principal or interest on the Bonds (excluding any payment of principal of the Bonds due upon redemption pursuant to Article III hereof) the Bond Trustee or Paying Agent, if any, will determine whether there will be sufficient funds in the Bond Fund to pay the principal of or interest on the Bonds due on such date. If the Bond Trustee or Paying Agent, if any, determines that there will be insufficient funds in the Bond Fund, then the Bond Trustee or Paying Agent, if any, shall so notify the Guarantor. Such notice shall specify the amount of the deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Bond Trustee or Paying Agent, if any, has so notified the Guarantor, then the Guarantor will make payments of principal and interest due on the Bonds on or before the date for payment of principal or interest thereon. If the Bond Trustee or Paying Agent, if any, has not so notified the Guarantor, then the Guarantor will make payments of principal and interest due on the Bonds the first (1st) Business Day next following the date on which the Guarantor shall have received notice of nonpayment from the Bond Trustee or Paying Agent, if any.

(b) The Bond Trustee or Paying Agent, if any, shall, after giving notice to the Guarantor as provided in (a) above, make available to the Guarantor the registration books maintained by the Registrar and all records relating to the Bond Fund.

(c) The Bond Trustee or Paying Agent, if any, shall provide the Guarantor with a list of registered owners of Bonds entitled to receive principal and interest payments from the Guarantor under the terms of this Indenture. The Guarantor shall transfer funds by wire to the Bond Trustee in an amount equal to the full or partial principal payments, if any, and the full or partial interest payments then due and owing to the registered owners of Bonds.

(d) The Bond Trustee or Paying Agent, if any, shall, at the time it provides notice to the Guarantor pursuant to (a) above, notify registered owners of Bonds entitled to receive the payment of principal and interest thereon from the Guarantor (i) as to the fact of such entitlement, (ii) that the Bond Trustee on behalf of the Guarantor will remit to them all of the interest payments coming due upon proof of Holder entitlement thereto and delivery to the Bond Trustee, in form satisfactory to the Bond Trustee and the Guarantor, of an appropriate assignment of the registered owner's right to payment to the Guarantor, (iii) that should they be entitled to receive full payment of principal from the Guarantor, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Bond Trustee and the Guarantor to permit ownership of such Bonds to be registered in the name of the Guarantor) for payment to the Bond Trustee or Paying Agent, if any, and (iv) that should they be entitled to receive partial payment of principal from the Guarantor, they must surrender their Bonds for payment to the Bond Trustee or Paying Agent, if any, who shall note on such Bonds (or on its books in the case of book-entry bonds) the portion of the principal paid by the Bond Trustee or Paying Agent, if any, and the Bond Trustee on behalf of the Guarantor will remit to them such

partial principal payments coming due upon delivery to the Bond Trustee, in form satisfactory to the Bond Trustee and the Guarantor, of an appropriate assignment of the registered owner's right to such partial principal payment.

(e) In the event that the Bond Trustee or Paying Agent, if any, has notice that any payment of principal of or interest on a Bond which has become due for payment and which is made to a Bondowner by or on behalf of the County has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Bond Trustee or Paying Agent, if any, shall, at the time the Guarantor is notified pursuant to (a) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from the Guarantor to the extent of such recovery if sufficient funds are not otherwise available, and the Bond Trustee or Paying Agent, if any, shall furnish to the Guarantor its records evidencing the payments of principal of and interest on the Bonds which have been made by the Bond Trustee or Paying Agent, if any, subsequently recovered from registered owners and the dates on which such payments were made.

(f) In addition to those rights granted the Guarantor under this Indenture and notwithstanding any other provision of this Indenture, the Guarantor shall, to the extent it makes payment of principal of or interest on all or part of the Bonds, become subrogated to the rights of the Holders and Owners of the Bonds in respect of which such payments were made in accordance with the terms of the Guaranty, the amounts of principal and interest due and owing shall not be existing but shall remain as obligations to the Guarantor bearing interest at a rate equal to the higher of (1) the prevailing per annum rate on the Bond, and (2) the rate equal to the per annum rate established by the Guarantor as its standard line of credit rate in effect from time to time, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Registrar, if any, shall note the Guarantor's rights as subrogee on the registration books maintained by the Registrar upon receipt from the Guarantor of proof of the payment of the interest thereon to the Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Registrar shall note the Guarantor's rights as subrogee on the registration books maintained by the Registrar or Paying Agent, if any, upon surrender of the Bonds by the registered owners thereof together with proof the payment of principal thereof.

(g) The Paying Agent or Bond Trustee is hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Holders of the Bonds as follows:

(i) If and to the extent there is a deficiency in amounts required to pay interest on the Bonds, the Paying Agent or Bond Trustee shall (i) recognize and agree that the Guarantor shall act on behalf of such Holders in any legal proceeding related to the payment of such interest, (ii) execute and deliver to the Guarantor, in a form satisfactory to the Guarantor, an assignment to Guarantor of the claims for interest to which such deficiency relates and which are paid by Guarantor, (iii) receive as designee of the respective Holders (and not as Paying Agent) in accordance with the tenor of the Guaranty payment from Guarantor with respect to the claims for interest so assigned, and (iv) disburse the same to such respective Holders; and

(ii) If and to the extent of a deficiency in amounts required to pay principal of the Bonds, the Paying Agent or Bond Trustee shall (i) recognize and agree that the Guarantor shall act on behalf of such Holders in any legal proceeding related to the payment of such principal, (ii) execute and deliver to the Guarantor, in a form satisfactory to the Guarantor, an assignment to Guarantor of the Bond surrendered to Guarantor in an amount equal to the principal amount thereof as has not previously been paid or for which moneys are not held by the Paying Agent or Bond Trustee and available for such payment (but such assignment shall be delivered only if payment from Guarantor is received), (iii) receive as designee of the respective Holders (and not as Paying Agent) in accordance with the tenor of the Guaranty payment therefor from Guarantor, and (iv) disburse the same to such Holders.

(iii) Irrespective of whether any such assignment is executed and delivered, the County, the Bond Trustee and the Paying Agent hereby agree for the benefit of Guarantor that:

- (1) They recognize that to the extent Guarantor makes payments directly or indirectly (e.g., by paying through the Paying Agent), on account of principal of or interest on the Bonds, Guarantor will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the County, with interest thereon as provided and solely from the sources stated in the financing documents and the Bonds; and
- (2) They will accordingly pay to Guarantor the amount of such principal and interest, with interest thereon as provided in the financing documents and the Bonds, but only from the sources and in the manner provided herein for the payment of principal of and interest on the Bonds to Holders, and will otherwise treat Guarantor as the owner of such rights to the amount of such principal and interest.

**SECTION 12.02** *Actions Under Indenture.* Notwithstanding any other provision of this Indenture, in determining whether the rights of the Holders will be adversely affected by any action taken pursuant to the terms and provisions of this Indenture, the Bond Trustee shall consider the effect on the Bondowners as if there were no Guaranty.

**SECTION 12.03** *Written Consent of the Guarantor Required.* Any provision of this Indenture expressly recognizing or granting rights in or to the Guarantor may not be amended in any manner which affects the rights of the Guarantor hereunder without the prior written consent of the Guarantor. The Guarantor reserves the right to charge Big Rivers a fee for any consent or amendment to the Indenture while the Guaranty is outstanding.

So long as the Guaranty is in effect and the Guarantor is not in breach of any of the provisions thereof, the Guarantor's consent shall be required in lieu of Holder consent, when required, for the following purposes: (i) execution and delivery of any Supplemental Indenture or any amendment, supplement or changes to or modification of the Financing Agreement or the Big Rivers Indenture; (ii) removal of the Bond Trustee or Paying Agent and selection and appointment of any successor trustee or paying agent; and (iii) initiation or approval of any

action not described in (i) or (ii) above, including any actions required under Article VIII hereof, which requires consent of all or part of the Holders. The Guarantor shall receive prior written notice of any name change of the Bond Trustee or Paying Agent, if any, or the resignation or removal of the Bond Trustee or Paying Agent, if any. No removal, resignation or termination of the Bond Trustee or Paying Agent, if any, shall take effect until a successor, acceptable to the Guarantor, shall be appointed.

**SECTION 12.04** *Materials to be Provided to the Guarantor.* While the Guaranty is in effect, the Bond Trustee shall furnish to the Guarantor:

(a) as soon as practicable after the filing thereof with the Bond Trustee, a copy of any financial statement of Big Rivers and a copy of any audit and annual report of Big Rivers;

(b) a copy of any notice to be given to the registered owners of the Bonds, including, without limitation, notice of any redemption or defeasance of Bonds; and any certificate rendered pursuant to this Indenture relating to the security for the Bonds; and

(c) such additional information it may reasonably request, provided that such information is available to the Bond Trustee.

Big Rivers will permit the Guarantor to discuss the affairs, finances and accounts of Big Rivers or any information the Guarantor may reasonably request regarding the security for the Bonds with appropriate officers of Big Rivers. The Bond Trustee or Big Rivers, as appropriate, will permit the Guarantor to have access to the Plant and have access to and make copies of all books and records relating to the Bonds at any reasonable time.

The Guarantor shall have the right to direct an accounting at Big Rivers's expense and Big Rivers's failure to comply with such direction within thirty (30) days after receipt of written notice of the direction from the Guarantor shall be deemed a default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any registered owner of the Bonds.

**SECTION 12.05** *No Other Third-Party Beneficiaries.* Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than Big Rivers, the Bond Trustee, the Registrar, the County, the Guarantor, the Paying Agent, if any, and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of Big Rivers shall be for the sole and exclusive benefit of the County, Big Rivers, the Bond Trustee, the Guarantor, the Registrar, the Paying Agent, if any, and the registered owners of the Bonds.

To the extent that this Indenture confers upon or grants to the Guarantor any right, remedy or claim under or by reason of this Indenture, the Guarantor is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder, as long as the Guarantor is not in breach of the Guaranty.

**SECTION 12.06** *Guarantor Owner of Bonds.* So long as the Guarantor has not defaulted in respect of its payment obligations under the Guaranty, the Guarantor shall be deemed to be the sole Owner and Holder of the Bonds in connection with Events of Default, acceleration, waivers and direction, and exercise of control over all remedies and other matters, including without limitation, for purposes of Articles VII, VIII and XI of this Indenture. For purposes of considering the effect of any action (or inaction) on the Owners or Holders of the Bonds, the Bond Trustee shall not take into account that payment when due of principal of and interest on the Bonds are guaranteed by the Guarantor.

**SECTION 12.07** *Guarantor's Consent to Big Rivers Indenture and Note.* So long as the Guarantor is not in default in respect of its payment obligation under the Guaranty, (a) except with respect to the waivers, amendments, modifications, supplements, consolidations or substitutions described in this Indenture, the Bond Trustee shall not consent to any proposed amendment, change, modification, direction, waiver or consent (hereinafter referred to as a "course of action") under or with respect to Big Rivers Indenture or the Note without the written consent of the Guarantor; (b) the Bond Trustee shall notify the Guarantor as soon as practicable of any notice which the Bond Trustee receives with respect to Big Rivers Indenture or the Note and of any other proposed course of action; (c) the Guarantor shall be entitled to exercise all rights (including voting rights) in respect of Big Rivers Indenture granted to the Bond Trustee as the holder of the Note or otherwise, and the Bond Trustee shall be required to accept notice from, and the direction of, the Guarantor in connection with any such exercise of rights; and (d) the Bond Trustee shall, if requested by the Guarantor, take any action that the Bond Trustee may be entitled to take as a holder of an obligation secured by Big Rivers Indenture.

### ARTICLE XIII

#### MISCELLANEOUS

**SECTION 13.01** *Indenture To Bind and Inure To Benefit Of Successors To County.* In the event of the termination of the existence of the County, all the covenants, stipulations, promises and agreements contained in this Indenture, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County shall be transferred.

**SECTION 13.02** *Indenture To Benefit Only County, Bond Trustee And Bondowners.* Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the County, the Bond Trustee, the Guarantor and the Bondowners, any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of the County, the Bond Trustee, the Guarantor and the Bondowners.

**SECTION 13.03** *Severability.* In case any one or more of the provisions of this Indenture or of the Financing Agreement or of the Bonds issued hereunder shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Indenture or of the Financing Agreement or of said Bonds and this Indenture and the



Financing Agreement and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

**SECTION 13.04 *No Personal Liability Of County Officials Under Indenture.*** No covenant or agreement contained in the Bonds or in this Indenture shall be deemed to be the covenant or agreement of any official, officer, agent, or employee of the County in its individual capacity, and neither the members of the Board of County Commissioners of the County nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**SECTION 13.05 *Bonds Owned By County Or Big Rivers Disregarded For Certain Purposes.*** In determining whether the Bondowners of the requisite aggregate principal amount of Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the County or Big Rivers or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with Big Rivers shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Bond Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Bond Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Bond Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the County or Big Rivers or any person directly or indirectly controlling or controlled by or under direct or indirect common control with Big Rivers. In case of a dispute as to such right, any decision by the Bond Trustee taken upon the advice of counsel shall be full protection to the Bond Trustee.

**SECTION 13.06 *Counterparts.*** This Indenture may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**SECTION 13.07 *Kentucky Law to Govern.*** **THE LAWS OF THE COMMONWEALTH OF KENTUCKY SHALL GOVERN THE CONSTRUCTION OF THIS INDENTURE AND OF ALL BONDS, WITHOUT REFERENCE TO THE CHOICE OF LAW PROVISIONS OF THE COMMONWEALTH OF KENTUCKY.**

**SECTION 13.08 *Notices.*** Except as otherwise provided in this Indenture, all notices, certificates, requests or other communications by the County, the Bond Trustee or Big Rivers pursuant to this Indenture shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, addressed as follows: If to the County, to: Ohio County Fiscal Court, 301 South Main, Hartford, Kentucky 42347, Attention: County Judge/Executive; if to Big Rivers, to: Big Rivers Electric Corporation, 201 Third Street, Henderson, Kentucky 42420, Attention: President and Chief Executive Officer; if to the Bond Trustee, to: U.S. Bank National Association, 225 Asylum Street, 23rd Floor, Hartford, Connecticut 06103, Attention: Philip G. Kane, Jr. (Big Rivers 2010 Indenture); if to the Guarantor: National Rural Utilities Cooperative Finance Corporation, 2201 Cooperative Way, Herndon, Virginia 20171, Attention: General Counsel. A duplicate copy of each notice, certificate, request or other communication given hereunder by the County or the Bond Trustee shall also be given to Big Rivers and the Guarantor. Any of the foregoing may, by notice given hereunder to each of the others, designate

any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

**SECTION 13.09 *Holidays.*** If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall be a legal holiday or a day on which banking institutions in the city in which is located the Principal Office of the Bond Trustee are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

**SECTION 13.10 *Captions.*** The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

**ARTICLE XIV  
FORMS OF BONDS AND TRUSTEE'S CERTIFICATE  
OF AUTHENTICATION**

Subject to the provisions of this Indenture, the Bonds and the certificate of authentication to be executed thereon by the Bond Trustee are to be in substantially the following forms, with necessary or appropriate variations, omissions and insertions as permitted or required by this Indenture.

(Form of Legends for All Bonds)

THIS BOND IS NOT A GENERAL OBLIGATION OF THE COUNTY AND DOES NOT CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

THIS BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF KENTUCKY, BUT SHALL BE PAYABLE AS TO PRINCIPAL AND INTEREST SOLELY FROM THE REVENUES DERIVED FROM THE PAYMENTS MADE BY BIG RIVERS ELECTRIC CORPORATION UNDER THE NOTE (AS DEFINED HEREIN) AND FROM THE OTHER RECEIPTS AND REVENUES OF THE COUNTY FROM THE FINANCING AGREEMENT (AS DEFINED HEREIN). THE BONDS ARE ISSUED UNDER THE PROVISIONS OF SECTIONS 103.200 THROUGH 103.285, INCLUSIVE, OF THE KENTUCKY REVISED STATUTES, AS AMENDED.

[Until such time as the Bonds are no longer restricted to being registered in the registration books kept by the Registrar in the name of a Securities Depository, each Bond shall contain or have endorsed thereon the following legends:]

AS PROVIDED IN THE INDENTURE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK, TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE

INDENTURE (“DTC”), AND NOTWITHSTANDING ANY OTHER PROVISION OF THE INDENTURE TO THE CONTRARY, (A) THIS BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO A NOMINEE OF DTC, OR BY A NOMINEE OF DTC TO DTC OR NOMINEE THEREOF AND (B) A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE TRUSTEE. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT NOT THERETOFORE PAID AS DETERMINED IN THE MANNER PROVIDED IN THE INDENTURE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE PAYING AGENT FOR PAYMENT OF PRINCIPAL OR REDEMPTION PRICE, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC OR ITS NOMINEE OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, CEDE & CO., AS NOMINEE OF DTC, HAS AN INTEREST HEREIN.

[FORM OF BOND]

No. R-

§

**COUNTY OF OHIO, KENTUCKY  
POLLUTION CONTROL REFUNDING REVENUE BONDS, SERIES 2010A  
(BIG RIVERS ELECTRIC CORPORATION PROJECT)**

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**BOND DATE:**

**INTEREST RATE:**

**CUSIP:**

**DOLLARS**

County of Ohio, Kentucky, a public body corporate and politic duly created and existing as a county and political subdivision under the Constitution and laws of the Commonwealth of Kentucky, United States of America (together with any successor to its duties and functions, the “County”), for value received hereby promises to pay (but only out of the “Receipts and Revenues of the County from the Financing Agreement” as herein defined and out of the other security pledged therefor) to the registered owner named above or registered assigns, on [\_\_\_\_], 20[ ] upon the presentation and surrender hereof, the principal sum set forth above and to pay (but only out of the Receipts and Revenues of the County from the Financing

Agreement and out of the other security pledged therefor) interest on said principal sum from the date hereof until payment of said principal sum has been made or duly provided for, at the rate of [ ]% per annum (computed on the basis of a 360-day year consisting of twelve 30-day months), semiannually on [January 1/15] and [July 1/15] each year, commencing on [ ], 2010. The principal of and interest on this Bond are payable at the principal corporate trust office of U.S. Bank National Association (the "Bond Trustee"), or of its successor as Bond Trustee, or, at the option of the owner of this Bond, at the principal office of any co-paying agent appointed in accordance with the Indenture (as hereinafter defined); *provided, however*, that, subject to the next succeeding paragraph, interest may be payable, at the option of the Bond Trustee, by check or draft drawn upon the Bond Trustee and mailed to the registered address of the registered owner of this Bond as of the close of business on the fifteenth (15th) day prior to the applicable interest payment date, or, at the written request of the registered owner of Bonds (as defined herein) in an aggregate principal amount greater than or equal to \$1,000,000 delivered to the Bond Trustee on or prior to such fifteenth (15th) day prior to such payment date, by wire transfer per the instructions of such registered owner as set forth in such request. Payment of the principal of and interest on this Bond shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

Notwithstanding any other provision of this Bond to the contrary, so long as this Bond shall be restricted to being registered on the registration on books of the County kept by the Registrar in the name of the Securities Depository (as defined in the hereinafter defined Indenture) for this Bond, the provisions of the Indenture governing Book Entry Bonds (as defined in the Indenture) shall govern the manner of payment of the principal of and interest on this Bond.

This Bond is one of a duly authorized series of the County's revenue bonds designated as "Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)" (the "Bonds") aggregating in outstanding principal amount upon original issuance of \$83,300,000 issued or to be issued under and pursuant to the Constitution and laws of the Commonwealth of Kentucky, particularly the Industrial Building Revenue Bond Act (Sections 103.200 through 103.285, inclusive) of the Kentucky Revised Statutes, as amended (the "Act"), and the Trust Indenture, dated as of [ ], 2010 (the "Indenture"; capitalized terms used herein and not otherwise defined herein are as defined in the Indenture) between the County and the Bond Trustee. The Bonds are being issued to refund bonds previously issued by the County to refund bonds previously issued by the County to finance certain pollution control facilities (the "Facilities") for Big Rivers Electric Corporation, a nonprofit rural electric cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky ("Big Rivers"). The Facilities are located at Big Rivers' D.B. Wilson Plant Unit No. 1, a coal-fired steam electric generating plant located within the geographic boundaries of the County and wholly-owned by Big Rivers (the "Plant").

The Bonds are equally and ratably secured, to the extent provided in the Indenture, by the pledge thereunder of the "Receipts and Revenues of the County from the Financing Agreement," which term is used herein as defined in the Indenture and which as therein defined means all payments to the County by Big Rivers under the Loan Agreement, dated as of [ ], 2010, between the County and Big Rivers (the "Financing Agreement") and the corresponding note

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(the "Note") of Big Rivers delivered pursuant to the Financing Agreement to the County, and all receipts of the Bond Trustee credited by the provisions of the Indenture against such payments and by the other security pledged therefor under the Indenture. The County has also pledged and assigned to the Bond Trustee as security for the Bonds other rights and interests of the County under the Financing Agreement. The Note is secured, on a parity basis with certain outstanding indebtedness of Big Rivers, by assets of Big Rivers under the Indenture, dated as of July 1, 2009, between Big Rivers and U.S. Bank National Association, as trustee, as supplemented and amended.

As more fully provided in the Indenture, this Bond does not constitute an obligation to which the full faith and credit of the County is pledged but is a limited obligation of the County, which is obligated to pay the principal of and interest on this Bond only out of the Receipts and Revenues of the County from the Financing Agreement and the other security pledged therefor under the Indenture. No holder of this Bond shall ever have the right to compel any exercise of the taxing power of the County to pay this Bond or interest thereon, nor to enforce payment thereon against any property of the County. This Bond shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County. This Bond, including interest hereon, is payable solely from the revenue pledged to the payment hereof, as authorized in the Act, and does not constitute a debt of the County within the meaning of any constitutional or statutory limitation.

The Bonds shall not constitute an indebtedness of the County within the meaning of the Constitution of Kentucky, but shall be payable as to principal and interest solely from the revenues derived from the payments made by Big Rivers under the Note and from the other Receipts and Revenues of the County from the Financing Agreement.

National Rural Utilities Cooperative Finance Corporation (the "Guarantor") has entered into a Guaranty Agreement dated as of [\_\_\_\_], 20[10] (the "Guaranty") with the Bond Trustee, pursuant to which the Guarantor has unconditionally guaranteed to the Bond Trustee for the benefit of the County and the Holders of the Bonds (i) the full regularly scheduled payment of the principal on the Bonds when and as the same become due (excluding any payment of principal on the Bonds due upon redemption pursuant to Article III of the Indenture) and (ii) the full payment of the interest on the Bonds when and as the same become due.

Reference is hereby made to the Indenture and the Financing Agreement, copies of which are on file with the Bond Trustee, for the provisions, among others, with respect to the nature and extent of the rights, duties and obligations of the County, Big Rivers, the Bond Trustee and the owner of this Bond, the terms upon which this Bond is issued and secured, and the modification or amendment of the Indenture or the Financing Agreement, to all of which the registered owner of this Bond assents by the acceptance of this Bond.

This Bond is transferable, as provided in the Indenture, only upon the registration books maintained by the Registrar, which shall be the Bond Trustee, kept at its principal office, upon presentation at said office of this Bond with the written request of the registered owner hereof or its attorney duly authorized in writing, and a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its duly authorized attorney. The Registrar shall not be obliged to make any exchange or transfer of this Bond during the fifteen (15) days

next preceding an interest payment date or, in the case of any proposed redemption of the Bonds, next preceding the date of the mailing of the notice of such redemption. The Registrar shall not be required to make any exchange or transfer of this Bond if it has been called for redemption.

The Bonds are issuable in the form of fully registered Bonds without coupons in the denomination of \$5,000 each or integral multiples thereof. Upon payment of any required tax or other governments charge and subject to such conditions, Bonds, upon the surrender thereof at the principal office of the Registrar, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its duly authorized attorney, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same interest rate and in any other authorized denominations.

The Bonds are subject to redemption in whole or in part (and if less than all of the Bonds are to be redeemed, by lot or in such manner as shall be determined by the Bond Trustee) prior to maturity at any time on or after [\_\_\_\_], [\_\_\_\_] by the County, upon the exercise by Big Rivers of its option to prepay all or a part of the unpaid balance of the Note, at a redemption price of 100 percent of the principal amount thereof, together with interest accrued thereon to the date fixed for redemption.

In the manner and with the effect provided in the Indenture, upon any prepayment of the Note by Big Rivers under the provisions of Article X of the Financing Agreement, the Bonds shall be redeemed out of the amounts received in prepayment of the Note, prior to maturity as a whole, or in part, at any time at the principal amount thereof plus accrued interest to the redemption date.

In the event any Bonds are called for redemption, the Bond Trustee shall give notice, in the name of the County, of the redemption of such Bonds, which notice shall specify the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable, which shall be the principal corporate trust office of the Bond Trustee as paying agent for the Bonds, and the principal office of any co-paying agent for such Bonds, and, if less than all of the Bonds are to be redeemed, the numbers of such Bonds to be redeemed. Such notice shall be given by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption to the owners of the Bonds to be redeemed at the addresses shown on the registration books maintained by the Bond Trustee, as Registrar; *provided, however*, that failure duly to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of such Bonds. All Bonds so called for redemption shall be deemed not to be outstanding under the provisions of the Indenture from the date upon which there shall have been deposited with the Bond Trustee moneys or obligations as specified by the Indenture sufficient to pay when due the principal of, premium, if any, and interest due and to become due on or prior to the redemption date. All Bonds so deemed to be not outstanding will cease to bear interest on the specified redemption date. On presentation and surrender of Bonds so called for redemption at the place or places of payment, such Bonds shall be paid and redeemed.

The Bonds may be redeemed by the County only at the direction of Big Rivers. Big Rivers may elect to exercise such direction on a conditional and revocable basis, or on an unconditional and irrevocable basis. If the direction and call for redemption is on a conditional

and revocable basis, then Big Rivers is under no obligation to provide the funds necessary to effect such redemption and, if it elects not to do so, then the Bonds called for redemption will not be redeemed, and neither Big Rivers nor the County shall be liable to any Bondowner for this failure to redeem, all as provided for in the Indenture.

Pursuant to the Financing Agreement, payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid to the Bond Trustee for the account of the County and deposited in a special account created by the County and have been pledged for that purpose.

The registered owner of this Bond shall have no right to enforce the provisions of the Indenture, or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Kentucky, the governing rules and procedures of the County and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed.

No covenant or agreement contained in this Bond or the Indenture shall be deemed to be a covenant or agreement of any official, officer, agent or employee of the County in his or her individual capacity, and neither the members of the Board of County Commissioners of the County nor any official executing this Bond shall be liable personally on this Bond or be subject to any personal liability or accountability by reason of the issuance of this Bond.

This Bond shall not be entitled to any benefit under the Indenture or be valid until this Bond shall have been authenticated by the execution by the Bond Trustee, or its successor as Bond Trustee, of the Certificate of Authentication inscribed hereon.

**IN WITNESS WHEREOF**, County of Ohio, Kentucky, has caused this Bond to be executed by the Judge/Executive of the County by his or her signature[, and has caused the corporate seal of the County to be affixed, impressed or reproduced hereon] and attested by the Court Clerk of the County with his or her signature.

COUNTY OF OHIO, KENTUCKY

By: \_\_\_\_\_  
County Judge/Executive

[SEAL]

ATTEST:

By: \_\_\_\_\_  
County Court Clerk

(Form of Bond Trustee’s Certificate of Authentication)

This is to certify that this Bond is one of the Bonds described in the within mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,  
as Bond Trustee

By: \_\_\_\_\_  
*Authorized Officer*

Date of Authentication:



**IN WITNESS WHEREOF**, as of [\_\_\_\_], 2010, County of Ohio, Kentucky, has caused these presents to be signed in its name and behalf by the Judge/Executive of the County [and its official seal to be hereunto affixed] and attested by the County Court Clerk, and to evidence its acceptance of the trusts hereby created, U.S. Bank National Association has caused these presents to be signed in its name and on its behalf by one of its Trust Officers and the same to be attested by its Secretary or an Assistant Secretary.

Attest:

COUNTY OF OHIO, KENTUCKY

By: \_\_\_\_\_  
[NAME]  
*County Court Clerk, County of Ohio,  
Kentucky*

By: \_\_\_\_\_  
[NAME]  
*Judge/Executive*

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_  
*Authorized Officer*

COMMONWEALTH OF KENTUCKY    )  
  ) SS.  
COUNTY OF OHIO                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of [\_\_\_\_], 2010,  
by [\_\_\_\_], as Judge/Executive of County of Ohio, Kentucky, and by [\_\_\_\_], as County  
Court Clerk of County of Ohio, Kentucky.

(SEAL)

\_\_\_\_\_  
*Notary Public for the Commonwealth of Kentucky*

My Commission Expires: \_\_\_\_\_

STATE OF )  
 ) SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_ day of [\_\_\_\_], 2010, by \_\_\_\_\_, as \_\_\_\_\_, and by \_\_\_\_\_ as Authorized Officer of U.S. Bank National Association.

(SEAL)

*Notary Public for the [\_\_\_\_\_]*

My Commission Expires: \_\_\_\_\_



**\$83,300,000**  
**County of Ohio, Kentucky**  
**Pollution Control Refunding Revenue Bonds, Series 2010A**  
**(Big Rivers Electric Corporation Project)**

**PURCHASE CONTRACT**

\_\_\_\_\_, 2010

Fiscal Court of the County of Ohio  
Hartford, Kentucky

Ladies and Gentlemen:

1. Goldman, Sachs & Co. (the “**Underwriter**”) hereby offers to enter into this Purchase Contract with County of Ohio, Kentucky (the “**Issuer**”), for the purchase by the Underwriter, and the sale by the Issuer, of \$83,300,000 aggregate principal amount of County of Ohio, Kentucky Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the “**Bonds**”). This offer is made subject to the acceptance of this Purchase Contract by the Issuer by (i) due adoption of a resolution of the Issuer authorizing and approving the execution and delivery of this Purchase Contract and (ii) execution and delivery of this Purchase Contract by authorized representatives of the Issuer, in each case on the date hereof. Upon such acceptance, this Purchase Contract shall be in full force and effect in accordance with its terms and binding upon the Issuer and the Underwriter. Delivered to the Issuer herewith is (i) a Letter of Representation, dated the date hereof, substantially in the form of Appendix A hereto, under which Big Rivers Electric Corporation (the “**Company**”) undertakes certain obligations in order to induce the Underwriter and the Issuer to enter into this Purchase Contract (the “**Company Letter of Representation**”) and (ii) the Letter of Representation, dated the date hereof, substantially in the form of Appendix B hereto, under which National Rural Utilities Cooperative Finance Corporation (“**CFC**”) undertakes certain obligations in order to induce the Underwriter and the Issuer to enter into this Purchase Contract (the “**CFC Letter of Representation**,” and together with the Company Letter of Representation, the “**Letters of Representation**”). Capitalized terms used herein, if not otherwise defined herein, shall have the meanings assigned to such terms in the Preliminary Offering Statement as defined and described in Section 2 hereof.

2. Upon the terms and conditions and in reliance on the representations, warranties and covenants set forth herein and in the Letters of Representation, the Underwriter hereby agrees to purchase from the Issuer for offering to the public, and the Issuer hereby agrees to sell to the Underwriter for such purpose, all, but not less than all, of the Bonds. The purchase price for the Bonds shall be \$ \_\_\_\_\_ (equal to a par amount of \$83,300,000, less an underwriter’s discount of \$ \_\_\_\_\_), payable by the Underwriter at the time and in the manner set forth in Section 8 hereof.

The Bonds shall be dated their date of delivery. The Bonds shall mature on the date, and shall bear interest at the rate, set forth in the Pricing Supplement (as hereinafter defined).

The Company and the Issuer have caused to be prepared the following information: (i) a Preliminary Offering Statement, dated \_\_\_\_\_, 2010 (together with the appendices thereto, the “**Preliminary Offering Statement**”), (ii) the Pricing Supplement attached as Appendix C hereto (the “**Pricing Supplement**”), and (iii) the electronic road show made available to investors via the Internet (not including telephone question and answer sessions with investors) (the “**Electronic Road Show**”). The Preliminary Offering Statement, together with the Pricing Supplement, is referred to herein as the “**Disclosure Package**.” The Company agrees to furnish the Underwriter with a final Offering Statement in form and substance satisfactory to the Underwriter (the “**Offering Statement**”) within seven (7) business days of the date hereof but in no event later than three (3) business days prior to the Closing Date (as defined in Section 8 hereof). The Company, on behalf of the Issuer, “deemed final” the Preliminary Offering Statement as of the date thereof for purposes of Rule 15c2-12 (“**Rule 15c2-12**”) promulgated by the Securities and Exchange Commission (the “**SEC**”) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”).

3. The Bonds shall be as described in, and shall be issued and secured under and pursuant to, a Trust Indenture, dated as of \_\_\_\_\_, 2010 (the “**Bond Indenture**”), by and between the Issuer and U.S. Bank National Association, as trustee (the “**Bond Trustee**”). The Bond proceeds shall be paid by the Issuer to U.S. Bank National Association, the current trustee, as successor (the “**2001 Trustee**”), under the Trust Indenture between the Issuer and the 2001 Trustee, dated as of August 1, 2001 (the “**2001 Trust Indenture**”), and shall be used by the 2001 Trustee, together with other moneys provided by the Company, to refund by redemption the Issuer’s Pollution Control Revenue Refunding Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the “**Refunded Bonds**”). The Bond proceeds and such other moneys shall be deposited with the 2001 Trustee pursuant to the Escrow Deposit Agreement, dated as of \_\_\_\_\_, 2010 (the “**Escrow Deposit Agreement**”), among the Issuer, the Company and U.S. Bank National Association, in its capacity as 2001 Trustee and as Escrow Deposit Trustee (as defined in the Escrow Deposit Agreement).

The payment by the Issuer of the proceeds of the Bonds to the Company is provided for by the provisions of the Loan Agreement, dated as of \_\_\_\_\_, 2010 (the “**Financing Agreement**”), between the Issuer and the Company, and the obligations thereunder to repay the principal amount of the Bonds when due at maturity and interest on the Bonds when due shall be evidenced by a note of the Company dated the date of issuance of the Bonds (the “**Note**”). The Note will be in the form specified in the Supplemental Indenture (as hereinafter defined) and the Financing Agreement and will be an Obligation secured under the Indenture, dated as of July 1, 2009, between the Company and U.S. Bank National Association, as trustee (the “**Mortgage Indenture Trustee**”) as supplemented by the First Supplemental Indenture, dated as of \_\_\_\_\_, 2010 (the “**Supplemental Indenture**”), between the Company and the Mortgage Indenture Trustee (the “**Mortgage Indenture**”).

In connection with the issuance of the Bonds, principal and interest due on the Bonds will be unconditionally guaranteed by CFC pursuant to that certain Guaranty Agreement, dated as of \_\_\_\_\_, 2010 (the “**Guaranty**”), between CFC and the Bond Trustee. In addition, the

Company and CFC will enter into that certain Reimbursement Agreement, dated as of \_\_\_\_\_, 2010 (the “**Reimbursement Agreement**”), establishing the rights and obligations between CFC and the Company with respect to matters involving the Bonds.

In order to enable the Underwriter to comply with paragraph (b)(5) of Rule 15c2-12, (i) the Company and the Bond Trustee will enter into a Continuing Disclosure Agreement, effective as of the Closing Date, substantially in the form set forth as Appendix \_\_\_ to the Preliminary Offering Statement (the “**Company Continuing Disclosure Agreement**”), and (ii) CFC and the Bond Trustee will enter into a Continuing Disclosure Agreement, effective as of the Closing Date, substantially in the form set forth as Appendix \_\_\_ to the Preliminary Offering Statement (the “**CFC Continuing Disclosure Agreement**,” and together with the Company Continuing Disclosure Agreement, the “**Continuing Disclosure Agreements**”).

The Bond Indenture, this Purchase Contract, the Bonds, the Escrow Deposit Agreement, the Financing Agreement and the Tax Certificate and Agreement, dated \_\_\_\_\_, 2010, between the Issuer and the Company (the “**Tax Certificate and Agreement**”), are hereinafter collectively referred to as the “**Issuer Documents**.” The Issuer Documents, the Letters of Representation, the Continuing Disclosure Agreements, the Mortgage Indenture, the Supplemental Indenture, the Note, the Guaranty and the Reimbursement Agreement are hereinafter collectively referred to as the “**2010 Financing Documents**.”

4. The Underwriter shall make a bona fide public offering of all of the Bonds at not in excess of the initial public offering price set forth in the Pricing Supplement, plus accrued interest, if any. The Bonds may be offered and sold by the Underwriter to certain dealers (including dealers depositing such Bonds into investment trusts) at a price lower than such initial public offering price.

5. As soon as practicable after the execution of this Purchase Contract by the Issuer, but no later than the Closing Date, the Issuer shall deliver or cause to be delivered to the Underwriter manually executed originals of the documents listed below (provided, however, that the final Offering Statement shall be delivered no later than the earlier of seven (7) business days from the date hereof or three (3) business days prior to the Closing Date and that the documents set forth in paragraphs (m) through (o) of this Section 5 shall have been provided prior to the date of execution of this Purchase Contract):

(a) the Offering Statement, containing as part of the appendices thereto the financial statements of the Company, which shall be provided in such quantity as described below in order for the Underwriter to comply with the rules of the Municipal Securities Rulemaking Board and paragraph (b)(4) of Rule 15c2-12 and which the Underwriter agrees to file promptly upon receipt by the Underwriter with a nationally recognized municipal securities information repository;

(1) *Quantity of Offering Statements to be Delivered.* The Company shall supply to the Underwriter no later than seven (7) business days from the date hereof and, in any event, not later than three (3) business days prior to the Closing Date, an amount of conformed copies of a final Offering Statement (or such lesser amount agreed to by the Underwriter) sufficient to permit the Underwriter to comply with Rule 15c2-12, and other applicable rules of the SEC and the



Municipal Securities Rulemaking Board. The Issuer and the Company shall supply (upon at least three (3) business days prior written notice from the Underwriter) additional copies of the Offering Statement in an amount sufficient to enable the Underwriter (X) to send a single copy of the Offering Statement to any potential customer upon request until the earlier of (1) ninety (90) days following the End of the Underwriting Period (as defined below) or (2) the time when the Offering Statement is available to any person from a nationally recognized municipal securities information repository, but in the case of this clause (2) no less than twenty-five (25) days following the End of the Underwriting Period and (Y) to comply with any applicable rules of the Municipal Securities Rulemaking Board.

(2) *Amendments and Notifications by the Issuer.* During the period commencing on the date hereof and ending on the earlier of (i) ninety (90) days following the End of the Underwriting Period or (ii) the time when the Offering Statement is available to any person from a nationally recognized municipal securities information repository, but in the case of this clause (ii) no less than twenty-five (25) days following the End of the Underwriting Period, if any event shall occur as a result of which it may be necessary to supplement the Offering Statement so that it does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the Issuer shall forthwith notify the Underwriter of any such event of which it has knowledge, and the Issuer will amend or supplement the Offering Statement in such a manner so that the Offering Statement, as so supplemented or amended, does not contain any untrue statement of a material fact or omit to state a material fact necessary to be stated therein, in the light of the circumstances under which they were made, not misleading, and will furnish the Underwriter as many written and electronic copies as the Underwriter may from time to time reasonably request of the Offering Statement as amended or supplemented; provided, however, that all expenses incurred in connection with any such supplement or amendment will be paid by the Company.

The “**End of the Underwriting Period**” means the later of: (i) the delivery of the Bonds by the Issuer to the Underwriter or (ii) such time when the Underwriter no longer retains an unsold balance of the Bonds for sale to the public; *provided*, that the “End of the Underwriting Period” shall be deemed to be the Closing Date, *unless* the Underwriter otherwise notifies the Issuer and the Company in writing prior to such date that there is an unsold balance of the Bonds, in which case the End of the Underwriting Period shall be deemed to be extended for thirty (30) days. The deemed End of the Underwriting Period may be extended for two additional periods of thirty (30) days each upon receipt of an additional written notification from the Underwriter containing the same information as required in the initial written notice.

(b) the resolutions of the Issuer authorizing the issuance of the Bonds and the execution and delivery of the other Issuer Documents, certified by the County Judge/Executive of the Issuer as having been duly adopted by the Issuer, as being in full

force and effect and as constituting a valid and binding action of the Issuer (collectively, the “**Resolution**”);

- (c) the Bond Indenture;
- (d) the Escrow Deposit Agreement;
- (e) the Financing Agreement;
- (f) the Note;
- (g) the Mortgage Indenture;
- (h) the Supplemental Indenture;
- (i) the Continuing Disclosure Agreements;
- (j) the Tax Certificate and Agreement;
- (k) the Guaranty;
- (l) the Reimbursement Agreement;

(m) a letter, with regard to certain procedures performed through a specified date not more than five (5) business days prior to the date of such letter, dated the date of delivery thereof and addressed to the Underwriter, from Deloitte & Touche LLP (“**Deloitte**”), the Company’s independent auditor, in the form agreed to by Deloitte and the Underwriter;

(n) a letter from Deloitte, dated a date not more than three (3) business days prior to the date of the Preliminary Offering Statement, stating that Deloitte consents to the use in the Preliminary Offering Statement and the Offering Statement of its reports on the financial statements of the Company for the fiscal years ended December 31, 2007 and December 31, 2008; and

(o) a letter from \_\_\_\_\_, CFC’s independent auditor, dated a date not more than three (3) business days prior to the date of the Preliminary Offering Statement, stating that \_\_\_\_\_ consents to the use in the Preliminary Offering Statement and the Offering Statement of its report on the financial statements of CFC for the fiscal year ended December 31, 20\_\_.

By its execution of this Purchase Contract, the Issuer consents to the use by the Underwriter of the Issuer Documents, the Disclosure Package and the Offering Statement in connection with the public offering and sale of the Bonds and ratifies the Company having deemed final the Preliminary Offering Statement on its behalf.

6. During the period commencing on the date hereof and ending twenty-five (25) days following the End of the Underwriting Period, the Issuer shall not modify, amend or

supplement in any respect, or permit any modification, amendment or supplement to, any Issuer Document without the prior written consent of the Underwriter.

7. The Issuer represents and warrants to the Underwriter that:

(a) The Issuer is a political subdivision and body politic and corporate duly created and validly existing within the State of Kentucky under the laws and Constitution of the State of Kentucky and is authorized and empowered by law, including particularly the provisions of the Industrial Building Revenue Bond Act (*Sections 103.200 through 103.285, inclusive*) of the Kentucky Revised Statutes, as amended, and all acts supplemental thereto or amendatory thereof (the “Act”):

(i) to adopt the Resolution;

(ii) to issue, sell and deliver the Bonds to the Underwriter;

(iii) to execute and deliver each of the Issuer Documents;

(iv) to pay the proceeds of the sale of the Bonds to the 2001 Trustee to refund by redemption, together with moneys provided by the Company, the Refunded Bonds;

(v) to accept and confirm the Letters of Representation;

(vi) to assign to the Bond Trustee, pursuant to the Financing Agreement, its interest in the Note; and

(vii) to carry out and consummate all other transactions contemplated by each of the aforesaid documents.

(b) The Issuer has duly authorized by all appropriate action, and complied (and at the Closing Date will have complied) with all provisions of law with respect to, each of the actions set forth in clauses (i) through (vii) of paragraph (a) of this Section 7.

(c) When delivered to and paid for by the Underwriter in accordance with the terms of this Purchase Contract and the Bond Indenture and authenticated in accordance with the terms of the Bond Indenture, the Bonds will have been duly and validly authorized, executed, authenticated, issued and delivered and will constitute legal, valid and binding limited obligations of the Issuer enforceable in accordance with their terms (except as the enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors’ rights and by equitable rights where equitable remedies are sought), and will be entitled to the benefits of the Bond Indenture. This Purchase Contract does, and the other Issuer Documents when executed and delivered will, constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms (except as the enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors’ rights and by equitable rights where equitable remedies are sought). This Purchase Contract has been duly and validly authorized, executed and delivered by the Issuer.

(d) The acceptance of the Letters of Representation and the execution and delivery of the Issuer Documents and compliance with the provisions thereof, do not and will not conflict with, or constitute on the part of the Issuer a violation of, breach of or default under, any constitutional provision or statute of the State of Kentucky or the United States or any indenture, mortgage, deed of trust, resolution, note agreement or other agreement or instrument to which the Issuer is a party or by which the Issuer is bound, or, to the knowledge of the Issuer, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties; and all consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or commission of the State of Kentucky or the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Issuer of the Issuer Documents, the performance by the Issuer of its obligations thereunder, or the issuance or sale of the Bonds by the Issuer have been obtained or made and are in full force and effect; provided, however, that no representation is made concerning compliance with the federal securities laws or the securities or “blue sky” laws of the various jurisdictions of the United States of America.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best of its knowledge, threatened against or affecting the Issuer or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds, or the application of the proceeds thereof in accordance with the Bond Indenture, or the collection and pledge of the Trust Estate (as defined in the Bond Indenture) to pay the principal of, redemption premium, if any, and interest on the Bonds, or in any way contesting or affecting the validity of the Bonds or the Bond Indenture, or contesting the powers of the Issuer to issue the Bonds or to enter into the Bond Indenture, or contesting or affecting the validity of any of the Issuer Documents or contesting the powers of the Issuer to enter into or to execute and deliver or to accept the Letters of Representation or any of the Issuer Documents, or contesting the completeness or accuracy of the Disclosure Package, nor to the best of its knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by each of the Issuer Documents, or which, in any way, would adversely affect the validity or enforceability of any of the Issuer Documents, or any agreement or instrument to which the Issuer is a party, used or contemplated for use in the consummation of the transactions contemplated by each of the Issuer Documents.

(f) The Issuer will cause the proceeds from the sale of the Bonds to be applied as provided for in the Bond Indenture and the Financing Agreement. The facilities financed with the proceeds of the Refunded Bonds constitute and will constitute “pollution control facilities” within the meaning of the Act.

(g) The Issuer has reviewed the statements made in the Preliminary Offering Statement under the caption “SUMMARY–County of Ohio” and under the caption “THE COUNTY” and such statements under such captions solely as they relate to the Issuer are, and at all times from the date hereof to and including the Closing Date will be, true

and correct and fairly summarize the matters encompassed thereby to the extent such matters are described therein.

8. At 10:00 A.M., New York time, on \_\_\_\_\_, 2010, or on such other date and time as shall have been mutually agreed upon by the Issuer, the Company and the Underwriter (the “**Closing Date**”), the Issuer, subject to the terms and conditions hereof, shall deliver the Bonds to the Underwriter at The Depository Trust Company (the “**Securities Depository**”), 55 Water Street, New York, New York, or such other place as may be mutually agreed upon by the Issuer, the Company and the Underwriter, in typewritten form, bearing CUSIP numbers, duly executed and authenticated, registered in the name of Cede & Co., as nominee for the Securities Depository, and shall deliver to the Underwriter the documents set forth in Section 9 at the offices of Bond Counsel. The Underwriter shall, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Bonds as set forth in Section 2 hereof by wire transfer of federal funds to the order of the Company. This payment and delivery is herein called the “**Closing.**”

9. The Underwriter has entered into this Purchase Contract in reliance upon the representations, warranties and agreements of the Issuer contained herein, in reliance upon the representations, warranties and agreements of the Company contained in the Company Letter of Representation, in reliance upon the representations, warranties and agreements of CFC contained in the CFC Letter of Representation, in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder and upon the performance by the Company of its obligations under the Company Letter of Representation and by CFC of its obligations under the CFC Letter of Representation, in each case as of the date hereof and as of the Closing Date. Accordingly, the Underwriter’s obligation under this Purchase Contract to purchase, to accept delivery of and to pay for the Bonds shall be subject to the performance by the Issuer of its obligations to be performed by it hereunder at or prior to the Closing, to the performance by the Company of the obligations and agreements to be performed by it under the Company Letter of Representation at or prior to the Closing, to the performance by CFC of the obligations and agreements to be performed by it under the CFC Letter of Representation at or prior to the Closing, and to the accuracy in all respects of the representations and warranties of the Issuer, the Company and CFC contained herein and in the Letters of Representation, respectively, as of the date hereof and to the accuracy in all material respects of such representations and warranties as of the Closing as if made on the Closing Date, and shall also be subject to the following additional conditions:

(a) At the time of the Closing, (i) the Resolution shall be in full force and effect and each of the 2010 Financing Documents (other than the Bonds) shall have been duly authorized, executed and delivered and shall not have been amended, modified, or supplemented, except as may have been agreed to in writing by the Underwriter; and (ii) the Issuer shall perform or have performed all of its obligations required under or specified in this Purchase Contract and the Offering Statement to be performed at or prior to the Closing.

(b) The Bonds shall have been duly authorized, executed, authenticated and delivered in accordance with the provisions of the Bond Indenture. The Note shall have

been authenticated by the Mortgage Indenture Trustee in accordance with the provisions of the Mortgage Indenture.

(c) The Underwriter may terminate this Purchase Contract by notification to the Issuer and the Company if at any time subsequent to the date hereof and at or prior to the Closing (i) legislation shall have been introduced in or enacted by the Congress of the United States or introduced in or reported out of a committee of or adopted by either House thereof, or legislation pending in the Congress of the United States shall have been amended, or legislation shall have been recommended to the Congress of the United States or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairmen or Ranking Members of the U.S. Senate Committee on Finance or the U.S. House of Representatives Committee on Ways and Means, or legislation shall have been proposed for consideration by either such Committee by any member thereof, or legislation shall have been favorably reported for passage to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or a decision by a court of the United States of America or the Tax Court of the United States shall be rendered, or a ruling, regulation or official statement by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed to be made, with respect to federal taxation of revenues or other income of the general character expected to be derived by the Issuer under the Financing Agreement or upon interest received on securities of the general character of the Bonds or which would have the effect of changing directly or indirectly the federal income tax consequences of interest on securities of the general character of the Bonds in the hands of the holders thereof, which, in the reasonable opinion of the Underwriter, would materially adversely affect the market price or marketability of the Bonds; (ii) there shall have occurred any outbreak of hostilities or escalation of existing hostilities involving the United States or the declaration by the United States of a national emergency or war, any material disruption in financial markets, or any national or international calamity or crisis or an escalation thereof or any change in financial, political or economic conditions in the United States or elsewhere, the effect of such outbreak, escalation, disruption, declaration, calamity, crisis, escalation or change, or the effect of the continuations of any such event existing on the date hereof, being such as, in the reasonable judgment of the Underwriter, would make it impracticable for the Underwriter to market any of the Bonds or to enforce contracts for the sale of any of the Bonds on the terms and in the manner contemplated by the Offering Statement; (iii) there shall be in force a suspension or material limitation in trading in the Company's or the Issuer's securities or a general suspension or material limitation in trading in securities generally on or by the New York Stock Exchange or other national securities exchange as a result of an event affecting the national economy, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on or by, as the case may be, the foregoing entity, whether by virtue of a determination by such exchange or by order of the SEC or any other governmental authority having jurisdiction; (iv) a general banking moratorium shall have been declared by federal, New York or Kentucky authorities having jurisdiction or a material disruption in commercial banking or securities settlement or clearance services in the United States shall have occurred; (v) there shall have been a

material adverse change in the general affairs or in the financial position or net assets of the Company as a whole or CFC as a whole, as described in the Offering Statement, except as set forth in or contemplated by the Offering Statement which, in the reasonable judgment of the Underwriter, materially adversely affects the market price or marketability of the Bonds; (vi) a stop order, ruling or regulation by the SEC shall hereafter be issued or made, or legislation shall be enacted, or a decision by a court of competent jurisdiction shall be rendered, the reasonable effect of which is that the issuance, offering or sale of the Bonds, as contemplated herein or in the Offering Statement, or of obligations of the general character of the Bonds, is in violation of any provisions of the Securities Act of 1933, as amended and as then in effect (the "**Securities Act**"), the Exchange Act, the Trust Indenture Act of 1939, as amended and as then in effect (the "**Trust Indenture Act**"), or any rule or regulation promulgated under any such Acts; (vii) (A) a downgrading shall have occurred in the rating accorded any of the Company's or CFC's unenhanced debt securities by any "nationally recognized statistical rating organization," as that term is defined by the SEC for purposes of Rule 436(g)(2) under the Securities Act, or (B) any such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's or CFC's unenhanced debt securities; or (viii) in the reasonable judgment of the Underwriter, the market for the Bonds or of obligations of the general character of the Bonds shall be adversely affected because: (A) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental issuer or by any national securities exchange or (B) the New York Stock Exchange or other national securities exchange, or any governmental issuer, shall have imposed, as to the Bonds or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge of the net capital requirements of underwriters or broker-dealers; (ix) any litigation shall be instituted, pending or to the Company's or the Issuer's knowledge, threatened to restrain or enjoin the issuance or sale of the Bonds or the validity thereof or materially adversely affecting the existence or powers of the Issuer; (x) any event shall have occurred or shall exist which, in the reasonable opinion of the Underwriter, causes the Offering Statement to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; or (xi) a supplement or amendment shall have been made to the Offering Statement subsequent to the date hereof which, in the reasonable judgment of the Underwriter, materially adversely affects the marketability of the Bonds or the market price thereof. For purposes of clauses (x) and (xi) of the immediately preceding sentence, "Offering Statement" shall mean the Offering Statement as initially prepared in definitive form and delivered on the date thereof and prior to any amendments or supplements thereto.

(d) At or prior to the Closing, no decision of any federal or state court and no ruling or regulation (final, temporary or proposed) of the SEC or any other governmental agency shall have been made or issued, and no legislation shall be enacted or actively considered for enactment, to the effect that (i) the Bonds or any other securities of the Issuer or of any similar body of the type contemplated by this Purchase Contract, the Letters of Representation or the Note are subject to the registration requirements of the Securities Act (and there is no applicable exemption); or (ii) the qualification of the Bond

Indenture or any other agreement in respect of the Bonds or any such securities is required under the Trust Indenture Act.

(e) At or prior to the Closing, the Underwriter shall receive the following documents:

(1) The documents identified in Section 5 hereof;

(2) An opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel ("**Bond Counsel**"), addressed to the Issuer and accompanied by a letter to the Underwriter stating that the Underwriter may rely upon such opinion as if it were addressed to the Underwriter, dated the Closing Date, substantially in the form attached as Appendix \_\_\_ to the Preliminary Offering Statement;

(3) Opinions, dated the Closing Date and addressed to the Underwriter, of (i) \_\_\_\_\_, Counsel to the Issuer; (ii) Sullivan, Mountjoy, Stainback & Miller, P.S.C., Counsel to the Company; (iii) Bond Counsel; (iv) Sutherland Asbill & Brennan LLP, Counsel to the Underwriter ("**Counsel to the Underwriter**"); (v) John J. List, General Counsel to CFC; and (vi) \_\_\_\_\_, Counsel to CFC, in each case in form and substance satisfactory to the Underwriter and covering such matters incident to the transactions contemplated hereby as such Underwriter or Counsel to the Underwriter may reasonably request;

(4) A certificate, dated the Closing Date, executed by the County Judge/Executive of the Issuer to the effect that:

(i) each of the representations and warranties set forth in Section 7 hereof is true, accurate and complete in all material respects on and as of the Closing Date as if made on the Closing Date;

(ii) each of the agreements of the Issuer, as set forth in this Purchase Contract to be complied with at or prior to the Closing, has been complied with;

(iii) the Resolution has not been amended, modified, superseded or repealed, except for any amendments thereto that were approved in writing by the Underwriter, and is in full force and effect on the Closing Date; and

(iv) to the best of his knowledge, no event affecting the Issuer has occurred since the date of the Disclosure Package which would cause the Disclosure Package or the final Offering Statement to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading;



(5) A certificate, dated the Closing Date, of the President & CEO and the Senior Vice President, Financial/Energy Services & CFO of the Company, providing as follows:

(i) certifying that each of the representations and warranties set forth in paragraph 1 of the Company Letter of Representation is true, accurate and correct as if made on the Closing Date and that the Company has complied with all its agreements therein contained to be performed at or prior to the Closing Date;

(ii) certifying that as of the Closing Date there has been no material adverse change in the general affairs or in the financial position or net assets of the Company as a whole, as shown in the Preliminary Offering Statement, other than changes disclosed by or contemplated in the Preliminary Offering Statement or in an amendment or supplement thereto; and

(iii) stating that they have examined the Disclosure Package and the final Offering Statement and that, in their opinion, the Disclosure Package and the final Offering Statement as of their respective dates did not, and the final Offering Statement as of the Closing Date does not, include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(6) A certificate, dated the Closing Date, of the \_\_\_\_\_ of CFC, providing as follows:

(i) certifying that each of the representations and warranties set forth in paragraph 1 of the CFC Letter of Representation is true, accurate and correct as if made on the Closing Date and that CFC has complied with all its agreements therein contained to be performed at or prior to the Closing Date;

(ii) certifying that as of the Closing Date there has been no material adverse change in the general affairs or in the financial position or net assets of CFC as a whole, as shown in the Preliminary Offering Statement, other than changes disclosed by or contemplated in the Preliminary Offering Statement or in an amendment or supplement thereto; and

(iii) stating that [he/she] has examined the information contained under the heading "CFC GUARANTY AGREEMENT" in the Disclosure Package and the final Offering Statement and that, in [his/her] opinion, the information contained under the heading "CFC GUARANTY AGREEMENT" in the Disclosure Package and the final Offering Statement as of their respective dates did not, and the information contained under the heading "CFC GUARANTY AGREEMENT" in the

final Offering Statement as of the Closing Date does not, include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(7) A “bring-down” letter with regard to certain procedures performed through a specified date not more than five (5) business days prior to the date of such letter, dated the Closing Date and addressed to the Underwriter, from Deloitte, in the form agreed to by Deloitte and the Underwriter;

(8) A certificate of a duly authorized officer of the Bond Trustee, dated the Closing Date and in form and substance satisfactory to the Underwriter, to the effect that:

(i) it is duly organized and validly existing in good standing under the laws of the United States and has full corporate right, power and authority to execute the Bond Indenture;

(ii) the Bond Indenture has been duly authorized, executed and delivered by the Bond Trustee;

(iii) the Bond Indenture is a valid, legal and binding obligation of the Bond Trustee, enforceable in accordance with its terms; and

(iv) the Bonds have been duly authenticated and delivered by the Bond Trustee;

(9) An opinion, dated the Closing Date, addressed to the Underwriter and the Company, of \_\_\_\_\_, Counsel to the Bond Trustee, in form and substance satisfactory to the Underwriter and covering such matters incident to the transactions contemplated hereby as such Underwriter or Counsel to the Underwriter may reasonably request;

(10) An executed counterpart or photocopy thereof of the Issuer’s Blanket Issuer Letter of Representations (the “**DTC Letter of Representation**”);

(11) Evidence satisfactory to the Underwriter that, as of the Closing Date, the Bonds are rated “\_\_\_” by Moody’s Investors Service, Inc., “\_\_\_” by Standard & Poor’s Rating Service, a division of The McGraw-Hills Companies, and “\_\_\_” by Fitch Ratings;

(12) Evidence that the 2001 Trustee shall have received instructions to call the Refunded Bonds in whole for redemption, payment and discharge on \_\_\_\_\_, 20\_\_\_; and

(13) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel or Counsel

to the Underwriter may reasonably request to evidence compliance by the Issuer, the Company and CFC with legal requirements, the truth and accuracy, as of the Closing Date, of all representations herein contained and the due performance or satisfaction by the Issuer, the Company and CFC at or prior to such date of all agreements then to be performed and all conditions then to be satisfied as contemplated under this Purchase Contract.

10. If the Issuer, the Company or CFC shall be unable to satisfy on the Closing Date the conditions to the obligations of the Underwriter contained in this Purchase Contract in Section 9, or if the obligations of the Underwriter shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract may be terminated by the Underwriter, and upon such termination, the Underwriter and the Issuer shall not have any further obligations hereunder, except for the respective obligations set forth in Section 12 hereof.

11. The Issuer covenants with the Underwriter to cooperate with it and the Company in qualifying the Bonds for offer and sale under the securities or "blue sky" laws of such jurisdictions of the United States of America as the Underwriter may request; provided that in no event shall the Issuer be obligated to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject. It is understood that the Issuer is not responsible for compliance with or the consequences of failure to comply with applicable "blue sky" laws.

12. The Underwriter shall be under no obligation to pay any fees or expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to, (i) the cost of printing and preparation for printing or other reproduction of each of the 2010 Financing Documents, the Disclosure Package, the Offering Statement and the cost of preparing the definitive Bonds; (ii) the fees and disbursements of Bond Counsel, Counsel to the Underwriter, accountants, and any other experts, attorneys or consultants retained by the Issuer, the Company or CFC; (iii) the fees of bond rating agencies in connection with the Bonds; (iv) the fees and expenses of the Bond Trustee and any agent of the Bond Trustee and the fees and disbursements of counsel for the Bond Trustee in connection with the Bond Indenture and the Bonds; and (v) all other costs and expenses incident to the performance of the Company's obligations hereunder which are not otherwise specifically provided for in this Section. The fees, costs and expenses set forth in the immediately preceding sentence will be paid by the Company pursuant to the Company Letter of Representation. The Underwriter shall pay all advertising expenses in connection with the public offering of the Bonds, and all other expenses incurred by it in connection with the public offering and distribution of the Bonds.

13. Any notice or other communication to be given to the Issuer under this Purchase Contract may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested, (such notice or communication to be deemed effective when received), to County of Ohio, Kentucky, [Address], Attention: County Judge/Executive, or by facsimile (such notice to be deemed effective when sent) to the attention of the County Judge/Executive of County of Ohio, Kentucky at [fax number], and any such notice or other communication to be given to the Underwriter may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to Goldman, Sachs & Co. at 85 Broad Street, 20<sup>th</sup> Floor, New York, New York 10004, or by facsimile (such notice to be deemed effective when sent) to

the attention of Mark Glotfelty at 646-835-3244. All notices or communications hereunder by any party shall be given and served upon each other party. Any notice or communication to be given to the Company under this Purchase Contract may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested, (such notice or communication to be deemed effective when received), to the Company at 201 Third Street, Henderson, Kentucky 42420, Attention: Senior Vice President, Financial/Energy Services & CFO or by facsimile (such notice to be deemed effective when sent) to the attention of the Senior Vice President, Financial/Energy Services & CFO at [fax number]. Any notice or communication to be given to CFC under this Purchase Contract may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested, (such notice or communication to be deemed effective when received), to CFC at 2201 Cooperative Way, Herndon, Virginia 20171, Attention: General Counsel or by facsimile (such notice to be deemed effective when sent) to the attention of the General Counsel at 703-709-6774.

14. This Purchase Contract shall constitute the entire agreement between the Issuer and the Underwriter and is made solely for the benefit of the Issuer, the Underwriter (including the successors or assigns of the Underwriter), the Company and CFC. The Company and CFC are intended third-party beneficiaries hereof and shall have any rights afforded to a party hereof. No person, partnership or corporation other than the Issuer, the Underwriter, the Company and CFC shall acquire or have any right hereunder or by virtue hereof. All representations and agreements of the Issuer in this Purchase Contract shall survive the Closing and shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds pursuant to this Purchase Contract, and (c) any termination of this Purchase Contract but only to the extent provided by Section 12 hereof.

15. This Purchase Contract may not be amended without the written consent of the Company, the Issuer, the Underwriter and CFC.

16. This Purchase Contract may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be one and the same instrument.

17. Each of the Issuer and the Underwriter hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Purchase Contract or the transactions contemplated hereby.

18. The validity, interpretation and performance of this Purchase Contract shall be governed by the laws of the State of New York.

[Signatures begin on the following page.]

**Goldman, Sachs & Co.**

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Goldman, Sachs & Co.

Accepted by County of Ohio, Kentucky pursuant to a resolution  
of the County of Ohio, Kentucky adopted at  
Hartford, Kentucky on \_\_\_\_\_, 20 \_\_\_\_.

By: \_\_\_\_\_  
*County Judge/Executive  
of County of Ohio, Kentucky*

**\$83,300,000**  
**County of Ohio, Kentucky**  
**Pollution Control Refunding Revenue Bonds, Series 2010A**  
**(Big Rivers Electric Corporation Project)**

**COMPANY LETTER OF REPRESENTATION**

\_\_\_\_\_, 2010

Fiscal Court of the County of Ohio  
Hartford, Kentucky

Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

1. Big Rivers Electric Corporation (the “**Company**”), in order to induce Goldman, Sachs & Co. (the “**Underwriter**”) and County of Ohio, Kentucky (the “**Issuer**”) to enter into a Purchase Contract dated the date hereof (the “**Purchase Contract**”) relating to the purchase by the Underwriter from the Issuer of \$83,300,000 aggregate principal amount of County of Ohio, Kentucky Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the “**Bonds**”) does hereby execute and deliver this Letter of Representation.

The Bonds will be issued under and pursuant to a Trust Indenture dated as of \_\_\_\_\_, 2010 (the “**Bond Indenture**”), by and between the Issuer and U.S. Bank National Association, as trustee (the “**Bond Trustee**”). The Bond proceeds shall be paid by the Issuer to U.S. Bank National Association, the current trustee, as successor (the “**2001 Trustee**”), under the Trust Indenture between the Issuer and the 2001 Trustee, dated as of August 1, 2001 (the “**2001 Trust Indenture**”), and shall be used by the 2001 Trustee, together with other moneys provided by the Company, to refund by redemption the Issuer’s Pollution Control Revenue Refunding Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the “**Refunded Bonds**”). The Bond proceeds and such other moneys shall be deposited with the 2001 Trustee pursuant to the Escrow Deposit Agreement, dated as of \_\_\_\_\_, 2010 (the “**Escrow Deposit Agreement**”), among the Issuer, the Company and U.S. Bank National Association, in its capacity as 2001 Trustee and as Escrow Deposit Trustee (as defined in the Escrow Deposit Agreement).

The payment by the Issuer of a portion of the proceeds of the Bonds to the Company is provided for by the provisions of the Loan Agreement, dated as of \_\_\_\_\_, 2010 (the “**Financing Agreement**”), between the Issuer and the Company, and the obligations thereunder

to repay the principal amount of the Bonds when due at maturity and interest on the Bonds when due shall be evidenced by a note of the Company dated the date of issuance of the Bonds (the “**Note**”). The Note will be in the form specified in the Supplemental Indenture (as hereinafter defined) and the Financing Agreement and will be an Obligation secured under the Indenture, dated as of July 1, 2009, between the Company and U.S. Bank National Association, as trustee (the “**Mortgage Indenture Trustee**”) as supplemented by the First Supplemental Indenture, dated as of \_\_\_\_\_, 2010 (the “**Supplemental Indenture**”), between the Company and the Mortgage Indenture Trustee (the “**Mortgage Indenture**”).

In connection with the issuance of the Bonds, principal and interest due on the Bonds will be unconditionally guaranteed by CFC pursuant to that certain Guaranty Agreement, dated as of \_\_\_\_\_, 2010 (the “**Guaranty**”), between CFC and the Bond Trustee. In addition, the Company and CFC will enter into that certain Reimbursement Agreement, dated as of \_\_\_\_\_, 2010 (the “**Reimbursement Agreement**”), establishing the rights and obligations between CFC and the Company with respect to matters involving the Bonds.

The Company and the Issuer have caused to be prepared the following information: (i) a Preliminary Offering Statement, dated \_\_\_\_\_, 2010 (together with the appendices thereto, the “**Preliminary Offering Statement**”), (ii) the Pricing Supplement attached as Appendix C to the Purchase Contract (the “**Pricing Supplement**”), and (iii) the electronic road show made available to investors via the Internet (not including telephone question and answer sessions with investors) (the “**Electronic Road Show**”). The Preliminary Offering Statement, together with the Pricing Supplement, is referred to herein as the “**Disclosure Package**.”

Capitalized terms used herein, if not otherwise defined herein, shall have the meanings assigned to such terms in the Purchase Contract, and, if not defined therein, in the Preliminary Offering Statement.

In consideration of the execution and delivery of the Purchase Contract, the Company represents, warrants and covenants to and with the Underwriter and the Issuer as follows:

(a) The Preliminary Offering Statement, as of its date, and the Disclosure Package, as of 12:00 p.m., New York city time, on \_\_\_\_\_, 2010 (the “**Initial Sale Time**”), did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; as of the Initial Sale Time, the Electronic Road Show, when considered together with the Disclosure Package, did not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations or warranties in this Section 2(a) shall not apply to information contained in or omitted from the Disclosure Package (or any supplement or amendment thereto) in reliance upon information furnished to the Company in writing by or on behalf of the Underwriter expressly for use in the Preliminary Offering Statement under the heading “**UNDERWRITING**” or by or on behalf of CFC expressly for use in the Preliminary Offering Statement under the heading “**CFC GUARANTY AGREEMENT**.” The Company authorizes the Underwriter to use the Disclosure



Package and the Offering Statement in connection with the public offering and sale of the Bonds.

(b) The Company has full legal right, power and authority to execute and deliver this Letter of Representation, the Mortgage Indenture, the Supplemental Indenture, the Financing Agreement, the Company Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note and the Reimbursement Agreement. As of the date hereof, this Letter of Representation is, and as of the Closing, the Mortgage Indenture, the Supplemental Indenture, the Financing Agreement, the Company Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note and the Reimbursement Agreement will have been, duly authorized, executed and delivered by the Company and will be in or are in full force and effect and will or do constitute the valid and binding obligations of the Company enforceable in accordance with their respective terms (except as to enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors' rights and by equitable rights where equitable remedies are sought and except that rights to indemnity and remedies for breach of representations and warranties relating to the Disclosure Package or the Offering Statement may be limited under the federal securities laws or other applicable laws), and performance by the Company thereunder will not violate, or result in a breach of any of the provisions of, or constitute a default under (i) the Company's Articles of Incorporation, as amended, or its Bylaws, as amended, or (ii) any agreement or instrument to which, or any law, administrative regulation or court decree by which, the Company is bound, except in the case of clause (i) above, for any such violation, breach or default that would not individually or in the aggregate, be reasonably expected to have a material adverse effect on the business or operations or current or future financial position, patronage capital, margins or results of operations of the Company or on the performance by the Company of its obligations under the 2010 Financing Documents (a "**Material Adverse Effect**").

(c) The Company agrees to assist the Issuer in providing to the Underwriter the Offering Statement in the quantities and at the times required by Section 5(a)(1) of the Purchase Contract.

(d) During the period commencing on the date hereof and ending on the earlier of (i) ninety (90) days following the End of the Underwriting Period (as defined in the Purchase Contract), or (ii) the time when the Offering Statement is available to any person from a nationally recognized municipal securities information repository, but in the case of this clause (ii), no less than twenty-five (25) days following the End of the Underwriting Period, if any event shall occur which in the reasonable opinion of the Underwriter would cause the Offering Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and if in the reasonable opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Offering

Statement, the Company will assist in amending or supplementing the Offering Statement in a form and manner approved by the Issuer, the Underwriter and Bond Counsel so that the Offering Statement will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; provided, however, that all expenses incurred in connection with any such supplement or amendment will be paid by the Company. The Company agrees to notify the Underwriter of any event of the type described in this paragraph of which it has knowledge.

(e) Except as contemplated herein or as contemplated or set forth in the Disclosure Package, or as the result of operations in the ordinary course of business as described in the Disclosure Package, the Company, subsequent to the dates as of which information is given in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made (being the date of this Letter of Representation and, pursuant to clause 5(i) of paragraph (e) of Section 9 of the Purchase Contract, the Closing Date), has not incurred any material liabilities or obligations, direct or contingent; and, except as contemplated or set forth in the Disclosure Package, subsequent to the dates as of which information is given in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made, there has been no material adverse change in the condition, financial or otherwise, of the Company.

(f) The Company has been duly incorporated and is now validly existing and in good standing as a rural electric cooperative corporation under the laws of the State of Kentucky. The Company has been duly qualified as a foreign corporation in each jurisdiction in which such qualification is required and is in good standing under the laws of each such jurisdiction or is not subject to any material liability or disability by reason of the failure to be so qualified in any such jurisdiction.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending, other than as described in the Disclosure Package, or known to the Company to be threatened against or affecting the Company, nor to the best of the Company's knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(h) The Company will cause the proceeds from the sale of the Bonds to be applied as provided for in the Bond Indenture and the Financing Agreement.

(i) All consents, approvals, authorizations and orders of any governmental authority, board, agency or commission or filings or registrations with any governmental authority of the State of Kentucky or the United States of America required in connection with, or the absence of which would materially adversely affect the execution and delivery by the Company of, the Financing Agreement, the Company Continuing Disclosure Agreement, the Mortgage Indenture, the Supplemental Indenture, the Tax Certificate and Agreement, the Escrow Deposit Agreement, the Note, the Reimbursement Agreement and this Letter of Representation, the performance by the Company of its

obligations thereunder and hereunder and of the transactions contemplated in the Disclosure Package, except as described in the Disclosure Package, and the issuance and sale of the Bonds, have been obtained or made and are in full force and effect; provided, however, that no representation is made concerning compliance with the federal securities laws or the securities or “blue sky” laws of the various jurisdictions of the United States of America.

(j) The Company will notify the Underwriter if, prior to the Closing Date, any event occurs which, in the judgment of the Company, makes the Disclosure Package or the Offering Statement contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and the Company will change the Disclosure Package or the Offering Statement so that it does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements, in light of the circumstances under which they were made, not misleading.

(k) The Company will diligently cooperate with the Underwriter to qualify the Bonds for offer and sale under the securities or “blue sky” laws of such jurisdictions as the Underwriter may request; provided that in no event shall the Company be obligated to qualify to do business in any jurisdictions where it is not now so qualified or to take any action which would subject it to the general service of process in any jurisdictions where it is not now so subject. The Company will not be responsible for compliance with or the consequences of failure to comply with applicable “blue sky” laws.

(l) The Company will pay the reasonable expenses to be paid by it pursuant to Section 12 of the Purchase Contract (subject to the terms and conditions set forth therein).

(m) The Preliminary Offering Statement was, as of its date, deemed “final,” within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (“**Rule 15c2-12**”), by the Company on behalf of the Issuer as of the date thereof and as of the date hereof, and is deemed to be a “final official statement” within the meaning of Rule 15c2-12.

(n) The Company is in compliance with all of its continuing disclosure undertakings entered into pursuant to Rule 15c2-12 and has not failed to comply with such undertakings during the last five years.

(o) The consolidated audited financial statements of the Company for the fiscal years ended December 31, 2007 and December 31, 2008 contained in Appendix \_\_\_ to the Preliminary Offering Statement present fairly the consolidated financial position of the Company as of the dates indicated and the results of operations and changes in cash flows for the periods specified, and such financial statements have been prepared in conformity with generally accepted accounting principles. There has been no material adverse change in the condition, financial or otherwise, of the Company since December 31, 2008, from that set forth in the financial statements, as of and for the period ended that date, except as disclosed in the Disclosure Package.

(p) The Company has taken all action required to perfect the security interest created by the Mortgage Indenture wherever such security interest can be perfected by the filing of financing statements under the Uniform Commercial Codes of the jurisdictions where such filings are made, including any recording or re-recording of the Mortgage Indenture in all counties where the Company owns substantial assets, as security for the Obligations referred to therein, including the Note.

(q) The Company has good and marketable title to the mortgaged property (as described and defined in the Mortgage Indenture) subject to Permitted Exceptions and Prior Liens permitted by Section 13.6 the Mortgage Indenture, all as such terms are defined in the Mortgage Indenture.

(r) Each of the Wholesale Power Contracts (each, a “**Wholesale Power Contract**” and, collectively, the “**Wholesale Power Contracts**”), between the Company and those Members identified in the Preliminary Offering Statement as parties to such Wholesale Power Contracts, have been duly authorized, executed and delivered by the Company and constitute legal, valid and binding obligations of the Company enforceable in accordance with their respective terms, subject, as to enforcement, to bankruptcy, insolvency reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles. **[We will need to discuss an additional rep re: the enforceability of Smelter Contracts.]**

2. The acceptance and confirmation of this Letter of Representation on behalf of the Issuer shall constitute a representation and warranty by the Issuer to the Company that the representations and warranties contained in Section 7 of the Purchase Contract are true as of the date hereof and will be true in all material respects as of the Closing Date, as if made on the Closing Date.

3. (a) The Company agrees to indemnify and hold harmless the Underwriter, and each person, if any, who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (the “**Securities Act**”), and the Issuer, to the extent permitted under applicable law, against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) arising out of or based on (i) the failure to register any security under the Securities Act or to qualify any indenture under the Trust Indenture Act of 1939, as amended, in connection with the offering of the Bonds or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the Offering Statement, or in any amendment or supplement thereto, arising out of or based on any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages, liabilities or expenses arising out of or based on any such untrue statement or omission or allegation thereof in reliance upon and in conformity with written information furnished to the Company by the Underwriter expressly for use in the Disclosure Package and the Offering Statement under the heading “**UNDERWRITING**” or by CFC expressly for use in the Disclosure Package and the Offering Statement under the heading “**CFC GUARANTY AGREEMENT.**”

(b) If any action or claim (including any governmental investigation) shall be brought or asserted against the Underwriter or any person so controlling the Underwriter,

or the Issuer, based upon the Disclosure Package or Offering Statement or any amendment or supplement thereto, and in respect of which indemnity may be sought from the Company pursuant to subsection (a) hereof, the Underwriter or such controlling person or the Issuer, as the case may be, shall promptly notify the Company in writing, and the Company shall assume the defense thereof, including the employment of counsel and the payment of all expenses. The Underwriter or any such controlling person or the Issuer, as the case may be, shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Underwriter or such controlling person or the Issuer, as the case may be, unless (i) the employment thereof has been specifically authorized by the Company, (ii) the Company has failed to assume the defense and employ counsel or (iii) the named parties to any such action (including any impleaded parties) include both the Underwriter or such controlling person or the Issuer and the Company, and representation of the Underwriter or such controlling person or the Issuer and the Company by counsel representing the Company would be inappropriate due to actual or potential differing interests between the Company and the other named party (in which case the Company shall not have the right to assume the defense of such action on behalf of the Underwriter or such controlling person or the Issuer, it being understood, however, that the Company shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any point in time for the Underwriter and such controlling persons, and one separate firm of attorneys for the Issuer, which respective firms shall be designated in writing by the Underwriter and the Issuer). The Company shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Company or if there is a final judgment for the plaintiff in any such action, the Company will indemnify and hold harmless any indemnified person from and against any loss or liability by reason of such settlement or judgment. The Company shall not, without the prior written consent of the Underwriter, effect any settlement of any pending or threatened proceeding in respect of which the Underwriter is or could have been a party and indemnity could have been sought hereunder by the Underwriter, unless such settlement (i) includes an unconditional release of the Underwriter from any liability or claims that are the subject matter of such proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of the Underwriter.

(c) The Underwriter agrees to indemnify and hold harmless the Company and the Issuer to the same extent as the foregoing indemnity from the Company to the Underwriter and the Issuer, but only with respect to written information furnished by the Underwriter to the Company expressly for use in the Disclosure Package and the Offering Statement under the heading "UNDERWRITING." If any action or claim shall be brought against the Company or the Issuer based upon the Disclosure Package and the Offering Statement and in respect of which indemnity may be sought against the Underwriter, the Underwriter shall have the rights and duties given to the Company; and the Company or the Issuer, as the case may be, shall have the rights and duties given to the Underwriter by subparagraph (b) hereof. The indemnity agreement of this subparagraph (c) shall extend upon the same terms and conditions to each officer and

director of the Company or the Issuer, as applicable, and to each person, if any, who controls the Company or the Issuer, as applicable, within the meaning of Section 15 of the Securities Act.

(d) If the indemnification provided for in this Section is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (c) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriter, on the other, from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (b), then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company, on the one hand, and the Underwriter, on the other, in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriter, on the other, shall be deemed to be in the same proportion as the total net proceeds from the sale of the Bonds (before deducting expenses) received by the Company to the total fee received by the Underwriter. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Underwriter, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriter agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim (which shall be limited as provided in subsection (b) above if the indemnifying party has assumed the defense of any such action in accordance with the provisions thereof). Notwithstanding the provisions of this subsection (d), the Underwriter shall not be required to contribute any amount in excess of the amount by which the total price at which the Bonds were offered to the public exceeds the amount of any damages which the Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The indemnity agreements contained in this Section 3 shall remain operative and in full force and effect, regardless of any investigation made by or on

behalf of the Underwriter or any person so controlling the Underwriter or by or on behalf of the Company or by or on behalf of the Issuer. A successor of the Underwriter or the Company or of the Issuer, as the case may be, shall be entitled to the benefits of the indemnity and reimbursement agreements contained in this Section 3; the term “successor” shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

4. The Underwriter agrees that, if the Purchase Contract is terminated pursuant to Section 10 thereof, the Company shall not have any further obligations to the Underwriter under this Letter of Representation other than as set forth in clause (l) of Section 1 hereof.

5. This Letter of Representation is made solely for the benefit of the Issuer and its directors, officers and agents, the Underwriter, persons controlling the Underwriter, and the Company and its directors and officers or any person who controls the Company within the meaning of Section 15 of the Securities Act, and their respective successors and assigns, and no other person, partnership, association or corporation shall acquire or have any right under or by virtue hereof. The terms “successors” and “assigns” shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

6. The execution and delivery of this Letter of Representation by the Company shall constitute the Company’s approval of and consent to the Issuer’s entering into, acceptance and execution of the Purchase Contract and performance thereunder.

7. Any notice or other communication to be given to the Company under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to the Company at 201 Third Street, Henderson, Kentucky 42420, Attention: Senior Vice President, Financial/Energy Services & CFO, or by facsimile (such notice to be deemed effective when sent) to the attention of the Senior Vice President, Financial/Energy Services & CFO of the Company at [fax number]. Any notice or other communication to be given to the Underwriter under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to Goldman, Sachs & Co. at 85 Broad Street, 20<sup>th</sup> Floor, New York, New York 10004, Attention: Mark Glotfelty, or by facsimile (such notice to be deemed effective when sent) to the attention of Mark Glotfelty at 646-835-3244, and any notice or communication to be given to the Issuer under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received), at County of Ohio, Kentucky, [Issuer address], Attention: County Judge/Executive, or by facsimile (such notice to be deemed effective when sent) to the attention of the County Judge/Executive of County of Ohio, Kentucky at [fax number]. The Company, the Issuer and the Underwriter shall each be fully entitled to rely upon notice given pursuant to this Paragraph and to act thereon.

8. This Letter of Representation shall become effective upon execution hereof and the effectiveness of the Purchase Contract referred to herein. It shall terminate upon termination of the Purchase Contract. The Company’s representations and warranties contained herein shall survive the Closing and shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the

Bonds, and (c) any termination of the Purchase Contract or this Letter of Representation but only to the extent provided by subsection (l) of Section 1 hereof.

9. The Company acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to the Purchase Contract is an arm's-length commercial transaction between the Company and the Issuer on one hand, and the Underwriter on the other hand, (ii) in connection therewith and with the process leading to such transaction the Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in the Purchase Contract or this Letter of Representation and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriter has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

10. The Company and the Underwriter hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Letter of Representation, the Purchase Contract or the transactions contemplated hereby.

11. The validity, interpretation and performance of this Letter of Representation shall be governed by the laws of the State of New York.

[Signatures begin on the following page.]



Very truly yours,

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
[Name]  
[Title]

Accepted and confirmed as of the  
date first above written

**GOLDMAN, SACHS & CO.**

\_\_\_\_\_  
Goldman, Sachs & Co.

Accepted by County of Ohio, Kentucky pursuant to a resolution  
of the County of Ohio, Kentucky adopted at  
\_\_\_\_\_, Kentucky on \_\_\_\_\_, 20 \_\_\_\_.

By: \_\_\_\_\_  
*County Judge/Executive  
of County of Ohio, Kentucky*

**\$83,300,000**  
**County of Ohio, Kentucky**  
**Pollution Control Refunding Revenue Bonds, Series 2010A**  
**(Big Rivers Electric Corporation Project)**

**CFC LETTER OF REPRESENTATION**

\_\_\_\_\_, 2010

Fiscal Court of the County of Ohio  
Hartford, Kentucky

Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

1. National Rural Utilities Cooperative Finance Corporation (“**CFC**”), in order to induce Goldman, Sachs & Co. (the “**Underwriter**”) and County of Ohio, Kentucky (the “**Issuer**”) to enter into a Purchase Contract dated the date hereof (the “**Purchase Contract**”) relating to the purchase by the Underwriter from the Issuer of \$83,300,000 aggregate principal amount of County of Ohio, Kentucky Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project) (the “**Bonds**”) does hereby execute and deliver this Letter of Representation.

The Bonds will be issued under and pursuant to a Trust Indenture dated as of \_\_\_\_\_, 2010 (the “**Bond Indenture**”), by and between the Issuer and U.S. Bank National Association, as trustee (the “**Bond Trustee**”). The Bond proceeds shall be paid by the Issuer to U.S. Bank National Association, the current trustee, as successor (the “**2001 Trustee**”), under the Trust Indenture between the Issuer and the 2001 Trustee, dated as of August 1, 2001 (the “**2001 Trust Indenture**”), and shall be used by the 2001 Trustee, together with other moneys provided by Big Rivers Electric Corporation (the “**Company**”), to refund by redemption the Issuer’s Pollution Control Revenue Refunding Bonds, Series 2001A (Big Rivers Electric Corporation Project), Periodic Auction Reset Securities (PARS) (the “**Refunded Bonds**”). The Bond proceeds and such other moneys shall be deposited with the 2001 Trustee pursuant to the Escrow Deposit Agreement, dated as of \_\_\_\_\_, 2010 (the “**Escrow Deposit Agreement**”), among the Issuer, the Company and U.S. Bank National Association, in its capacity as 2001 Trustee and as Escrow Deposit Trustee (as defined in the Escrow Deposit Agreement).

The payment by the Issuer of a portion of the proceeds of the Bonds to the Company is provided for by the provisions of the Loan Agreement, dated as of \_\_\_\_\_, 2010 (the “**Financing Agreement**”), between the Issuer and the Company, and the obligations thereunder

to repay the principal amount of the Bonds when due at maturity and interest on the Bonds when due shall be evidenced by a note of the Company dated the date of issuance of the Bonds (the “**Note**”). The Note will be in the form specified in the Supplemental Indenture (as hereinafter defined) and the Financing Agreement and will be an Obligation secured under the Indenture, dated as of July 1, 2009, between the Company and U.S. Bank National Association, as trustee (the “**Mortgage Indenture Trustee**”) as supplemented by the First Supplemental Indenture, dated as of \_\_\_\_\_, 2010 (the “**Supplemental Indenture**”), between the Company and the Mortgage Indenture Trustee (the “**Mortgage Indenture**”).

In connection with the issuance of the Bonds, principal and interest due on the Bonds will be unconditionally guaranteed by CFC pursuant to that certain Guaranty Agreement, dated as of \_\_\_\_\_, 2010 (the “**Guaranty**”), between CFC and the Bond Trustee. In addition, the Company and CFC will enter into that certain Reimbursement Agreement, dated as of \_\_\_\_\_, 2010 (the “**Reimbursement Agreement**”), establishing the rights and obligations between CFC and the Company with respect to matters involving the Bonds.

The Company and the Issuer have caused to be prepared the following information: (i) a Preliminary Offering Statement, dated \_\_\_\_\_, 2010 (together with the appendices thereto, the “**Preliminary Offering Statement**”), (ii) the Pricing Supplement attached as Appendix C to the Purchase Contract (the “**Pricing Supplement**”), and (iii) the electronic road show made available to investors via the Internet (not including telephone question and answer sessions with investors). The Preliminary Offering Statement, together with the Pricing Supplement, is referred to herein as the “**Disclosure Package**.”

Capitalized terms used herein, if not otherwise defined herein, shall have the meanings assigned to such terms in the Purchase Contract, and, if not defined therein, in the Preliminary Offering Statement.

In consideration of the execution and delivery of the Purchase Contract, CFC represents, warrants and covenants to and with the Underwriter and the Issuer as follows:

(a) The information contained in the Preliminary Offering Statement (including information incorporated by reference therein), as of its date, and the information contained in the Disclosure Package (including information incorporated by reference therein), as of 12:00 p.m., New York city time, on \_\_\_\_\_, 2010 (the “**Initial Sale Time**”), under the heading “CFC GUARANTY AGREEMENT” (such information is collectively referred to herein as the “**CFC Information**”) did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. CFC authorizes the Underwriter to use the CFC Information contained in the Disclosure Package and the Offering Statement in connection with the public offering and sale of the Bonds.

(b) CFC has full legal right, power and authority to execute and deliver this Letter of Representation, the CFC Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Guaranty and the Reimbursement Agreement. As of the date hereof, this Letter of Representation

is, and as of the Closing, the CFC Continuing Disclosure Agreement (in substantially the form attached as an Appendix \_\_\_ to the Preliminary Offering Statement), the Guaranty and the Reimbursement Agreement will have been, duly authorized, executed and delivered by CFC and will be in or are in full force and effect and will or do constitute the valid and binding obligations of CFC enforceable in accordance with their respective terms (except as to enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors' rights and by equitable rights where equitable remedies are sought and except that rights to indemnity and remedies for breach of representations and warranties relating to the Disclosure Package or the Offering Statement may be limited under the federal securities laws or other applicable laws), and performance by CFC thereunder will not violate, or result in a breach of any of the provisions of, or constitute a default under (i) CFC's Articles of Incorporation, as amended, or its Bylaws, as amended, or (ii) any agreement or instrument to which, or any law, administrative regulation or court decree by which, CFC is bound, except in the case of clause (i) above, for any such violation, breach or default that would not individually or in the aggregate, be reasonably expected to have a material adverse effect on the business or operations or current or future financial position, patronage capital, margins or results of operations of CFC or on the performance by CFC of its obligations under the 2010 Financing Documents (a "**Material Adverse Effect**").

(c) CFC will cooperate with the Issuer and the Underwriter in the preparation of any amendment of or supplement to the CFC Information contained in the Disclosure Package or the Offering Statement which may be required pursuant to the provisions of Section 5(a)(2) of the Purchase Agreement.

(d) Except as contemplated herein or as contemplated or set forth in the CFC Information contained in the Disclosure Package, or as the result of operations in the ordinary course of business as described in the CFC Information contained in the Disclosure Package, CFC, subsequent to the dates as of which information is given in the CFC Information contained in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made (being the date of this Letter of Representation and, pursuant to clause 6(i) of paragraph (e) of Section 9 of the Purchase Contract, the Closing Date), has not incurred any material liabilities or obligations, direct or contingent; and, except as contemplated or set forth in the CFC Information contained in the Disclosure Package, subsequent to the dates as of which information is given in the CFC Information contained in the Disclosure Package and as of the date on which the representation with respect to this paragraph is being made, there has been no material adverse change in the condition, financial or otherwise, of CFC.

(e) CFC has been duly incorporated and is now validly existing and in good standing as a cooperative association under the laws of the District of Columbia. CFC has been duly qualified as a foreign corporation in each jurisdiction in which such qualification is required and is in good standing under the laws of each such jurisdiction or is not subject to any material liability or disability by reason of the failure to be so qualified in any such jurisdiction.

(f) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending, other than as described in the CFC Information contained in the Disclosure Package, or known to CFC to be threatened against or affecting CFC, nor to the best of CFC's knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(g) All consents, approvals, authorizations and orders of any governmental authority, board, agency or commission or filings or registrations with any governmental authority of the District of Columbia or the United States of America required in connection with, or the absence of which would materially adversely affect the execution and delivery by CFC of, the CFC Continuing Disclosure Agreement, the Guaranty, the Reimbursement Agreement and this Letter of Representation, the performance by CFC of its obligations thereunder and of the transactions contemplated in the Disclosure Package, except as described in the CFC Information contained in the Disclosure Package, and the issuance and sale of the Bonds, have been obtained or made and are in full force and effect; provided, however, that no representation is made concerning compliance with the federal securities laws or the securities or "blue sky" laws of the various jurisdictions of the United States of America.

(h) CFC will notify the Underwriter if, prior to the Closing Date, any event occurs which, in the judgment of CFC, makes the CFC Information contained in the Disclosure Package or the Offering Statement contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and CFC will change the CFC Information contained in the Disclosure Package or the Offering Statement so that it does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements, in light of the circumstances under which they were made, not misleading.

(i) CFC is in compliance with all of its continuing disclosure undertakings entered into pursuant to Rule 15c2-12 and has not failed to comply with such undertakings during the last five years.

(j) The consolidated audited financial statements of CFC for the fiscal year ended December 31, 20\_\_ incorporated by reference in the Disclosure Package present fairly the consolidated financial position of CFC as of the date indicated and the results of operations and changes in cash flows for the period specified, and such financial statements have been prepared in conformity with generally accepted accounting principles. There has been no material adverse change in the condition, financial or otherwise, of CFC since December 31, 20\_\_, from that set forth in the financial statements, as of and for the period ended that date, except as disclosed in the CFC Information contained in the Disclosure Package.

2. The acceptance and confirmation of this Letter of Representation on behalf of the Issuer shall constitute a representation and warranty by the Issuer to CFC that the representations

and warranties contained in Section 7 of the Purchase Contract are true as of the date hereof and will be true in all material respects as of the Closing Date, as if made on the Closing Date.

3. (a) CFC agrees to indemnify and hold harmless the Underwriter, and each person, if any, who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (the “**Securities Act**”), and the Issuer, to the extent permitted under applicable law, against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) arising out of or based on any untrue statement or alleged untrue statement of a material fact contained in the CFC Information in the Disclosure Package or the Offering Statement, or in any amendment or supplement thereto, arising out of or based on any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(b) If any action or claim (including any governmental investigation) shall be brought or asserted against the Underwriter or any person so controlling the Underwriter, or the Issuer, based upon the CFC Information contained in the Disclosure Package or Offering Statement or any amendment or supplement thereto, and in respect of which indemnity may be sought from CFC pursuant to subsection (a) hereof, the Underwriter or such controlling person or the Issuer, as the case may be, shall promptly notify CFC in writing, and CFC shall assume the defense thereof, including the employment of counsel and the payment of all expenses. The Underwriter or any such controlling person or the Issuer, as the case may be, shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Underwriter or such controlling person or the Issuer, as the case may be, unless (i) the employment thereof has been specifically authorized by CFC, (ii) CFC has failed to assume the defense and employ counsel or (iii) the named parties to any such action (including any impleaded parties) include both the Underwriter or such controlling person or the Issuer and CFC, and representation of the Underwriter or such controlling person or the Issuer and CFC by counsel representing CFC would be inappropriate due to actual or potential differing interests between CFC and the other named party (in which case CFC shall not have the right to assume the defense of such action on behalf of the Underwriter or such controlling person or the Issuer, it being understood, however, that CFC shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any point in time for the Underwriter and such controlling persons, and one separate firm of attorneys for the Issuer, which respective firms shall be designated in writing by the Underwriter and the Issuer). CFC shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of CFC or if there is a final judgment for the plaintiff in any such action, CFC will indemnify and hold harmless any indemnified person from and against any loss or liability by reason of such settlement or judgment. CFC shall not, without the prior written consent of the Underwriter, effect any settlement of any pending or threatened proceeding in respect of which the Underwriter is or could have been a party and indemnity could have been sought hereunder by the Underwriter, unless such settlement (i) includes an unconditional release of the Underwriter from any liability or claims that

are the subject matter of such proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of the Underwriter.

(c) The Underwriter agrees to indemnify and hold harmless CFC and the Issuer to the same extent as the foregoing indemnity from CFC to the Underwriter and the Issuer, but only with respect to written information furnished by the Underwriter to the Company expressly for use in the Disclosure Package and the Offering Statement under the heading "UNDERWRITING". If any action or claim shall be brought against CFC or the Issuer based upon the Disclosure Package and the Offering Statement and in respect of which indemnity may be sought against the Underwriter, the Underwriter shall have the rights and duties given to CFC; and CFC or the Issuer, as the case may be, shall have the rights and duties given to the Underwriter by subparagraph (b) hereof. The indemnity agreement of this subparagraph (c) shall extend upon the same terms and conditions to each officer and director of CFC or the Issuer, as applicable, and to each person, if any, who controls CFC or the Issuer, as applicable, within the meaning of Section 15 of the Securities Act.

(d) If the indemnification provided for in this Section is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (c) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by CFC, on the one hand, and the Underwriter, on the other, from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (b), then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of CFC, on the one hand, and the Underwriter, on the other, in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by CFC, on the one hand, and the Underwriter, on the other, shall be deemed to be in the same proportion as the total net proceeds from the sale of the Bonds (before deducting expenses) received by CFC to the total fee received by the Underwriter. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by CFC, on the one hand, or the Underwriter, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. CFC and the Underwriter agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such



indemnified party in connection with investigating or defending any such action or claim (which shall be limited as provided in subsection (b) above if the indemnifying party has assumed the defense of any such action in accordance with the provisions thereof). Notwithstanding the provisions of this subsection (d), the Underwriter shall not be required to contribute any amount in excess of the amount by which the total price at which the Bonds were offered to the public exceeds the amount of any damages which the Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The indemnity agreements contained in this Section 3 shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Underwriter or any person so controlling the Underwriter or by or on behalf of CFC or by or on behalf of the Issuer. A successor of the Underwriter or CFC or of the Issuer, as the case may be, shall be entitled to the benefits of the indemnity and reimbursement agreements contained in this Section 3; the term "successor" shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

4. The Underwriter agrees that, if the Purchase Contract is terminated pursuant to Section 10 thereof, CFC shall not have any further obligations to the Underwriter under this Letter of Representation other than as set forth in clause (l) of Section 1 hereof.

5. This Letter of Representation is made solely for the benefit of the Issuer and its directors, officers and agents, the Underwriter, persons controlling the Underwriter, and CFC and its directors and officers or any person who controls CFC within the meaning of Section 15 of the Securities Act, and their respective successors and assigns, and no other person, partnership, association or corporation shall acquire or have any right under or by virtue hereof. The terms "successors" and "assigns" shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

6. The execution and delivery of this Letter of Representation by CFC shall constitute CFC's approval of and consent to the Issuer's entering into, acceptance and execution of the Purchase Contract and performance thereunder.

7. Any notice or other communication to be given to the Company under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to CFC at 2201 Cooperative Way, Herndon, Virginia 20171, Attention: General Counsel, or by facsimile (such notice to be deemed effective when sent) to the attention of the General Counsel of CFC at 703-709-6774. Any notice or other communication to be given to the Underwriter under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received) to Goldman, Sachs & Co. at 85 Broad Street, 20<sup>th</sup> Floor, New York, New York 10004, Attention: Mark Glotfelty, or by facsimile (such notice to be deemed effective when sent) to the attention of Mark Glotfelty at 646-835-3244, and

any notice or communication to be given to the Issuer under this Letter of Representation may be given by delivering the same in writing, in person or by certified or registered mail, return receipt requested (such notice or communication to be deemed effective when received), at County of Ohio, Kentucky, **[Issuer address]**, Attention: County Judge/Executive, or by facsimile (such notice to be deemed effective when sent) to the attention of the County Judge/Executive of County of Ohio, Kentucky at **[fax number]**. CFC, the Issuer and the Underwriter shall each be fully entitled to rely upon notice given pursuant to this Paragraph and to act thereon.

8. This Letter of Representation shall become effective upon execution hereof and the effectiveness of the Purchase Contract referred to herein. It shall terminate upon termination of the Purchase Contract. CFC's representations and warranties contained herein shall survive the Closing and shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds, and (c) any termination of the Purchase Contract or this Letter of Representation but only to the extent provided by subsection (l) of Section 1 hereof.

9. CFC acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to the Purchase Contract is an arm's-length commercial transaction between CFC and the Issuer on one hand, and the Underwriter on the other hand, (ii) in connection therewith and with the process leading to such transaction the Underwriter is acting solely as a principal and not the agent or fiduciary of CFC, (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of CFC with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising CFC on other matters) or any other obligation to CFC except the obligations expressly set forth in the Purchase Contract or this Letter of Representation and (iv) CFC has consulted its own legal and financial advisors to the extent it deemed appropriate. CFC agrees that it will not claim that the Underwriter has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to CFC, in connection with such transaction or the process leading thereto.

10. CFC and the Underwriter hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Letter of Representation, the Purchase Contract or the transactions contemplated hereby.

11. The validity, interpretation and performance of this Letter of Representation shall be governed by the laws of the State of New York.

[Signatures begin on the following page.]

Very truly yours,

**NATIONAL RURAL UTILITIES  
COOPERATIVE FINANCE CORPORATION**

By: \_\_\_\_\_  
[Name]  
[Title]

Accepted and confirmed as of the  
date first above written

**GOLDMAN, SACHS & CO.**

\_\_\_\_\_  
Goldman, Sachs & Co.

Accepted by County of Ohio, Kentucky pursuant to a resolution  
of the County of Ohio, Kentucky adopted at  
\_\_\_\_\_, Kentucky on \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
*County Judge/Executive  
of County of Ohio, Kentucky*

## Pricing Supplement

<b>Issuer:</b>	County of Ohio, Kentucky
<b>Obligor:</b>	Big Rivers Electric Corporation
<b>Date:</b>	_____, 2010
<b>Security Type:</b>	Pollution Control Refunding Revenue Bonds, Series 2010A (Big Rivers Electric Corporation Project)
<b>Principal Amount:</b>	\$83,300,000
<b>Maturity Date:</b>	
<b>Interest Rate:</b>	____%
<b>Price:</b>	100.000
<b>CUSIP Number:</b>	
<b>Optional Redemption</b>	After _____, the Bonds may be redeemed, in whole or in part, prior to their stated maturity at Big Rivers Electric's option.
<b>Ratings on the Bonds:</b>	The Bonds have ratings of "___" from S&P, "___" from Moody's and "___" from Fitch.
<b>Total Underwriters' Compensation:</b>	\$ _____
<b>Underwriter:</b>	Goldman, Sachs & Co.





201 Third Street  
P.O. Box 24  
Henderson, KY 42419-0024  
270-827-2561  
www.bigrivers.com

July 16, 2009

Ambac Assurance Corporation  
One State Street Plaza  
New York, NY 10004  
Attention: Michael T. Sagges

Dear Mr. Sagges,

Reference is made to (a) the Transaction Termination Agreement dated as of March 26, 2007 among Big Rivers Electric Corporation ("Big Rivers"), LG&E Energy Marketing Inc. and Western Kentucky Energy Corp. (the "Termination Agreement") and to the termination of the contractual relations and property interests between Big Rivers and several affiliates of E.ON. U.S. LLC contemplated by the Termination Agreement (the "Unwind Transaction"), (b) \$58,800,000 County of Ohio, Kentucky, Pollution Control Float Rate Demand Bonds, Series 1983 (Big Rivers Electric Corporation Project) (the "1983 Bonds"), which are insured by Ambac Assurance Corporation ("Ambac"), (c) \$83,300,000 County of Ohio, Kentucky, Pollution Control Refunding Revenue Bonds, Series 2001A ("Big Rivers Electric Corporation Project"), Periodic Auction Reset Securities (the "2001A Bonds"), which are insured by Ambac, and (d) the Third Restated Mortgage and Security Agreement, dated as of August 1, 2001, made by and among Big Rivers and various other parties, including Ambac, as amended by the First Amendment thereto, dated as of July 15, 2003 (the "Restated Mortgage"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Termination Agreement or, if not defined therein, in the Indenture to be executed and delivered by Big Rivers on or about the closing date of the Unwind Transaction.

Big Rivers has requested that Ambac consent to the Unwind Transaction which will require, inter alia, that Ambac agree that the Restated Mortgage, under which the obligations of Big Rivers to Ambac in connection with Ambac's insurance of the 1983 Bonds and of Big Rivers to the Bond Trustee in connection with the 2001A Bonds, which are currently secured by the Restated Mortgage on a basis under which obligations owed by Big Rivers to the Rural Utilities Services and others are subordinated to the obligations owed to Ambac and the 2001A Bonds Trustee, be replaced with an Indenture under which all of Big Rivers' first mortgage obligations will be secured pari passu.

Ambac is willing to give its consent to the Unwind Transaction on the condition that Big Rivers execute and deliver this letter agreement. Big Rivers and Ambac agree that in consideration for Ambac's consent to the Unwind Transaction:

1. Big Rivers agrees that it will file an application with the Kentucky Public Service Commission ("KPSC"), by a date no later than four months following the closing of the Unwind Transaction, seeking approval to refund in whole the 2001A Bonds. Ambac will have no obligation to insure the obligations used to refund such bonds. If Big Rivers does not file such application by a date no later than four months following the closing of the Unwind Transaction, Big Rivers shall pay to Ambac (a) \$1,600,000 on the date that is four months following the closing of the Unwind Transaction, and (b) \$500,000 annually on each anniversary of such date; provided, however, that no such amounts shall be payable on and after the date that Big Rivers has refunded or otherwise prepaid or retired in whole the 2001A Bonds.
2. If the KPSC approves Big Rivers' request to refund the 2001A Bonds, and Big Rivers does not consummate such refunding no later than two months following the expiration date of the appeal period for such KPSC approval order, Big Rivers shall pay to Ambac (a) \$1,600,000 on the date that is two months following the expiration of such appeal period, and (b) \$500,000 annually on each anniversary of such date; provided, however, that no such amounts shall be payable on and after the date that Big Rivers has refunded or otherwise prepaid or retired in whole the 2001A Bonds.
3. Big Rivers will pay Ambac the sum of \$78,015.42 as reimbursement for legal expenses incurred by Ambac in connection with the consent to the Unwind Transaction.

Nothing in this letter agreement, express or implied, shall or is intended to confer any rights upon any person (including, without limitation, the Trustee under the aforementioned Indenture or any holder of any Obligation thereunder), other than the parties hereto or their respective successors or assigns.

This letter agreement may be signed in counterpart and shall be governed by the law of the State of New York.

If you are in agreement with the foregoing, please execute and return to us a copy of this letter at your convenience.



Ambac Assurance Corporation  
July 16, 2009  
Page 3

Very truly yours,

**BIG RIVERS ELECTRIC CORPORATION**

By: Mark A. Bailey  
Name: Mark A. Bailey  
Title: President and CEO

ACKNOWLEDGED AND AGREED

**AMBAC ASSURANCE CORPORATION**

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

Ambac Assurance Corporation  
July 16, 2009  
Page 3

Very truly yours,

**BIG RIVERS ELECTRIC CORPORATION**

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

ACKNOWLEDGED AND AGREED

**AMBAC ASSURANCE CORPORATION**


  
By: MICHAEL T. SAGGIES  
Title: FIRST VICE PRESIDENT



Table of 2001A Bonds Interest Rate History  
 Big Rivers Electric Corporation  
 \$83.3 Million

	<u>Auction Date</u>	<u>Rate</u>	<u>Yrly Avg</u>
1	10/13/2009	4.500%	11.74%
2	9/15/2009	4.500%	
3	8/18/2009	9.000%	
4	7/21/2009	6.000%	
5	6/23/2009	9.500%	
6	5/26/2009	10.500%	
7	4/28/2009	10.500%	
8	3/31/2009	15.500%	
9	3/3/2009	17.500%	
10	2/3/2009	18.000%	
11	1/6/2009	18.000%	
12	12/9/2008	18.000%	8.95%
13	11/12/2008	18.000%	
14	10/14/2008	18.000%	
15	9/16/2008	5.750%	
16	8/19/2008	5.050%	
17	7/22/2008	4.800%	
18	6/24/2008	5.000%	
19	5/27/2008	4.980%	
20	4/29/2008	5.990%	
21	4/1/2008	8.000%	
22	3/4/2008	12.000%	
23	2/5/2008	6.250%	
24	1/8/2008	6.000%	
25	12/11/2007	4.100%	4.17%
26	11/13/2007	3.500%	
27	10/16/2007	3.750%	
28	9/18/2007	3.900%	
29	8/21/2007	3.900%	
30	7/24/2007	3.700%	
31	6/26/2007	3.850%	
32	5/29/2007	3.780%	
33	5/1/2007	3.900%	
34	4/3/2007	3.700%	
35	3/6/2007	3.600%	
36	2/6/2007	3.600%	
37	1/9/2007	3.600%	
38	12/12/2006	3.590%	3.53%
39	11/14/2006	3.600%	
40	10/17/2006	3.550%	
41	9/16/2006	3.600%	
42	8/22/2006	3.650%	
43	7/25/2006	3.650%	
44	6/27/2006	3.910%	
45	5/30/2006	3.550%	
46	5/2/2006	3.730%	

Table of 2001A Bonds Interest Rate History  
 Big Rivers Electric Corporation  
 \$83.3 Million

	<u>Auction Date</u>	<u>Rate</u>	<u>Yrly Avg</u>
47	4/4/2006	3.300%	
48	3/7/2006	3.190%	
49	2/7/2006	3.050%	
50	1/10/2006	3.000%	
51	12/13/2005	3.140%	2.46%
52	11/15/2005	2.850%	
53	10/18/2005	2.600%	
54	9/20/2005	2.610%	
55	8/23/2005	2.400%	
56	7/26/2005	2.490%	
57	6/28/2005	2.400%	
58	5/31/2005	2.900%	
59	5/3/2005	2.900%	
60	4/5/2005	2.500%	
61	3/8/2005	1.870%	
62	2/8/2005	1.750%	
63	1/11/2005	1.650%	
64	12/14/2004	1.800%	1.31%
65	11/16/2004	1.800%	
66	10/19/2004	1.580%	
67	8/24/2004	1.450%	
68	7/27/2004	1.450%	
69	6/29/2004	1.350%	
70	6/21/2004	1.500%	
71	6/1/2004	1.200%	
72	5/4/2004	1.090%	
73	4/6/2004	1.000%	
74	3/9/2004	0.950%	
75	2/10/2004	0.950%	
76	1/13/2004	0.900%	
77	12/16/2003	1.070%	1.06%
78	11/18/2003	1.050%	
79	10/21/2003	0.900%	
80	9/23/2003	0.950%	
81	8/26/2003	0.870%	
82	7/29/2003	0.890%	
83	7/1/2003	0.930%	
84	6/3/2003	1.100%	
85	5/6/2003	1.180%	
86	4/8/2003	1.150%	
87	3/11/2003	1.125%	
88	2/11/2003	1.150%	
89	1/14/2003	1.100%	
90	12/17/2002	1.350%	1.50%
91	11/19/2002	1.450%	
92	10/22/2002	1.800%	

Table of 2001A Bonds Interest Rate History  
 Big Rivers Electric Corporation  
 \$83.3 Million

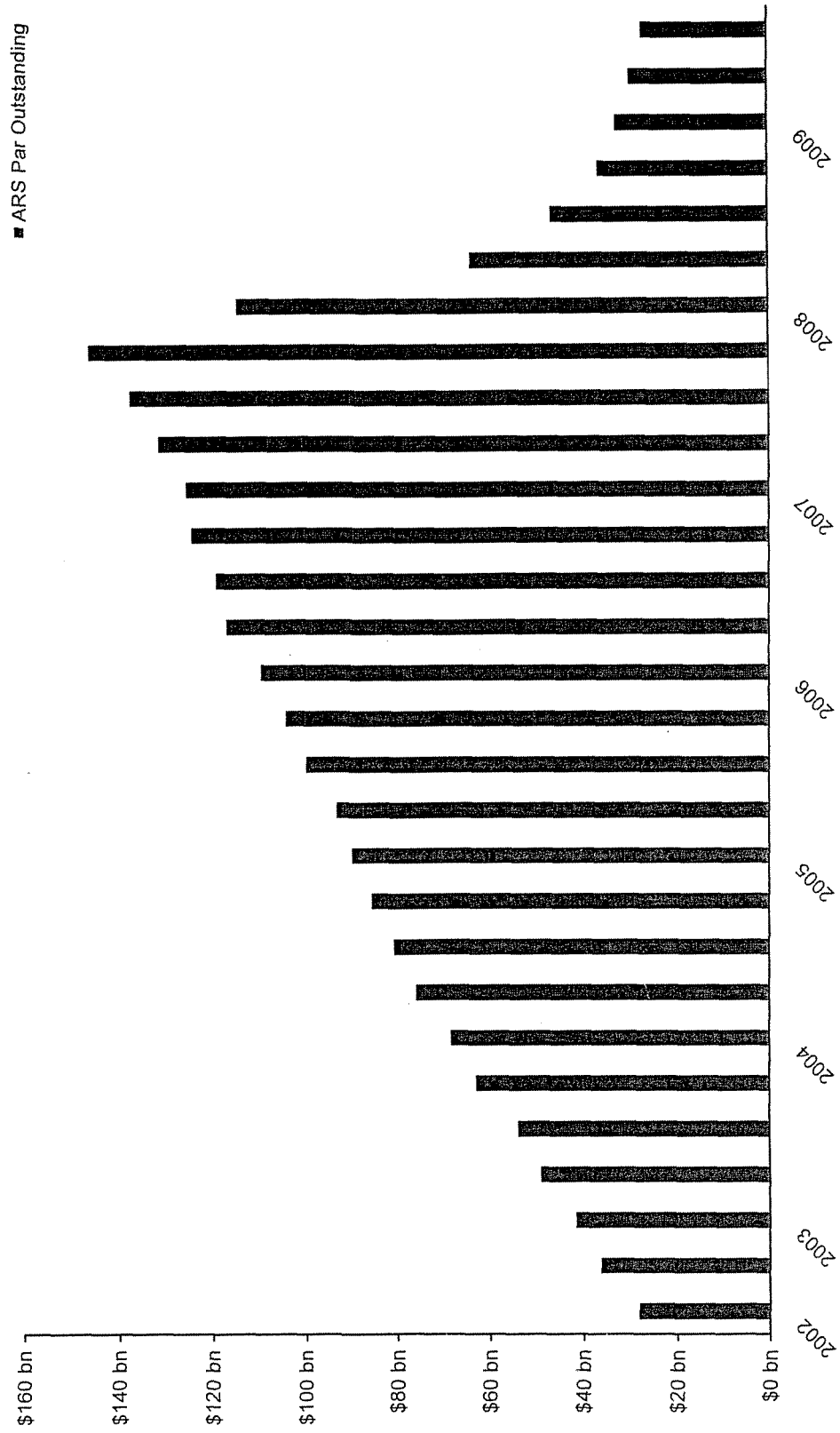
	<u>Auction Date</u>	<u>Rate</u>	<u>Yrly Avg</u>
93	9/24/2002	1.550%	
94	8/27/2002	1.400%	
95	7/30/2002	1.390%	
96	7/2/2002	1.400%	
97	6/4/2002	1.500%	
98	5/7/2002	1.550%	
99	4/9/2002	1.600%	
100	3/12/2002	1.450%	
101	2/12/2002	1.288%	
102	1/15/2002	1.350%	
103	12/18/2001	1.650%	2.28%
104	11/20/2001	1.800%	
105	10/23/2001	2.100%	
106	9/25/2001	2.300%	
107	8/28/2001	2.600%	
108	7/31/2001	2.700%	





# Size of the Tax-Exempt Municipal ARS Market

Amounts in \$bn



Source: GS Internal





COPY

Execution Version

RUS 2009 PROMISSORY NOTE SERIES A

\$602,573,536

July 16, 2009

FOR VALUE RECEIVED, the undersigned, BIG RIVERS ELECTRIC CORPORATION ("Big Rivers"), a Kentucky corporation, hereby unconditionally promises to pay to the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service, (the "RUS"), at the office of the RUS located in St. Louis, Missouri, in lawful money of the United States of America and in immediately available funds, the principal amount of SIX HUNDRED TWO MILLION FIVE HUNDRED SEVENTY-THREE THOUSAND FIVE HUNDRED THIRTY-SIX AND 00/100 DOLLARS (\$602,573,536) together with interest from July 1, 2009 on so much of the principal amount as is from time to time outstanding and unpaid at the rate of 5.75% per annum simple interest as set forth below.

Big Rivers shall make quarterly payments of interest and/or principal commencing on October 1, 2009, and continuing on the first day of January, April, July and October of each year through and including July 1, 2021 such that, after each such payment, the outstanding amount under this Note, including principal and all accrued interest, if any, does not exceed the Allowed Balance amount shown on the RUS Maximum Debt Balance Schedule, attached hereto and hereby made a part hereof, for the applicable date. If any such payment is insufficient to retire all interest accrued during the period ending with such payment and beginning with the last previous payment, then the amount of accrued but unpaid interest relating to such period shall be added to the principal amount of this Note. If the day upon which any payment hereunder is due falls on a day that is not a Business Day (as defined in the Indenture (as defined below)), then such payment shall be due on the next Business Day.

On July 1, 2021, the entire outstanding principal hereof, together with all accrued but unpaid interest thereon, shall be due and payable in full.

This Note is secured by the lien of that certain Indenture dated as of July 1, 2009 between Big Rivers and U.S. Bank National Association, as trustee (the "Indenture").

Any amounts under this Note may be prepaid at any time without penalty or prepayment premium.

Upon the occurrence of any one or more Events of Default specified in the Indenture all amounts then remaining unpaid on this Note may be declared to be immediately due and payable all as provided therein.

Presentment, demand, protest and all other notices of any kind are hereby expressly waived by the undersigned.

COPY

This Note shall be governed by and construed in accordance with federal law.

**BIG RIVERS ELECTRIC CORPORATION**

By: Frank A. Tinsley  
Title: President and Chief Executive Officer

[Corporate Seal]

Attest:

By: Lee Bearden  
Secretary

COPY

BIG RIVERS ELECTRIC CORPORATION  
RUS MAXIMUM DEBT BALANCE SCHEDULE  
Balance After Quarterly Payment

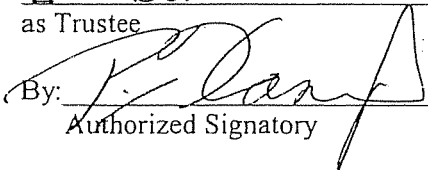
YEAR	1 <sup>ST</sup> OF THE MONTH	ALLOWED BALANCE (\$1,000'S)
2009	October	599,462
2010	January	596,257
2010	April	592,252
2010	July	588,566
2010	October	584,920
2011	January	581,405
2011	April	577,289
2011	July	573,388
2011	October	569,702
2012	January	565,692
2012	April	561,603
2012	July	557,456
2012	October	493,249
2013	January	488,280
2013	April	482,949
2013	July	477,696
2013	October	472,443
2014	January	467,188
2014	April	461,562
2014	July	456,002
2014	October	450,435
2015	January	444,858
2015	April	438,918
2015	July	433,034
2015	October	427,134
2016	January	221,349
2016	April	212,607
2016	July	203,845
2016	October	195,053
2017	January	186,040
2017	April	176,905
2017	July	167,639
2017	October	158,240
2018	January	148,732
2018	April	139,038
2018	July	129,230
2018	October	119,280
2019	January	109,226

COPY

YEAR	1 <sup>ST</sup> OF THE MONTH	ALLOWED BALANCE (\$1,000'S)
2019	April	98,955
2019	July	88,572
2019	October	78,053
2020	January	67,395
2020	April	56,546
2020	July	45,552
2020	October	34,409
2021	January	23,120
2021	April	11,635
2021	July	0

COPY

This is one of the Existing Obligations referred to in the Indenture, dated as of July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

U.S. Bank National Association  
as Trustee  
By:   
Authorized Signatory



BIG RIVERS ELECTRIC CORPORATION'S  
DESCRIPTION OF PROPERTY

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Big Rivers Electric Corporation is a generation and transmission cooperative (G&T) headquartered in Henderson, Kentucky. The Corporation meets the electric power needs of three member distribution cooperatives, which, in turn, sell electricity to more than 110,000 residential, commercial, and industrial consumers in 22 western Kentucky counties.

1. Big Rivers' utility plant in service, materials and supplies inventory, and fuel inventory as of September 30, 2009, consisted of intangible plant, electric power generating plants, land right-of-ways, transmission stations and lines, land, buildings, office furniture and equipment, transportation equipment, storage equipment, tools, shop and garage equipment, laboratory equipment, power operated equipment, communication equipment, materials and supplies inventory, and fuel inventory. The original cost of these properties as of September 30, 2009 is \$1,972,766,675.

2. As of September 30, 2009, Big Rivers' intangible plant included organizational and franchise costs of \$66,895.

3. Big Rivers owns and operates electric generating units Reid, Coleman, Green and Wilson and has certain rights to HMP&L Station Two. As of September 30, 2009, Big Rivers' generation assets original cost was \$1,671,614,307 with a net (depreciated) value of \$877,963,263.

- a. The Coleman Station is a multiple unit plant consisting of three coal-fired units designed to burn Illinois Basin coal. The units were commercialized in 1969, 1970, and 1972 respectively with a combined net output rating of 440 MW.
- b. The Robert Reid Station is a multiple unit plant consisting of one coal-fired unit designed to burn Illinois Basin coal and/or natural gas and one combustion turbine with the ability to burn either fuel oil or



BIG RIVERS ELECTRIC CORPORATION'S  
DESCRIPTION OF PROPERTY

1 natural gas. The units were commercialized in 1966 and 1976  
2 respectively with a combined net output rating of 130 MW.

3  
4 c. The Robert D. Green facility is a multiple unit plant consisting of two  
5 coal-fired units designed to burn Illinois Basin coal. The units were  
6 commercialized in 1979 and 1981 respectively with a combined net  
7 output rating of 454 MW.

8  
9 d. The D.B. Wilson Station is a single coal-fired unit designed to burn  
10 Illinois Basin coal. The unit was commercialized in 1986 with a net  
11 output rating of 417 MW.

12  
13 4. Big Rivers has interconnections with seven utilities: HMP&L, Southern  
14 Illinois Power Cooperative, Louisville Gas & Electric, Kentucky Utilities, Vectren,  
15 Hoosier Energy Cooperative, and the Tennessee Valley Authority. Big Rivers, however,  
16 cannot purchase power from the Tennessee Valley Authority.

17  
18 5. Transmission Facilities as of September 30, 2009, included land, right-of-  
19 ways, station equipment and lines costing \$231,155,649 with a net (depreciated) value of  
20 \$128,432,924. The miles of transmission line by size are as follows: 827 miles of 69 kV,  
21 14 miles of 138 kV, 353 miles of 161 kV, and 68 miles of 345 kV. The substation kVA  
22 capacity consists of 1,879,800 stepup at generating plants and 3,540,000 transmission.

23  
24 6. Big Rivers owns general plant assets costing \$18,083,837 as of September 30,  
25 2009, with a net (depreciated) value of \$12,008,421. General plant consists of land,  
26 structures and improvements, office furniture and equipment, transportation equipment,  
27 storage equipment, tools, shop and garage equipment, laboratory equipment, power  
28 operated equipment, communication equipment, and other miscellaneous equipment used  
29 to provide service to member cooperatives.

30  
31 7. As of September 30, 2009 Big Rivers had materials and supplies inventory of  
32 \$20,259,520 and Fuel inventory of \$31,586,467.

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BIG RIVERS ELECTRIC CORPORATION'S  
DESCRIPTION OF PROPERTY

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8. Big Rivers' investment in construction work in progress as of September 30, 2009 was \$39,410,122.

9. As of September 30, 2009, Big Rivers did not own any non-utility property.



**BIG RIVERS ELECTRIC CORPORATION**  
**FINANCIAL EXHIBIT**  
**AS OF SEPTEMBER 30, 2009**

Big Rivers states that:

1. No amounts or kinds of stock have been authorized.
2. No amounts or kinds of stock have been issued and none is outstanding.
3. No preferred stock has been authorized or is outstanding.
4. Effective with the close of the “Unwind” Transaction on July 16, 2009, all previously existing mortgages were permanently extinguished with the Third Restated Mortgage and Security Agreement (successor to the Restated Mortgage and Security Agreement [the New RUS Mortgage] and Second Restated Mortgage and Security Agreement) being replaced with an indenture (the “Indenture”). The Indenture secures on a *pro rata, pari passu* basis all of the indebtedness owed to Big Rivers’ existing senior secured creditors as well as future senior secured creditors. A principal feature of the Indenture is the use of a lien and security interest in favor of an institutional trustee rather than in favor of each individual creditor as mortgagee. The Indenture creates a lien and security interest on most of Big Rivers’ real and personal property. Additional debt can be issued under the Indenture on a *pari passu* basis with Big Rivers’ existing senior creditors without obtaining the existing senior creditors approval, provided such debt issue meets certain objective tests.

The Indenture, dated July 1, 2009, was made by and between Big Rivers Electric Corporation, as Grantor, and U.S. Bank National Association, as Trustee. As of September 30, 2009 the Indenture secured the following Existing Obligations:

- AMBAC Municipal Bond Insurance Policy Series 1983 Note, dated July 16, 2009, made by Big Rivers (the “Company”) to Ambac Assurance Corporation, (“Ambac”), issued in an aggregate principal amount not to exceed \$216,207,600.
- Big Rivers Electric Corporation Standby Bond Purchase Agreement Note (Series 1983 Bonds), dated July 16, 2009, made by the Company to Dexia Credit Local, issued in an aggregate principal amount not to exceed \$216,207,600.
- Big Rivers Electric Corporation PCB Series 2001A Note, dated July 16, 2009, made by the Company to the County of Ohio, Kentucky and endorsed to U.S. Bank Trust National Association, as trustee, issued in the maximum principal amount of \$83,300,000.

- RUS 2009 Promissory Note Series A, dated July 16, 2009, made by the Company to the United States of America, in the principal amount of \$602,573,536, maturing on July 1, 2021.
- RUS 2009 Promissory Note Series B, dated July 16, 2009, made by the Company to the United States of America, in the amount at final maturity of \$245,530,257.30, maturing on December 31, 2023.

In addition to the Existing Obligations set forth above, the Indenture provides that a maximum of \$3,000,000,000 of Additional Obligations may be issued and secured.

5. Big Rivers has financed certain pollution control facilities at the D.B. Wilson Station with pollution control bonds issued by the County of Ohio, Kentucky. Big Rivers Electric Corporation has two issues outstanding.

On June 30, 1983, the County of Ohio, Kentucky, issued \$58,800,000 of Pollution Control Floating Rate Demand Bonds, Series 1983 (Series 1983 Bonds), with a stated maturity date of June 1, 2013. The proceeds of the Series 1983 Bonds are supported by a promissory note from Big Rivers, which bear the same interest rate as the bonds. These bonds bear interest at a variable rate and, prior to July 15, 1998, were supported by an irrevocable standby letter of credit. On July 15, 1998 the standby letter of credit was replaced by a liquidity facility issued by Credit Suisse First Boston (assigned to Dexia Credit Local effective May 1, 2006) and municipal bond insurance and security policies issued by Ambac Assurance Corporation. A remarketing agent is responsible for determining the stated rate (Base Rate) of interest to be applied to the Series 1983 Bonds necessary to remarket the bonds at par plus accrued interest in a secondary market transaction. The Base Rate so determined may not be less than 40 percent nor more than 110 percent of a variable interest index. This variable interest index is the weighted average per annum discount rate for direct obligations of the United States with maturities of 13 weeks, expressed as a bond equivalent on the basis of a 365 or 366 day year, as appropriate, and applied on a daily basis, set on the latest auction of such obligations. The Base Rate cannot exceed 13 percent and is subject to Big Rivers' approval. As of September 30, 2009 the Base Rate for the Series 1983 Bonds was 3.20% and interest paid for the fiscal year ending December 31, 2008 was \$2,782,944.75.

On October 31, 1985, the County of Ohio, Kentucky, issued \$83,300,000 of Variable Rate Demand Pollution Control Refunding Bonds, Series 1985 (Series 1985 Bonds), with a stated maturity date of October 1, 2015. On August 1, 2001 Big Rivers refunded the Series 1985 Bonds with the Series 2001A, Periodic Auction Reset Securities (Series 2001A Bonds), effectively eliminating a \$5 million annual sinking fund requirement of the Series 1985 Bonds and extending the maturity date

from October 1, 2015 to October 1, 2022. The proceeds of the Series 2001A Bonds are supported by a promissory note from Big Rivers, which is secured by the Third Restated Mortgage and Security Agreement, and municipal bond insurance and security policies issued by Ambac Assurance Corporation. Interest rates are set on the Series 2001A Bonds every 28 days through an auction procedure carried out by a Broker-Dealer and Auction Agent. The Broker-Dealer solicits buyers/sellers for the bonds and submits the orders, including the interest rates specified in the orders, to the Auction Agent. The Auction Agent then assembles all orders submitted by the Broker-Dealer for review and determines the Auction Rate. Big Rivers and the Trustee of the Series 2001A Bonds are then notified of the winning auction rate for the next succeeding auction period. If the Auction Agent fails to calculate or to timely provide the Auction Rate, the Bond Rate becomes the "No Auction Rate." The No Auction Rate is calculated by multiplying the Percentage of PARS (Bond) Index, as set forth in the documents, by the Seven-Day "AA" Composite Commercial Paper Rate on such auction date. The maximum interest rate on the bonds established by the 2001A Series Bond Indenture is 18% per annum. As of September 30, 2009 the interest rate for the Series 2001A Bonds was 4.50% and interest paid for the fiscal year ending December 31, 2008 was \$6,732,861.33.

6. As of September 30, 2009, Big Rivers' notes outstanding, on which amounts were due and owing, consisted of the RUS 2009 Note Series A and RUS 2009 Note Series B.

The RUS 2009 Note Series A, dated July 16, 2009, was issued in favor of the United States of America, acting through the United States Department of Agriculture, Rural Utilities Services, (the "RUS"), in the original principal amount of \$602,573,536, with a maturity of July 2021. The RUS 2009 Note Series A has a stated interest rate of 5.75% and an outstanding stated amount of \$602,573,536 as of September 30, 2009. Interest paid during fiscal year ending December 31, 2008 was \$45,667,716.68.

The RUS 2009 Note Series B, dated July 16, 2009, was issued in favor of the United States of America, acting through the United States Department of Agriculture, Rural Utilities Services, (the "RUS"), in the original principal amount of \$245,530,257.30, with a maturity of December 2023. The RUS 2009 Note Series B has no stated interest rate and an outstanding stated amount of \$245,530,257.30 as of September 30, 2009. There is no interest amount to be paid on this note.

7. The Company has no other indebtedness.

8. No dividends have ever been paid.

9. The income statement and balance sheet for the twelve (12) months ended September 30, 2009 are attached hereto.



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION KY0062
	PERIOD ENDED September, 2009
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3	BORROWER NAME Big Rivers Electric Corporation
<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.</i>	

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
(check one of the following)

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. Bailey

11/3/09  
DATE



UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION KY0062
	PERIOD ENDED September, 2009
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3	<i>This data will be used by RUS to review your financial situation Your response is required ( 7 U.S.C 901 et. seq ) and may be confidential.</i>

**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	155,208,936	205,411,862	220,184,717	37,188,256
2. Income From Leased Property (Net)	22,124,047	15,739,141	15,584,941	
3. Other Operating Revenue and Income	7,552,375	11,147,188	9,998,462	1,161,556
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>184,885,358</b>	<b>232,298,191</b>	<b>245,768,120</b>	<b>38,349,812</b>
5. Operating Expense - Production - Excluding Fuel		9,666,403	11,775,006	4,081,017
6. Operating Expense - Production - Fuel		38,993,348	47,663,046	15,767,203
7. Operating Expense - Other Power Supply	85,147,924	82,914,127	83,355,014	6,157,902
8. Operating Expense - Transmission	5,311,620	5,344,821	5,700,044	392,206
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	486,532	480,582	555,766	53,954
12. Operating Expense - Sales	300,278	208,250	829,882	125,269
13. Operating Expense - Administrative & General	13,002,971	14,851,968	13,437,870	2,650,792
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>104,249,325</b>	<b>152,459,499</b>	<b>163,316,628</b>	<b>29,228,343</b>
15. Maintenance Expense - Production		7,388,604	7,407,276	3,415,291
16. Maintenance Expense - Transmission	2,904,439	3,236,606	3,584,142	345,451
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	176,801	94,838	144,255	10,652
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>3,081,240</b>	<b>10,720,048</b>	<b>11,135,673</b>	<b>3,771,394</b>
20. Depreciation and Amortization Expense	3,835,276	9,910,242	10,013,485	2,804,381
21. Taxes	838,343	2,123,828	600,533	
22. Interest on Long-Term Debt	58,305,677	47,209,420	49,348,338	3,781,470
23. Interest Charged to Construction - Credit	(420,838)	(105,473)	(319,148)	(3,636)
24. Other Interest Expense	6,512	865	3,915	
25. Asset Retirement Obligations				
26. Other Deductions	(2,085,581)	2,139,561	2,340,239	6,295
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>167,809,954</b>	<b>224,457,990</b>	<b>236,439,663</b>	<b>39,588,247</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>17,075,404</b>	<b>7,840,201</b>	<b>9,328,457</b>	<b>(1,238,435)</b>
29. Interest Income	11,815,585	170,078	240,602	54,527
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)		5,907		2,378
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	789,659	534,562	546,753	(176,407)
35. Extraordinary Items		543,821,606		
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>29,680,648</b>	<b>552,372,354</b>	<b>10,115,812</b>	<b>(1,357,937)</b>

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED September, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3.

*This data will be used by RUS to review your financial situation. Your response is  
required (7 U.S.C. 901 et. seq.) and may be confidential.*

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,920,920,689	32. Memberships	75
2. Construction Work in Progress	39,410,122	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,960,330,811	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	902,449,185	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	1,057,881,626	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,073)
8. Invest. in Assoc. Org. - Patronage Capital	3,573,633	35. Operating Margin - Current Year	8,374,763
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	641,814,507
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 + 33d thru 37)</b>	397,770,774
12. Other Investements	5,334	39. Long-Term Debt - RUS (Net)	694,242,625
13. Special Funds	249,923,168	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	254,197,128	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	293,395	42. Long-Term Debt - Other (Net)	142,100,000
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,609	44. Payments - Unapplied	
18. Temporary Investments	95,642,455	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	836,342,625
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	35,880,157	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,801,791
21. Accounts Receivable - Other (Net)	61,546	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)</b>	7,801,791
22. Fuel Stock	31,586,467	49. Notes Payable	
23. Materials and Supplies - Other	20,259,520	50. Accounts Payable	27,837,165
24. Prepayments	4,245,324	51. Current Maturities Long-Term Debt	13,666,519
25. Other Current and Accrued Assets	756,034	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	189,296,507	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	695,270	54. Taxes Accrued	1,090,861
28. Regulatory Assets	(283,626)	55. Interest Accrued	6,935,745
29. Other Deferred Debits	4,979,194	56. Other Current and Accrued Liabilities	2,149,106
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	51,679,396
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 + 14 + 26 thru 30)</b>	1,506,766,099	58. Deferred Credits	213,171,513
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,506,766,099

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

*INSTRUCTIONS - See RUS Bulletin 1717B-3*

BORROWER DESIGNATION

KY0062

PERIOD ENDED

September, 2009

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

**Footnote to RUS Form 12d's and 12f**

The depreciation and interest reported on all of the Form 12d's and 12f reflect year-to-date amounts. All other amounts start July 17, 2009 when Big Rivers took over the operation of its plants at the termination of the plants' lease.

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

09/30/09  
 Page1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	130	141	126
3	Meade County Rural ECC	RQ	KY0018	91	97	86
4	Kenergy Corporation	RQ	KY0065	355	369	357
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	Henderson Municipal Power & Light	OS				
17	LG&E Energy Marketing	OS				
18	Midwest Independent Trans.	OS				
19	PJM Interconnection	OS				
20	Southern Company Services	OS				
21	Tenaska Power Services	OS				
22	Tennessee Valley Authority	OS				
23	The Energy Authority	OS				
24	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			576	607	569
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			576	607	569

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**09/30/09  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (l)	Revenue Other (j)	Revenue Total (h+l+j+k)
1					
2	495,129	8,696,205	11,054,325		19,750,530
3	338,342	6,019,455	7,537,606		13,557,061
4	1,527,222	26,968,815	29,889,570		56,858,385
5	22,217		612,248		612,248
6	1,845,266		87,454,073		87,454,073
7					
8	765		21,840		21,840
9	475		17,300		17,300
10	9,079		289,501		289,501
11	8,319		241,597		241,597
12					
13	27,770		800,326		800,326
14	41,322		1,110,413		1,110,413
15	286,575		8,681,505		8,681,505
16	50		1,905		1,905
17	50,543		1,762,150		1,762,150
18	212,798		6,491,546		6,491,546
19	64,967		2,024,353		2,024,353
20	38,366		1,174,975		1,174,975
21	6,699		206,917		206,917
22	104,444		3,091,350		3,091,350
23	40,471		1,210,636		1,210,636
24	1,638		53,251		53,251

-	-	-	-	-
4,228,176	41,684,475	136,547,822	-	178,232,297
18,638	-	570,238	-	570,238
875,643	-	26,609,327	-	26,609,327
5,122,457	41,684,475	163,727,387	-	205,411,862

**RUS Form 12b PP  
Operating Report  
Purchased Power**

**09/30/09  
Page 2**

Purch No.	Electricity	Power Exchanges	Power Exchanges	Revenue	Revenue	Revenue	Total
	Purchased	Electricity	Electricity	Demand	Energy	Other	
	(g)	(h)	(l)	(j)	(k)	(l)	(j+k+l)
1	5,088				279,840		279,840
2							
3	8,192				302,590		302,590
4	70,800				3,840,900		3,840,900
5							
6	2,001				70,598		70,598
7	181				6,550		6,550
8	86				4,286		4,286
9	345,573				9,791,028		9,791,028
10	2,529,610				51,591,885		51,591,885
11	15,144				765,790		765,790
12	8,201				328,493		328,493
13	1,221				858,830		858,830
14	337,618				6,626,054		6,626,054
15	582				31,076		31,076
16	772				36,628		36,628

5,088	-	-	-	279,840	-	279,840
78,992	-	-	-	4,143,490	-	4,143,490
3,240,989	-	-	-	70,111,218	-	70,111,218
3,325,069	-	-	-	74,534,548	-	74,534,548

RUS Form 12b PP  
 Operating Report  
 Purchased Power

09/30/09  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Associated Electric Coop	OS	MO0073			
4	Southern Illinois Power Coop	OS	IL0050			
5						
6	Cargill-Alliant	OS				
7	Constellation Energy Commodities	OS				
8	Eagle Energy Partners	OS				
9	Henderson Municipal Power & Light	RQ				
10	LG&E Energy Marketing	RQ				
11	Midwest Independent Trans. Sys. Op.	OS				
12	PJM Interconnection	OS				
13	Reliant Energy Services, Inc	SF				
14	Southeastern Power Admin	LF				
15	Southern Company Services	OS				
16	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				0	0	0

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

09/30/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam	4	1,379,000	1,858,345	101,383,826
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion	1	65,000	312	395,516
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)	5		1,858,657	101,779,342
<b>PURCHASED POWER</b>				
8 Total Purchased Power			3,325,069	74,534,548
<b>INTERCHANGED POWER</b>				
9 Received into System			511,428	
10 Delivered Out of System			512,298	
11 Net Interchange			(870)	
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			5,182,856	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			5,122,457	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			5,122,457	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			60,399	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.17	



SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE	
	(a)	(b)							Scheduled (j)	Unsched. (k)	
1	1		175,209.0		4,053.9				1,812.7	-	11.3
2	2	1	151,841.0		5,030.9				1,648.1	36.5	139.4
3	3	1	170,698.1		7,050.8				1,758.7	-	65.3
4											
5											
6	TOTAL	2	497,748.1		16,135.6				5,219.5	36.5	216.0
7	AVERAGE BTU		11,677		1,000						
8	Total BTU (10 6th pwr)		5,812,205		16,136			5,828,340			
9	Total Del. Cost (\$)		13,402,379		87,789						
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mwh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
	(l)	(m)	(n)	(o)							
1	1	150,000	201,957.0		1	No. Employees Full-Time (Inc. Superintendent)	103	1	Load Factor (%)	63.4	
2	2	138,000	172,585.0								
3	3	155,000	195,001.0		2	No. Employees Part-Time		2	Plant Factor (%)	64.49	
4					3	Total Empl. - Hrs. Worked			Running Plant		
5					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	67.61	
6	TOTAL	443,000	569,543.0	10,233	5	Maint. Plant Payroll (\$)			15 Minute Gross		
7	Station Service (MWh)		60,017.0		6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	493,400	
8	Net Generation (MWh)		509,526.0	11,439	7	Total		5	Indicated Gross		
9	Station Service (%)		10.54			Plant Payroll (\$)			Maximum Demand (kW)		
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU				
					(a)	(b)	(c)				
1	Operation, Supervision and Engineering			500	314,720						
2	Fuel, Coal			501.1	13,879,411		2.39				
3	Fuel, Oil			501.2							
4	Fuel, Gas			501.3	87,789		5.44				
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	13,967,200	27.41	2.40				
7	Steam Expenses			502	1,300,609						
8	Electric Expenses			505	313,369						
9	Miscellaneous Steam Power Expenses			506	289,336						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				2,218,034	4.35					
13	OPERATION EXPENSE (6 + 12)				16,185,234	31.77					
14	Maintenance, Supervision and Engineering			510	313,533						
15	Maintenance of Structures			511	221,249						
16	Maintenance of Boiler Plant			512	1,196,067						
17	Maintenance of Electric Plant			513	152,723						
18	Maintenance of Miscellaneous Plant			514	51,515						
19	MAINTENANCE EXPENSE (14 thru 18)				1,935,087	3.8					
20	TOTAL PRODUCTION EXPENSE (13 + 19)				18,120,321	35.56					
21	Depreciation			403.1	877,453						
22	Interest			427	4,789,647						
23	TOTAL FIXED COST (21 + 22)				5,667,100	11.12					
24	POWER COST (20 + 23)				23,787,421	46.69					

SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.)	OIL (1000 Gals.)	GAS (1000 C.F.)	OTHER	TOTAL	IN SERVICE	ON STANDBY	OUT OF SERVICE	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
1	1								1,824.0		
2											
3											
4											
5											
6	TOTAL								1,824.0		
7	AVERAGE BTU										
8	Total BTU (10 6th pwr)										
9	Total Def. Cost (\$)										
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mWh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
	(l)	(m)	(n)	(o)							
1	1	65,000			1	No. Employees Full-Time (Inc. Superintendent)		1	Load Factor (%)		
2	2				2	No. Employees Part-Time		2	Plant Factor (%)		
3	3				3	Total Empl. - Hrs. Worked		3	Running Plant		
4					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)		
5					5	Maint. Plant Payroll (\$)		4	15 Minute Gross		
6	TOTAL	65,000			6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	71,700	
7	Station Service (MWh)		3,475.0		7	Total		5	Indicated Gross		
8	Net Generation (MWh)		(3,475.0)		7	Plant Payroll (\$)		5	Maximum Demand (kW)		
9	Station Service (%)										
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU				
					(a)	(b)	(c)				
1	Operation, Supervision and Engineering			500	71,863						
2	Fuel, Coal			501.1	20,809						
3	Fuel, Oil			501.2	-						
4	Fuel, Gas			501.3							
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	20,809						
7	Steam Expenses			502	104,377						
8	Electric Expenses			505	51,543						
9	Miscellaneous Steam Power Expenses			506	56,792						
10	Allowances			509							
11	Rents			507							
12	NON-FUEL SUB-TOTAL (1 + 7 thru 11)				284,575						
13	OPERATION EXPENSE (6 + 12)				305,384						
14	Maintenance, Supervision and Engineering			510	54,730						
15	Maintenance of Structures			511	18,401						
16	Maintenance of Boiler Plant			512	92,871						
17	Maintenance of Electric Plant			513	24,066						
18	Maintenance of Miscellaneous Plant			514	5,699						
19	MAINTENANCE EXPENSE (14 thru 18)				195,767						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				501,151						
21	Depreciation			403.1	82,157						
22	Interest			427	708,184						
23	TOTAL FIXED COST (21 + 22)				790,341						
24	POWER COST (20 + 23)				1,291,492						

SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.)	OIL (1000 Gals.)	GAS (1000 C.F.)	OTHER	TOTAL	IN SERVICE	ON STANDBY	OUT OF SERVICE	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	Scheduled (j)	Unsched. (k)
1	1	3	336,137.7	55,230				1,784.0	-	-	40.0
2	2	5	313,293.1	60,991				1,735.1	-	-	88.9
3											
4											
5											
6	TOTAL	8	649,430.8	116,221				3,519.1	-	-	128.9
7	AVERAGE BTU		11,754	138,000							
8	Total BTU (10 6th pwr)		7,633,410	16,038			7,649,448				
9	Total Del. Cost (\$)		11,952,831	244,721							
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mWh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
	(l)	(m)	(n)	(o)							
1	1	231,000	395,343.0		1	No. Employees Full-Time (Inc. Superintendent)	104	1	Load Factor (%)	83.55	
2	2	223,000	355,474.0		2	No. Employees Part-Time		2	Plant Factor (%)	84.43	
3					3	Total Empl. - Hrs. Worked		3	Running Plant		
4					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	88.39	
5					5	Maint. Plant Payroll (\$)		4	15 Minute Gross		
6	TOTAL	454,000	750,817.0	10,188	6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	489,300	
7	Station Service (MWh)		71,104.3		7	Total		5	Indicated Gross		
8	Net Generation (MWh)		679,712.7	11,254	7	Plant Payroll (\$)		5	Maximum Demand (kW)		
9	Station Service (%)		9.47								
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU				
					(a)	(b)	(c)				
1	Operation, Supervision and Engineering			500	369,008						
2	Fuel, Coal			501.1	12,287,220		1.61				
3	Fuel, Oil			501.2	244,721		15.26				
4	Fuel, Gas			501.3							
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	12,531,941	18.44	1.64				
7	Steam Expenses			502	2,893,713						
8	Electric Expenses			505	322,802						
9	Miscellaneous Steam Power Expenses			506	316,205						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				3,901,728	5.74					
13	OPERATION EXPENSE (6 + 12)				16,433,669	24.18					
14	Maintenance, Supervision and Engineering			510	295,885						
15	Maintenance of Structures			511	149,213						
16	Maintenance of Boiler Plant			512	1,480,588						
17	Maintenance of Electric Plant			513	212,306						
18	Maintenance of Miscellaneous Plant			514	54,448						
19	MAINTENANCE EXPENSE (14 thru 18)				2,192,440	3.23					
20	TOTAL PRODUCTION EXPENSE (13 + 19)				18,626,109	27.4					
21	Depreciation			403.1	1,383,881						
22	Interest			427	9,718,429						
23	TOTAL FIXED COST (21 + 22)				11,102,310	16.33					
24	POWER COST (20 + 23)				29,728,419	43.74					

SECTION A. BOILERS/TURBINES												
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS				
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE		
	(a)	(b)								Scheduled (j)	Unsched. (k)	
1	1	3	658,647.1	275,400					1,742.9	-	-	81.1
2												
3												
4												
5												
6	TOTAL	3	658,647.1	275,400					1,742.9	-	-	81.1
7	AVERAGE BTU		11,574	138,000								
8	Total BTU (10 6th pwr)		7,623,182	38,005				7,661,187				
9	Total Def. Cost (\$)		11,518,856	484,037								
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND				
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mWh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE		
	(l)	(m)	(n)	(o)								
1	1	417,000	726,515.4		1	No. Employees Full-Time (Inc. Superintendent)	104	1	Load Factor (%)	85.50		
2					2	No. Employees Part-Time		2	Plant Factor (%)	90.50		
3					3	Total Empl. - Hrs. Worked			Running Plant			
4					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	94.70		
5					5	Maint. Plant Payroll (\$)			15 Minute Gross			
6	TOTAL	417,000	726,515.4	10,545	6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	466,000		
7	Station Service (MWh)		53,934.7		7	Total			Indicated Gross			
8	Net Generation (MWh)		672,580.7	11,391				5	Maximum Demand (kW)			
9	Station Service (%)		7.42									
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU					
					(a)	(b)	(c)					
1	Operation, Supervision and Engineering			500	167,053							
2	Fuel, Coal			501.1	11,886,155		1.56					
3	Fuel, Oil			501.2	484,037		12.74					
4	Fuel, Gas			501.3								
5	Fuel, Other			501.4								
6	FUEL SUB-TOTAL (2 thru 5)			501	12,370,192	18.39	1.61					
7	Steam Expenses			502	2,258,411							
8	Electric Expenses			505	262,567							
9	Miscellaneous Steam Power Expenses			506	573,109							
10	Allowances			509								
11	Rents			507								
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				3,261,140	4.85						
13	OPERATION EXPENSE (6 + 12)				15,631,332	23.24						
14	Maintenance, Supervision and Engineering			510	110,254							
15	Maintenance of Structures			511	140,272							
16	Maintenance of Boiler Plant			512	2,054,358							
17	Maintenance of Electric Plant			513	681,313							
18	Maintenance of Miscellaneous Plant			514	56,413							
19	MAINTENANCE EXPENSE (14 thru 18)				3,042,610	4.52						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				18,673,942	27.76						
21	Depreciation			403.1	3,342,330							
22	Interest			427	24,560,222							
23	TOTAL FIXED COST (21 + 22)				27,902,552	41.49						
24	POWER COST (20 + 23)				46,576,494	69.25						

SECTION A. INTERNAL COMUSTION GENERATING UNITS												
LINE NO.	UNIT NO.	SIZE (kW)	FUEL CONSUMPTION				OPERATING HOURS				GROSS GENERATION (MWh)	BTU PER kWh
			OIL (1000 Gals.)	GAS (1000 C.F.)	OTHER	TOTAL	IN SERVICE	ON STANDBY	OUT OF SERVICE			
									Sche.	Unsche.		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	
1	1	65,000	49,334				10.0	1,709.3	-	104.7	474.4	
2												
3												
4												
5												
6	TOTAL	65,000	49,334	-			10.0	1,709.3	-	104.7	474.4	14,351
7	AVERAGE BTU		138,000								162.5	
8	Total BTU (10 6th pwr)		6,808	-		6,808					311.9	21,828
9	Total Del. Cost (\$)		103,207								34.25	
SECTION B. LABOR REPORT						SECTION C. FACTORS & MAXIMUM DEMAND						
LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE				
1.	No. Emp. Full Time (incl. Superintendent)		5.	Maint. Plant Payroll (\$)		1	Load Factor (%)	1.86				
2.	No. Emp. Part Time		6.	Other Accounts Plant Payroll (\$)		2	Plant Factor (%)					
3.	Total Emp - Hrs. Worked					3	Running Plant Capacity Factor (%)	0.07				
4	Oper Plant Payroll (\$)		7.	TOTAL Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	70,000				
						5	Indicated Gross Max. Demand (kW)					
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE	ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU							
			(a)	(b)	(c)							
1	Operation, Supervision and Engineering	546										
2	Fuel, Oil	547.1	103,207		15.16							
3	Fuel, Gas	547.2										
4	Fuel, Other	547.3										
5	Energy for Compressed Air	547.4										
6	FUEL SUB-TOTAL (2 thru 5)	547	103,207	330.90	15.16							
7	Generation Expenses	548	926									
8	Miscellaneous Other Power Generation Expenses	549										
9	Rents	550										
10	NON-FUEL SUB-TOTAL (1 + 7 thru 9)		926	2.97								
11	OPERATION EXPENSE (6 + 10)		104,133	333.87								
12	Maintenance, Supervision and Engineering	551										
13	Maintenance of Structures	552										
14	Maintenance of Generating and Electric Plant	553	22,699									
15	Maintenance of Miscellaneous Other Power Generating Plant	554										
16	MAINTENANCE EXPENSE (12 thru 15)		22,699	72.78								
17	TOTAL PRODUCTION EXPENSE (11 + 16)		126,832	406.64								
18	Depreciation	553, 512	39,322									
19	Interest	554, 513	229,362									
20	TOTAL FIXED COST (18 + 19)		268,684	861.44								
21	POWER COST (17 + 20)		395,516	1,268.09								

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

09/30/09

SECTION A. EXPENSE AND COSTS						
ITEM			Account Number	LINES (a)	STATIONS (b)	
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering		560	319,230	272,478	
2	Load Dispatching		561	931,725		
3	Station Expenses		562		743,059	
4	Overhead Line Expenses		563	792,350		
5	Underground Line Expenses		564			
6	Miscellaneous Expenses		566	155,118	185,020	
7	<b>SUBTOTAL (1 thru 6)</b>			2,198,423	1,200,557	
8	Transmission of Electricity by Others		565	1,927,315		
9	Rents		567		18,526	
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			4,125,738	1,219,083	
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering		568	210,905	243,183	
12	Structures		569		3,018	
13	Station Equipment		570		1,253,026	
14	Overhead Lines		571	1,450,171		
15	Underground Lines		572			
16	Miscellaneous Transmission Plant		573	32,538	43,765	
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			1,693,614	1,542,992	
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			5,819,352	2,762,075	
19	Distribution Expense - Operation		580-589			
20	Distribution Expense - Maintenance		590-598			
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			5,819,352	2,762,075	
<b>FIXED COSTS</b>						
23	Depreciation - Transmission		403.5	1,877,282	2,118,776	
24	Depreciation - Distribution		403.6			
25	Interest - Transmission		427	2,876,364	3,697,409	
26	Interest - Distribution		427			
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			10,572,998	8,578,260	
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-	
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			10,572,998	8,578,260	
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>		
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (kVA)	ITEM	46
1	69 KV	826.51	13. Distr. Lines		2. Oper. Labor	1,411,137
2	345 KV	68.40				694,988
3	138 KV	14.40	14. Total (12 + 13)	1,261.81	3. Maint Labor	748,365
4	161 KV	352.50				1,105,079
5			15 Stepup at	1,879,800	4. Oper. Material	2,714,601
6			Generating Plants			524,095
7			16. Transmission	3,540,000	5. Maint. Material	945,249
8						437,913
9			17. Distribution		<b>SECTION D. OUTAGES</b>	
10					1. TOTAL	6,009,053.00
11			18. Total		2. Avg. No. Dist. Cons. Served	111,694.00
12	TOTAL ( 1 thru 11)	1,261.81	(15 thru 17)	5,419.800	3. Avg No. Hours Out Per Cons.	53.80



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION KY0062
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3.	PERIOD ENDED August, 2009
<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.</i>	BORROWER NAME  Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

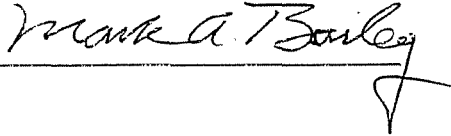
We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief

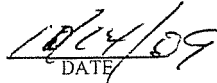
**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.



  
DATE



UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
	PERIOD ENDED August, 2009
<b>OPERATING REPORT - FINANCIAL</b>	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3	<i>This data will be used by RUS to review your financial situation. Your response is required ( 7 U.S.C. 901 et. seq.) and may be confidential.</i>

**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	138,389,999	168,223,606	176,855,515	38,695,891
2. Income From Leased Property (Net)	19,748,620	15,739,141	15,584,941	
3. Other Operating Revenue and Income	6,761,420	9,985,632	9,377,004	1,143,100
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>164,900,039</b>	<b>193,948,379</b>	<b>201,817,460</b>	<b>39,838,991</b>
5. Operating Expense - Production - Excluding Fuel		5,585,387	7,158,422	3,799,178
6. Operating Expense - Production - Fuel		23,226,144	29,808,056	15,702,616
7. Operating Expense - Other Power Supply	76,251,526	76,756,235	76,309,663	7,005,370
8. Operating Expense - Transmission	4,731,535	4,952,615	5,046,188	583,739
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	440,859	426,628	484,908	46,992
12. Operating Expense - Sales	164,026	82,981	678,114	5,643
13. Operating Expense - Administrative & General	11,939,081	12,201,176	11,252,350	1,857,634
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>93,527,027</b>	<b>123,231,156</b>	<b>130,737,701</b>	<b>29,001,172</b>
15. Maintenance Expense - Production		3,973,313	4,170,539	2,924,919
16. Maintenance Expense - Transmission	2,567,924	2,891,155	2,977,314	546,918
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	173,431	84,186	127,651	4,838
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>2,741,355</b>	<b>6,948,654</b>	<b>7,275,504</b>	<b>3,476,675</b>
20. Depreciation and Amortization Expense	3,408,827	7,105,861	7,194,121	2,804,345
21. Taxes	745,566	2,123,828	600,533	1,520,197
22. Interest on Long-Term Debt	52,393,692	43,427,950	45,327,923	4,266,603
23. Interest Charged to Construction - Credit	(368,171)	(101,837)	(170,838)	(5,086)
24. Other Interest Expense	5,918	865	3,915	
25. Asset Retirement Obligations				
26. Other Deductions	(1,849,470)	2,133,266	2,333,326	7,853
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>150,604,744</b>	<b>184,869,743</b>	<b>193,302,185</b>	<b>41,071,759</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>14,295,295</b>	<b>9,078,636</b>	<b>8,515,275</b>	<b>(1,232,768)</b>
29. Interest Income	10,772,398	115,551	224,506	30,681
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)		3,529		2,378
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	787,237	534,562	546,753	
35. Extraordinary Items		543,998,013		(945,776)
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>25,854,930</b>	<b>553,730,291</b>	<b>9,286,534</b>	<b>(2,145,485)</b>

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED August, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3.

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required (7 U.S.C. 901 et. seq.) and may be confidential.*

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,920,911,035	32. Memberships	75
2. Construction Work in Progress	35,523,296	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,956,434,331	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	899,500,720	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	1,056,933,611	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,073)
8. Invest. in Assoc. Org. - Patronage Capital	3,574,014	35. Operating Margin - Current Year	9,613,198
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	641,934,009
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 + 33d thru 37)</b>	399,128,711
12. Other Investements	5,334	39. Long-Term Debt - RUS (Net)	692,685,621
13. Special Funds	252,722,101	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	256,996,442	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,320	42. Long-Term Debt - Other (Net)	142,100,000
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,571	44. Payments - Unapplied	
18. Temporary Investments	86,852,061	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	834,785,621
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	36,488,665	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,743,463
21. Accounts Receivable - Other (Net)	6,110,466	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)</b>	7,743,463
22. Fuel Stock	32,741,277	49. Notes Payable	
23. Materials and Supplies - Other	20,516,003	50. Accounts Payable	25,578,778
24. Prepayments	5,388,007	51. Current Maturities Long-Term Debt	13,666,519
25. Other Current and Accrued Assets	17,400	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	188,691,770	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	699,663	54. Taxes Accrued	1,283,008
28. Regulatory Assets	(237,210)	55. Interest Accrued	6,111,300
29. Other Deferred Debits	2,814,808	56. Other Current and Accrued Liabilities	2,811,334
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	49,450,939
31. <b>TOTAL ASSETS AND OTHER DEBITS (5+14+26 thru 30)</b>	1,505,899,084	58. Deferred Credits	214,790,350
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,505,899,084

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

August, 2009

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

**Footnote to RUS Form 12d's and 12f**

The depreciation and interest reported on all of the Form 12d's and 12f reflect year-to-date amounts. All other amounts start July 17, 2009 when Big Rivers took over the operation of its plants at the termination of the plants' lease.

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

08/31/09  
 Page1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	131	142	128
3	Meade County Rural ECC	RQ	KY0018	93	99	88
4	Kenergy Corporation	RQ	KY0065	355	371	359
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	Henderson Municipal Power & Light	OS				
17	LG&E Energy Marketing	OS				
18	Midwest Independent Trans.	OS				
19	PJM Interconnection	OS				
20	Southern Company Services	OS				
21	Tenaska Power Services	OS				
22	Tennessee Valley Authority	OS				
23	The Energy Authority	OS				
24	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			579	612	575
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			579	612	575

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**08/31/09  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (l)	Revenue Other (j)	Revenue (h+l+j+k)	Total
1						
2	442,904	7,818,014	9,640,616		17,458,630	
3	306,126	5,510,446	6,661,371		12,171,817	
4	1,351,408	23,984,532	25,686,109		49,670,641	
5	4,595		82,145		82,145	
6	1,337,087		65,042,063		65,042,063	
7						
8	115		3,840		3,840	
9	475		17,300		17,300	
10	8,039		259,426		259,426	
11	8,319		241,597		241,597	
12						
13	25,976		751,694		751,694	
14	25,066		686,369		686,369	
15	260,543		8,018,375		8,018,375	
16	50		1,905		1,905	
17	50,543		1,762,150		1,762,150	
18	176,047		5,415,217		5,415,217	
19	59,616		1,873,418		1,873,418	
20	34,698		1,061,456		1,061,456	
21	6,649		205,717		205,717	
22	79,542		2,391,301		2,391,301	
23	34,900		1,055,294		1,055,294	
24	1,638		53,251		53,251	

-	-	-	-	-
3,442,120	37,312,992	107,112,304	-	144,425,296
16,948	-	522,163	-	522,163
755,268	-	23,276,147	-	23,276,147
4,214,336	37,312,992	130,910,614	-	168,223,606

RUS Form 12b PP  
 Operating Report  
 Purchased Power

08/31/09  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Associated Electric Coop	OS	MO0073			
4	Southern Illinois Power Coop	OS	IL0050			
5						
6	Cargill-Alliant	OS				
7	Constellation Energy Commodities	OS				
8	Eagle Energy Partners	OS				
9	Henderson Municipal Power & Light	RQ				
10	LG&E Energy Marketing	RQ				
11	Midwest Independent Trans. Sys. Op.	OS				
12	PJM Interconnection	OS				
13	Reliant Energy Services, Inc	SF				
14	Southeastern Power Admin	LF				
15	Southern Company Services	OS				
16	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

08/31/09  
 Page 2

Purch No.	Electricity	Power Exchanges	Power Exchanges	Revenue	Revenue	Revenue	Total
	Purchased	Electricity	Electricity	Demand	Energy	Other	
	(g)	(h)	(i)	(j)	(k)	(l)	(j+k+l)
1	5,088				279,840		279,840
2							
3	7,677				284,050		284,050
4	70,800				3,840,900		3,840,900
5							
6	2,001				70,598		70,598
7	181				6,550		6,550
8	86				4,286		4,286
9	200,148				5,784,129		5,784,129
10	2,529,559				51,590,848		51,590,848
11	10,963				571,842		571,842
12	7,164				299,552		299,552
13	1,221				768,930		768,930
14	320,123				6,143,455		6,143,455
15	582				31,076		31,076
16	772				36,628		36,628

5,088	-	-	-	279,840	-	279,840
78,477	-	-	-	4,124,950	-	4,124,950
3,072,800	-	-	-	65,307,894	-	65,307,894
3,156,365	-	-	-	69,712,684	-	69,712,684

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

08/31/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam	4	1,379,000	1,109,438	72,618,077
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion	1	65,000	367	339,284
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)	5		1,109,805	72,957,361
<b>PURCHASED POWER</b>				
8 Total Purchased Power			3,156,365	69,712,684
<b>INTERCHANGED POWER</b>				
9 Received into System			360,438	
10 Delivered Out of System			360,776	
11 Net Interchange			(338)	
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			4,265,832	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			4,214,336	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			4,214,336	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			51,496	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.21	



SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE Scheduled (j)    Unsched. (k)	
1	1		102,954.6		2,446.8			1,104.0	-	-	-
2	2	1	94,084.2		2,412.7			1,035.3	-	-	68.7
3	3	1	96,557.6		5,489.3			1,038.7	-	-	65.3
4											
5											
6	TOTAL	2	293,596.4		10,348.8			3,178.0	-	-	134.0
7	AVERAGE BTU		11,846		1,000						
8	Total BTU (10 6th pwr)		3,477,943		10,349			3,488,292			
9	Total Del. Cost (\$)		7,928,795		151,171						
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW) (l)	GROSS GEN. (MWh) (n)	BTU PER kWh (o)	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
1	1	150,000	119,723.0		1	No. Employees Full-Time (Inc. Superintendent)	103	1	Load Factor (%)	62.43	
2	2	138,000	107,149.0								
3	3	155,000	109,306.5		2	No. Employees Part-Time		2	Plant Factor (%)	62.79	
4					3	Total Empl. - Hrs. Worked			Running Plant		
5					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	65.45	
6	TOTAL	443,000	336,178.5	10,376	5	Maint. Plant Payroll (\$)			15 Minute Gross		
7	Station Service (MWh)		35,610.5		6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	487.775	
8	Net Generation (MWh)		300,568.0	11,606	7	Total			Indicated Gross		
9	Station Service (%)		10.59			Plant Payroll (\$)		5	Maximum Demand (kW)		
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$) (a)	MILLS/NET kWh (b)	\$/10 6th pwr BTU (c)				
1	Operation, Supervision and Engineering			500	203,132						
2	Fuel, Coal			501.1	8,202,823		2.36				
3	Fuel, Oil			501.2							
4	Fuel, Gas			501.3	55,786		5.39				
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	8,258,609	27.48	2.37				
7	Steam Expenses			502	754,080						
8	Electric Expenses			505	186,704						
9	Miscellaneous Steam Power Expenses			506	174,498						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				1,318,414	4.39					
13	OPERATION EXPENSE (6 + 12)				9,577,023	31.86					
14	Maintenance, Supervision and Engineering			510	184,177						
15	Maintenance of Structures			511	143,104						
16	Maintenance of Boiler Plant			512	767,453						
17	Maintenance of Electric Plant			513	84,026						
18	Maintenance of Miscellaneous Plant			514	12,167						
19	MAINTENANCE EXPENSE (14 thru 18)				1,190,927	3.96					
20	TOTAL PRODUCTION EXPENSE (13 + 19)				10,767,950	35.83					
21	Depreciation			403.1	491,119						
22	Interest			427	4,209,232						
23	TOTAL FIXED COST (21 + 22)				4,700,351	15.64					
24	POWER COST (20 + 23)				15,468,301	51.46					

SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE	
	(a)	(b)							Scheduled (j)	Unsched. (k)	
1	1										
2											
3											
4											
5											
6	TOTAL								1,104.0		
7	AVERAGE BTU										
8	Total BTU (10 6th pwr)										
9	Total Del. Cost (\$)										
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mwh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
1	1	65,000			1	No Employees Full-Time (Inc. Superintendent)		1	Load Factor (%)		
2	2				2	No. Employees Part-Time		2	Plant Factor (%)		
3	3				3	Total Empl. - Hrs. Worked		3	Running Plant		
4					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)		
5					5	Maint. Plant Payroll (\$)		4	15 Minute Gross		
6	TOTAL	65,000			6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	71,700	
7	Station Service (MWh)		2,123.0		7	Total		5	Indicated Gross		
8	Net Generation (MWh)		(2,123.0)		7	Plant Payroll (\$)		5	Maximum Demand (kW)		
9	Station Service (%)										
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU				
					(a)	(b)	(c)				
1	Operation, Supervision and Engineering			500	43,976						
2	Fuel, Coal			501.1	4,775						
3	Fuel, Oil			501.2							
4	Fuel, Gas			501.3							
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	4,775						
7	Steam Expenses			502	63,972						
8	Electric Expenses			505	30,808						
9	Miscellaneous Steam Power Expenses			506	32,800						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				171,556						
13	OPERATION EXPENSE (6 + 12)				176,331						
14	Maintenance, Supervision and Engineering			510	33,892						
15	Maintenance of Structures			511	10,089						
16	Maintenance of Boiler Plant			512	54,012						
17	Maintenance of Electric Plant			513	18,213						
18	Maintenance of Miscellaneous Plant			514	1,759						
19	MAINTENANCE EXPENSE (14 thru 18)				117,965						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				294,296						
21	Depreciation			403.1	48,811						
22	Interest			427	647,615						
23	TOTAL FIXED COST (21 + 22)				696,426						
24	POWER COST (20 + 23)				990,722						

SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO. <i>(a)</i>	TIMES STARTED <i>(b)</i>	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.) <i>(c)</i>	OIL (1000 Gals.) <i>(d)</i>	GAS (1000 C.F.) <i>(e)</i>	OTHER <i>(f)</i>	TOTAL <i>(g)</i>	IN SERVICE <i>(h)</i>	ON STANDBY <i>(i)</i>	OUT OF SERVICE	
									Scheduled <i>(j)</i>	Unsched. <i>(k)</i>	
1	1	3	198,018.2	35,900				1,065.3	-	-	38.7
2	2	1	191,331.4	44,430				1,043.7	-	49.9	10.4
3											
4											
5											
6	TOTAL	4	389,349.6	80,330				2,109.0	-	49.9	49.1
7	AVERAGE BTU		11,753	138,000							
8	Total BTU (10 6th pwr)		4,576,026	11,086				4,587,111			
9	Total Del. Cost (\$)		7,236,095	175,834							
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO. <i>(l)</i>	SIZE (KW) <i>(m)</i>	GROSS GEN. (mWh) <i>(n)</i>	BTU PER kWh <i>(o)</i>	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
1	1	231,000	234,409.2		1	No. Employees Full-Time (Inc. Superintendent)	104	1	Load Factor (%)	83.55	
2	2	223,000	216,941.0		2	No. Employees Part-Time		2	Plant Factor (%)	84.43	
3					3	Total Empl. - Hrs. Worked		3	Running Plant		
4					4	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	88.39	
5					5	Maint. Plant Payroll (\$)		4	15 Minute Gross		
6	TOTAL	454,000	451,350.2	10,163	6	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	489,300	
7	Station Service (MWh)		42,741.9		7	Total		5	Indicated Gross		
8	Net Generation (MWh)		408,608.3	11,226	7	Plant Payroll (\$)		5	Maximum Demand (kW)		
9	Station Service (%)		9.47								
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$) <i>(a)</i>	MILLS/NET kWh <i>(b)</i>	\$/10 6th pwr BTU <i>(c)</i>				
1	Operation, Supervision and Engineering			500	224,300						
2	Fuel, Coal			501.1	7,433,995		1.62				
3	Fuel, Oil			501.2	175,834		15.86				
4	Fuel, Gas			501.3							
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	7,609,829	18.62	1.66				
7	Steam Expenses			502	1,564,021						
8	Electric Expenses			505	185,387						
9	Miscellaneous Steam Power Expenses			506	178,650						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				2,152,358	5.27					
13	OPERATION EXPENSE (6 + 12)				9,762,187	23.89					
14	Maintenance, Supervision and Engineering			510	184,405						
15	Maintenance of Structures			511	72,910						
16	Maintenance of Boiler Plant			512	822,499						
17	Maintenance of Electric Plant			513	138,372						
18	Maintenance of Miscellaneous Plant			514	24,456						
19	MAINTENANCE EXPENSE (14 thru 18)				1,242,642	3.04					
20	TOTAL PRODUCTION EXPENSE (13 + 19)				11,004,829	26.93					
21	Depreciation			403.1	825,678						
22	Interest			427	9,022,159						
23	TOTAL FIXED COST (21 + 22)				9,847,837	24.10					
24	POWER COST (20 + 23)				20,852,666	51.03					

SECTION A. BOILERS/TURBINES												
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS				
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE Scheduled (j)    Unshed. (k)		
1	1	3	390,550.9	149,400					1,029.2	-	-	74.8
2												
3												
4												
5												
6	TOTAL	3	390,550.9	149,400					1,029.2	-	-	74.8
7	AVERAGE BTU		11,763	138,000								
8	Total BTU (10 6th pwr)		4,594,050	20,617				4,614,667				
9	Total Del. Cost (\$)		6,853,509	175,834								
SECTION A. BOILERS/TURBINES (CONT.)					SECTION B. LABOR REPORT			SECTION C. FACTORS & MAX. DEMAND				
LINE NO.	UNIT NO.	SIZE (KW) (m)	GROSS GEN. (mwh) (n)	BTU PER kWh (o)	LINE NO.	ITEM (l)	VALUE (p)	LINE NO.	ITEM	VALUE		
1	1	417,000	434,994.6		1	No. Employees Full-Time (Inc. Superintendent)	104	1	Load Factor (%)	84.60		
2					2	No. Employees Part-Time		2	Plant Factor (%)	89.50		
3					3	Total Empl. - Hrs. Worked		3	Running Plant Capacity Factor (%)	96.10		
4					4	Oper. Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	466,000		
5					5	Maint. Plant Payroll (\$)		5	Indicated Gross Maximum Demand (kW)			
6	TOTAL	417,000	434,994.6	10,609	6	Other Accts. Plant Payroll (\$)						
7	Station Service (MWh)		32,609.3		7	Total Plant Payroll (\$)						
8	Net Generation (MWh)		402,385.3	11,468								
9	Station Service (%)		7.50									
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$) (a)	MILLS/NET kWh (b)	\$/10 6th pwr BTU (c)					
1	Operation, Supervision and Engineering			500	99,525							
2	Fuel, Coal			501.1	7,070,644		1.54					
3	Fuel, Oil			501.2	185,093		8.98					
4	Fuel, Gas			501.3								
5	Fuel, Other			501.4								
6	FUEL SUB-TOTAL (2 thru 5)			501	7,255,737	18.03	1.57					
7	Steam Expenses			502	1,383,376							
8	Electric Expenses			505	154,358							
9	Miscellaneous Steam Power Expenses			506	305,268							
10	Allowances			509								
11	Rents			507								
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				1,942,527	4.83						
13	OPERATION EXPENSE (6 + 12)				9,198,264	22.86						
14	Maintenance, Supervision and Engineering			510	64,428							
15	Maintenance of Structures			511	79,212							
16	Maintenance of Boiler Plant			512	974,882							
17	Maintenance of Electric Plant			513	272,201							
18	Maintenance of Miscellaneous Plant			514	24,481							
19	MAINTENANCE EXPENSE (14 thru 18)				1,415,204	3.52						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				10,613,468	26.38						
21	Depreciation			403.1	1,994,694							
22	Interest			427	22,698,226							
23	TOTAL FIXED COST (21 + 22)				24,692,920	61.37						
24	POWER COST (20 + 23)				35,306,388	87.74						

SECTION A. INTERNAL COMUSTION GENERATING UNITS												
LINE NO.	UNIT NO.	SIZE (kW)	FUEL CONSUMPTION				OPERATING HOURS				GROSS GENERATION (MWh)	BTU PER kWh
			OIL (1000 Gals.)	GAS (1000 C.F.)	OTHER	TOTAL	IN SERVICE	ON STANDBY	OUT OF SERVICE			
									Sche.	Unsche.		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	
1	1	65,000	43,938				9.5	1,084.0	8.8	1.7	469.2	
2												
3												
4												
5												
6	TOTAL	65,000	43,938	-			9.5	1,084.0	8.8	1.7	469.2	12,922
7	AVERAGE BTU		138,000				STATION SERVICE (MWh)				102.3	
8	Total BTU (10 6th pwr)		6063	-		6,063	NET GENERATION (MWh)				366.9	16,525
9	Total Del. Cost (\$)		97,194				STATION SERVICE % OF GROSS				21.80	
SECTION B. LABOR REPORT						SECTION C. FACTORS & MAXIMUM DEMAND						
LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE				
1.	No. Emp. Full Time (incl. Superintendent)		5.	Maint. Plant Payroll (\$)		1	Load Factor (%)	1.86				
2.	No. Emp. Part Time		6.	Other Accounts Plant Payroll (\$)		2	Plant Factor (%)					
3.	Total Emp. - Hrs Worked				3	Running Plant Capacity Factor (%)	0.07					
4	Oper Plant Payroll (\$)		7.	TOTAL Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	70,000				
					5	Indicated Gross Max. Demand (kW)						
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE		ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU						
				(a)	(b)	(c)						
1	Operation, Supervision and Engineering		546									
2	Fuel, Oil		547.1	97,194		16.03						
3	Fuel, Gas		547.2									
4	Fuel, Other		547.3									
5	Energy for Compressed Air		547.4									
6	FUEL SUB-TOTAL (2 thru 5)		547	97,194	264.91	16.03						
7	Generation Expenses		548	532								
8	Miscellaneous Other Power Generation Expenses		549									
9	Rents		550									
10	NON-FUEL SUB-TOTAL (1 + 7 thru 9)			532	1.45							
11	OPERATION EXPENSE (6 + 10)			97,726	266.36							
12	Maintenance, Supervision and Engineering		551									
13	Maintenance of Structures		552									
14	Maintenance of Generating and Electric Plant		553	6,575								
15	Maintenance of Miscellaneous Other Power Generating Plant		554									
16	MAINTENANCE EXPENSE (12 thru 15)			6,575	17.92							
17	TOTAL PRODUCTION EXPENSE (11 + 16)			104,301	284.28							
18	Depreciation		553, 512	23,491								
19	Interest		554, 513	211,492								
20	TOTAL FIXED COST (18 + 19)			234,983	640.46							
21	POWER COST (17 + 20)			339,284	924.73							

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

08/31/09

SECTION A. EXPENSE AND COSTS						
ITEM			Account Number	LINES (a)	STATIONS (b)	
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering		560	276,728	237,158	
2	Load Dispatching		561	815,685		
3	Station Expenses		562		660,579	
4	Overhead Line Expenses		563	701,431		
5	Underground Line Expenses		564			
6	Miscellaneous Expenses		566	140,901	170,706	
7	<b>SUBTOTAL (1 thru 6)</b>			1,934,745	1,068,443	
8	Transmission of Electricity by Others		565	1,932,959		
9	Rents		567		16,468	
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			3,867,704	1,084,911	
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering		568	183,599	211,464	
12	Structures		569		2,969	
13	Station Equipment		570		1,107,758	
14	Overhead Lines		571	1,312,457		
15	Underground Lines		572			
16	Miscellaneous Transmission Plant		573	30,848	42,060	
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			1,526,904	1,364,251	
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			5,394,608	2,449,162	
19	Distribution Expense - Operation		580-589			
20	Distribution Expense - Maintenance		590-598			
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			5,394,608	2,449,162	
<b>FIXED COSTS</b>						
23	Depreciation - Transmission		403.5	1,669,265	1,883,362	
24	Depreciation - Distribution		403.6			
25	Interest - Transmission		427	2,647,889	3,407,831	
26	Interest - Distribution		427			
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			9,711,762	7,740,355	
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-	
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			9,711,762	7,740,355	
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>		
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	46
1	69 KV	826.51	13. Distr. Lines		2. Oper. Labor	1,233,923
2	345 KV	68.40				608,615
3	138 KV	14.40	14 Total (12 + 13)	1,261,81	3 Maint Labor	647,569
4	161 KV	352.50				963,712
5			15. Stepup at	1,879,800	4. Oper. Material	2,633,781
6			Generating Plants			476,296
7			16 Transmission	3,540,000	5. Maint Material	879,335
8						400,539
9			17. Distribution		<b>SECTION D. OUTAGES</b>	
10					1. TOTAL	5,992,579.10
11			18. Total		2. Avg. No. Dist. Cons. Served	111,694.00
12	TOTAL ( 1 thru 11)	1,261.81	(15 thru 17)	5,419,800	3. Avg No. Hours Out Per Cons.	53.65



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
July, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically.  
For detailed instructions, see RUS Bulletin 1717B-3

BORROWER NAME

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

Big Rivers Electric Corporation

**CERTIFICATION**

**We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.**

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Frank A. Bailey

9/23/09  
DATE



UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062		
<b>OPERATING REPORT - FINANCIAL</b>		PERIOD ENDED July, 2009		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3.		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	121,842,761	129,527,715	130,365,869	26,808,060
2. Income From Leased Property (Net)	17,401,148	15,739,142	15,584,941	1,263,233
3. Other Operating Revenue and Income	6,003,690	8,842,531	8,755,546	1,176,748
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>145,247,599</b>	<b>154,109,388</b>	<b>154,706,356</b>	<b>29,248,041</b>
5. Operating Expense - Production - Excluding Fuel		1,786,209	2,411,407	1,786,209
6. Operating Expense - Production - Fuel		7,523,528	9,483,853	7,523,528
7. Operating Expense - Other Power Supply	66,004,328	69,750,854	69,639,259	7,954,081
8. Operating Expense - Transmission	4,169,535	4,368,876	4,415,520	633,441
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	387,408	379,636	415,986	59,550
12. Operating Expense - Sales	157,363	77,339	532,489	41,348
13. Operating Expense - Administrative & General	10,909,541	10,343,542	9,477,396	2,037,809
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>81,628,175</b>	<b>94,229,984</b>	<b>96,375,910</b>	<b>20,035,966</b>
15. Maintenance Expense - Production		1,048,394	1,401,572	1,048,394
16. Maintenance Expense - Transmission	2,256,357	2,344,237	2,582,512	400,999
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	150,646	79,348	112,277	25,359
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>2,407,003</b>	<b>3,471,979</b>	<b>4,096,361</b>	<b>1,474,752</b>
20. Depreciation and Amortization Expense	2,982,180	4,301,516	4,379,379	1,504,761
21. Taxes	652,789	603,631	600,533	47,478
22. Interest on Long-Term Debt	45,429,851	39,161,348	41,161,732	4,933,547
23. Interest Charged to Construction - Credit	(335,068)	(96,751)	(118,954)	(15,153)
24. Other Interest Expense	5,304	865	3,915	66
25. Asset Retirement Obligations				
26. Other Deductions	(1,633,425)	2,125,412	2,327,947	60,938
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>131,136,809</b>	<b>143,797,984</b>	<b>148,826,823</b>	<b>28,042,355</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>14,110,790</b>	<b>10,311,404</b>	<b>5,879,533</b>	<b>1,205,686</b>
29. Interest Income	9,698,216	84,870	208,410	14,162
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)		1,151		1,151
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	787,237	534,562	546,753	
35. Extraordinary Items		544,943,789		544,943,789
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>24,596,243</b>	<b>555,875,776</b>	<b>6,634,696</b>	<b>546,164,788</b>

**OPERATING REPORT - FINANCIAL**

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3.

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,920,721,371	32. Memberships	75
2. Construction Work in Progress	32,772,004	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,953,493,375	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	896,614,150	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	1,056,879,225	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,073)
8. Invest. in Assoc. Org. - Patronage Capital	3,574,014	35. Operating Margin - Current Year	10,845,966
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	642,846,726
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 + 33d thru 37)</b>	401,274,196
12. Other Investements	5,334	39. Long-Term Debt - RUS (Net)	692,685,621
13. Special Funds	253,617,367	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	257,891,708	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,390	42. Long-Term Debt - Other (Net)	142,100,000
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,532	44. Payments - Unapplied	
18. Temporary Investments	89,477,190	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	834,785,621
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	25,779,780	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,701,182
21. Accounts Receivable - Other (Net)	6,408,732	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)</b>	7,701,182
22. Fuel Stock	32,709,431	49. Notes Payable	
23. Materials and Supplies - Other	19,893,825	50. Accounts Payable	15,428,682
24. Prepayments	5,454,268	51. Current Maturities Long-Term Debt	13,666,519
25. Other Current and Accrued Assets	7,142	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	180,308,290	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	704,203	54. Taxes Accrued	3,906,972
28. Regulatory Assets		55. Interest Accrued	2,623,408
29. Other Deferred Debits	1,898,876	56. Other Current and Accrued Liabilities	1,420,045
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	37,045,626
31. <b>TOTAL ASSETS AND OTHER DEBITS (5+14+26 thru 30)</b>	1,497,682,302	58. Deferred Credits	216,875,677
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,497,682,302

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

July, 2009

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

**Footnote to RUS Form 12d's**

The interest reported on all of the Form 12d's reflects year-to-date interest. The generation numbers start July 17, 2009, when Big Rivers took over the operation of its plants at the termination of the plants lease.

441-P1

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**07/31/09  
Page1**

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	129	140	125
3	Meade County Rural ECC	RQ	KY0018	94	99	88
4	Kenergy Corporation	RQ	KY0065	351	366	353
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	LG&E Energy Marketing	OS				
17	Midwest Independent Trans.	OS				
18	PJM Interconnection	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
23	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			574	605	566
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			574	605	566

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**07/31/09  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (l)	Revenue Other (j)	Revenue (h+l+j+k)	Total
1						
2	378,938	6,720,968	7,881,730			14,602,698
3	266,302	4,846,210	5,562,071			10,408,281
4	1,160,671	20,739,319	20,968,881			41,708,200
5	3,792		67,048			67,048
6	822,536		42,529,918			42,529,918
7						
8	115		3,840			3,840
9	475		17,300			17,300
10	7,410		238,944			238,944
11	8,319		241,597			241,597
12						
13	16,008		478,494			478,494
14	23,265		640,747			640,747
15	234,616		7,280,254			7,280,254
16	50,543		1,762,150			1,762,150
17	126,813		3,651,929			3,651,929
18	52,915		1,665,701			1,665,701
19	33,670		1,033,956			1,033,956
20	6,371		197,552			197,552
21	68,577		2,036,758			2,036,758
22	29,976		909,097			909,097
23	1,638	-	53,251			53,251

-	-	-	-	-
2,632,239	32,306,497	77,009,648	-	109,316,145
16,319	-	501,681	-	501,681
644,392	-	19,709,889	-	19,709,889
3,292,950	32,306,497	97,221,218	-	129,527,715

**RUS Form 12b PP  
Operating Report  
Purchased Power**

**07/31/09  
Page1**

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Associated Electric Coop	OS	MO0073			
4	Southern Illinois Power Coop	OS	IL0050			
5						
6	Cargill-Alliant	OS				
7	Constellation Energy Commodities	OS				
8	Eagle Energy Partners	OS				
9	Henderson Municipal Power & Light	RQ				
10	LG&E Energy Marketing	RQ				
11	Midwest Independent Trans. Sys. Op.	OS				
12	PJM Interconnection	OS				
13	Reliant Energy Services, Inc	SF				
14	Southeastern Power Admin	LF				
15	Southern Company Services	OS				
16	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

07/31/09  
 Page 2

Purch No.	Electricity Purchased (g)	Power Echanges Electricity Received (h)	Power Echanges Electricity Delivered (i)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (l)	Revenue Total (j+k+l)
1	4,344				238,920		238,920
2							
3	1,893				72,220		72,220
4	70,800				3,840,900		3,840,900
5							
6	1,981				69,998		69,998
7	140				5,320		5,320
8	65				3,530		3,530
9	70,171				1,992,310		1,992,310
10	2,529,559				51,590,848		51,590,848
11	1,697				63,096		63,096
12	35				2,231		2,231
13	1,229				679,238		679,238
14	299,016				5,615,093		5,615,093
15	478				25,824		25,824
16	721				35,189		35,189

4,344	-	-	-	238,920	-	238,920
72,693	-	-	-	3,913,120	-	3,913,120
2,905,092	-	-	-	60,082,677	-	60,082,677
2,982,129	-	-	-	64,234,717	-	64,234,717

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

07/31/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)				
1 Fossil Steam	4	1,379,000	351,862	44,347,529
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion	1	65,000	(29)	206,952
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)	5		351,833	44,554,481
PURCHASED POWER				
8 Total Purchased Power			2,982,129	64,234,717
INTERCHANGED POWER				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
TRANSMISSION FOR OR BY OTHERS - (WHEELING)				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			3,333,962	
DISTRIBUTION OF ENERGY				
16 TOTAL Sales			3,292,950	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			3,292,950	
LOSSES				
20 Energy Losses - MWh (Line 15 minus 19)			41,012	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.23	



SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.)	OIL (1000 Gals.)	GAS (1000 C.F.)	OTHER	TOTAL	IN SERVICE	ON STANDBY	OUT OF SERVICE	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
1	1		31,815.8		1,214.1			360.0	-	-	-
2	2		31,213.8		937.0			360.0	-	-	-
3	3	1	25,973.9		2,722.0			294.7	-	-	65.3
4											
5											
6	TOTAL	1	89,003.5		4,873.1			1,014.7	-	-	65.3
7	AVERAGE BTU		11,881		1,000						
8	Total BTU (10 6th pwr)		1,057,451		4,873		1,062,324				
9	Total Del. Cost (\$)		2,425,067		29,101						
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (MWh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)	
1	1	150,000	36,442.0		1.	No. Employees Full-Time (Inc. Superintendent)	103	1	Load Factor (%)	58.17	
2	2	138,000	34,706.0		2.	No. Employees Part-Time		2	Plant Factor (%)	57.26	
3	3	155,000	28,828.0		3.	Total Empl. - Hrs. Worked			Running Plant		
4					4.	Oper. Plant Payroll (\$)		3	Capacity Factor (%)	61.03	
5					5.	Maint. Plant Payroll (\$)			15 Minute Gross		
6	TOTAL	443,000	99,976.0	10,626	6.	Other Accts. Plant Payroll (\$)		4	Maximum Demand (kW)	477.380	
7	Station Service (MWh)		11,077.0		7.	Total			Indicated Gross		
8	Net Generation (MWh)		88,899.0	11,950		Plant Payroll (\$)		5	Maximum Demand (kW)		
9	Station Service (%)		11.08								
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU				
					(a)	(b)	(c)				
1	Operation, Supervision and Engineering			500	71,471						
2	Fuel, Coal			501.1	2,492,076		2.36				
3	Fuel, Oil			501.2							
4	Fuel, Gas			501.3	29,101		5.97				
5	Fuel, Other			501.4							
6	FUEL SUB-TOTAL (2 thru 5)			501	2,521,177	28.36	2.37				
7	Steam Expenses			502	270,759						
8	Electric Expenses			505	59,966						
9	Miscellaneous Steam Power Expenses			506	56,875						
10	Allowances			509							
11	Rents			507							
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				459,071	5.16					
13	OPERATION EXPENSE (6 + 12)				2,980,248	33.52					
14	Maintenance, Supervision and Engineering			510	61,765						
15	Maintenance of Structures			511	52,522						
16	Maintenance of Boiler Plant			512	226,221						
17	Maintenance of Electric Plant			513	14,838						
18	Maintenance of Miscellaneous Plant			514	1,353						
19	MAINTENANCE EXPENSE (14 thru 18)				356,699	4.01					
20	TOTAL PRODUCTION EXPENSE (13 + 19)				3,336,947	37.54					
21	Depreciation			403.1	104,785						
22	Interest			427	3,558,807						
23	TOTAL FIXED COST (21 + 22)				3,663,592	41.21					
24	POWER COST (20 + 23)				7,000,539	78.75					

SECTION A. BOILERS/TURBINES												
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS				
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE Scheduled (j)    Unsched. (k)		
1	1	3	64,654.5	16,500					358.6	-	-	1.4
2	2	1	64,389.8	11,670					353.5	-	-	6.5
3												
4												
5												
6	TOTAL	4	129,044.3	28,170					712.1	-	-	7.9
7	AVERAGE BTU		11,521	138,000								
8	Total BTU (10 6th pwr)		1,486,719	3,887				1,490,607				
9	Total Del. Cost (\$)		2,396,000	64,156								
SECTION A. BOILERS/TURBINES (CONT.)					SECTION B. LABOR REPORT			SECTION C. FACTORS & MAX. DEMAND				
LINE NO.	UNIT NO. (l)	SIZE (KW) (m)	GROSS GEN. (mwh) (n)	BTU PER kWh (o)	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE		
1	1	231,000	76,433.6		1	No. Employees Full-Time (inc. Superintendent)	104	1	Load Factor (%)	84.68		
2	2	223,000	72,735.0		2	No. Employees Part-Time		2	Plant Factor (%)	85.57		
3					3	Total Empl. - Hrs. Worked		3	Running Plant Capacity Factor (%)	86.52		
4					4	Oper. Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	489,300		
5					5	Maint. Plant Payroll (\$)		5	Indicated Gross Maximum Demand (kW)			
6	TOTAL	454,000	149,168.6	9,993	6	Other Accts. Plant Payroll (\$)						
7	Station Service (MWh)		14,262.0		7	Total Plant Payroll (\$)						
8	Net Generation (MWh)		134,906.6	11,049								
9	Station Service (%)		9.56									
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$) (a)	MILLS/NET kWh (b)	\$/10 6th pwr BTU (c)					
1	Operation, Supervision and Engineering			500	70,676							
2	Fuel, Coal			501.1	2,454,250		1.65					
3	Fuel, Oil			501.2	64,156		16.5					
4	Fuel, Gas			501.3								
5	Fuel, Other			501.4								
6	FUEL SUB-TOTAL (2 thru 5)			501	2,518,406	18.67	1.69					
7	Steam Expenses			502	535,619							
8	Electric Expenses			505	58,723							
9	Miscellaneous Steam Power Expenses			506	34,601							
10	Allowances			509								
11	Rents			507								
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				699,619	5.19						
13	OPERATION EXPENSE (6 + 12)				3,218,025	23.85						
14	Maintenance, Supervision and Engineering			510	58,684							
15	Maintenance of Structures			511	33,869							
16	Maintenance of Boiler Plant			512	204,614							
17	Maintenance of Electric Plant			513	50,441							
18	Maintenance of Miscellaneous Plant			514	4,713							
19	MAINTENANCE EXPENSE (14 thru 18)				352,321	2.61						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				3,570,346	26.47						
21	Depreciation			403.1	267,476							
22	Interest			427	8,228,630							
23	TOTAL FIXED COST (21 + 22)				8,496,106	62.98						
24	POWER COST (20 + 23)				12,066,452	89.44						

SECTION A. BOILERS/TURBINES											
LINE NO.	UNIT NO.	TIMES STARTED	FUEL CONSUMPTION					OPERATING HOURS			
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE	
	(a)	(b)								Scheduled (j)	Unsched. (k)
1	1									360.0	
2											
3											
4											
5											
6	TOTAL									360.0	
7	AVERAGE BTU										
8	Total BTU (10 6th pwr)										
9	Total Del. Cost (\$)										
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND			
LINE NO.	UNIT NO.	SIZE (KW)	GROSS GEN. (mwh)	BTU PER kWh	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	
(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)	
1	1	65,000			1	No. Employees Full-Time (Inc. Superintendent)		1	Load Factor (%)		
2	2				2	No. Employees Part-Time		2	Plant Factor (%)		
3	3				3	Total Empl. - Hrs. Worked		3	Running Plant Capacity Factor (%)		
4					4	Oper. Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	71,700	
5					5	Maint. Plant Payroll (\$)		5	Indicated Gross Maximum Demand (kW)		
6	TOTAL	65,000			6	Other Accts. Plant Payroll (\$)					
7	Station Service (MWh)		692.0		7	Total Plant Payroll (\$)					
8	Net Generation (MWh)		(692.0)								
9	Station Service (%)										
SECTION D. COST OF NET ENERGY GENERATED											
LINE NO.	PRODUCTION EXPENSE				ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU			
						(a)	(b)	(c)			
1	Operation, Supervision and Engineering				500	15,001					
2	Fuel, Coal				501.1	(12,663)					
3	Fuel, Oil				501.2						
4	Fuel, Gas				501.3						
5	Fuel, Other				501.4						
6	FUEL SUB-TOTAL (2 thru 5)				501	(12,663)	0.00				
7	Steam Expenses				502	18,591					
8	Electric Expenses				505	10,224					
9	Miscellaneous Steam Power Expenses				506	4,260					
10	Allowances				509						
11	Rents				507						
12	NON-FUEL SUB-TOTAL (1 + 7 thru 11)					48,076	0.00				
13	OPERATION EXPENSE (6 + 12)					35,413	0.00				
14	Maintenance, Supervision and Engineering				510	11,689					
15	Maintenance of Structures				511	2,029					
16	Maintenance of Boiler Plant				512	10,577					
17	Maintenance of Electric Plant				513	1,212					
18	Maintenance of Miscellaneous Plant				514	591					
19	MAINTENANCE EXPENSE (14 thru 18)					26,098	0.00				
20	TOTAL PRODUCTION EXPENSE (13 + 19)					61,511	0.00				
21	Depreciation				403.1	15,466					
22	Interest				427	579,744					
23	TOTAL FIXED COST (21 + 22)					595,210	0.00				
24	POWER COST (20 + 23)					656,721	0.00				

SECTION A. BOILERS/TURBINES												
LINE NO.	UNIT NO. (a)	TIMES STARTED (b)	FUEL CONSUMPTION					OPERATING HOURS				
			COAL (1000 Lbs.) (c)	OIL (1000 Gals.) (d)	GAS (1000 C.F.) (e)	OTHER (f)	TOTAL (g)	IN SERVICE (h)	ON STANDBY (i)	OUT OF SERVICE Scheduled (j)    Unsched. (k)		
1	1	3	126,736.2	123,500					332.0	-	-	28.0
2												
3												
4												
5												
6	TOTAL	3	126,736.2	123,500					332.0	-	-	28.0
7	AVERAGE BTU		11,701	138,000								
8	Total BTU (10 6th pwr)		1,482,940	17,043				1,499,983				
9	Total Del. Cost (\$)											
SECTION A. BOILERS/TURBINES (CONT.)				SECTION B. LABOR REPORT				SECTION C. FACTORS & MAX. DEMAND				
LINE NO.	UNIT NO. (l)	SIZE (KW) (m)	GROSS GEN. (mWh) (n)	BTU PER kWh (o)	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE		
1	1	417,000	139,336.2		1	No. Employees Full-Time (Inc. Superintendent)	104	1	Load Factor (%)	84.10		
2					2	No. Employees Part-Time		2	Plant Factor (%)	88.00		
3					3	Total Empl. - Hrs. Worked		3	Running Plant Capacity Factor (%)	95.30		
4					4	Oper. Plant Payroll (\$)		4	15 Minute Gross Maximum Demand (kW)	460,200		
5					5	Maint. Plant Payroll (\$)		5	Indicated Gross Maximum Demand (kW)			
6	TOTAL	417,000	139,336.2	10,765	6	Other Accts. Plant Payroll (\$)						
7	Station Service (MWh)		10,588.4		7	Total Plant Payroll (\$)						
8	Net Generation (MWh)		128,747.8	11,651								
9	Station Service (%)		7.60									
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE			ACCOUNT NUMBER	AMOUNT (\$) (a)	MILLS/NET kWh (b)	\$/10 6th pwr BTU (c)					
1	Operation, Supervision and Engineering			500	32,568							
2	Fuel, Coal			501.1	2,350,750		1.59					
3	Fuel, Oil			501.2	140,562		8.25					
4	Fuel, Gas			501.3								
5	Fuel, Other			501.4								
6	FUEL SUB-TOTAL (2 thru 5)			501	2,491,312	19.35	1.66					
7	Steam Expenses			502	415,700							
8	Electric Expenses			505	49,865							
9	Miscellaneous Steam Power Expenses			506	81,173							
10	Allowances			509								
11	Rents			507								
12	NON- FUEL SUB-TOTAL (1 + 7 thru 11)				579,306	4.50						
13	OPERATION EXPENSE (6 + 12)				3,070,618	23.85						
14	Maintenance, Supervision and Engineering			510	23,466							
15	Maintenance of Structures			511	24,757							
16	Maintenance of Boiler Plant			512	203,683							
17	Maintenance of Electric Plant			513	42,776							
18	Maintenance of Miscellaneous Plant			514	16,157							
19	MAINTENANCE EXPENSE (14 thru 18)				310,839	2.41						
20	TOTAL PRODUCTION EXPENSE (13 + 19)				3,381,457	26.26						
21	Depreciation			403.1	647,059							
22	Interest			427	20,595,301							
23	TOTAL FIXED COST (21 + 22)				21,242,360	164.99						
24	POWER COST (20 + 23)				24,623,817	191.26						

SECTION A. INTERNAL COMUSTION GENERATING UNITS												
LINE NO.	UNIT NO.	SIZE (kW)	FUEL CONSUMPTION				OPERATING HOURS				GROSS ENERATIO (MWh) (k)	BTU PER kWh (l)
			OIL (1000 Gals.) (c)	GAS (1000 C.F.) (d)	OTHER (e)	TOTAL (f)	IN SERVICE (g)	ON STANDBY (h)	OUT OF SERVICE			
									Sche. (i)	Unsche. (j)		
1	1	65.000	0.867					360.0	-	-	0.0	
2												
3												
4												
5												
6	TOTAL	65,000	0.867	-				360.0	-	-	0.0	0
7	AVERAGE BTU		138,000					STATION SERVICE (MWh)			29.0	
8	Total BTU (10 6th pwr)		120	-		120		NET GENERATION (MWh)			(29.0)	0
9	Total Del. Cost (\$)		5,296					STATION SERVICE % OF GROSS			0.00	
SECTION B. LABOR REPORT						SECTION C. FACTORS & MAXIMUM DEMAND						
LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE	LINE NO.	ITEM	VALUE				
1.	No. Emp. Full Time (incl. Superintendent)		5.	Maint. Plant Payroll (\$)		1.	Load Factor (%)					
2.	No. Emp. Part Time					2.	Plant Factor (%)					
3.	Total Emp - Hrs. Worked		6.	Other Accounts Plant Payroll (\$)		3.	Running Plant Capacity Factor (%)					
4.	Oper. Plant Payroll (\$)		7.	TOTAL Plant Payroll (\$)		4.	15 Minute Gross Maximum Demand (kW)	70,000				
						5.	Indicated Gross Max. Demand (kW)					
SECTION D. COST OF NET ENERGY GENERATED												
LINE NO.	PRODUCTION EXPENSE	ACCOUNT NUMBER	AMOUNT (\$)	MILLS/NET kWh	\$/10 6th pwr BTU							
			(a)	(b)	(c)							
1	Operation, Supervision and Engineering	546										
2	Fuel, Oil	547.1	5,296		44.13							
3	Fuel, Gas	547.2										
4	Fuel, Other	547.3										
5	Energy for Compressed Air	547.4										
6	FUEL SUB-TOTAL (2 thru 5)	547	5,296	0.00	44.13							
7	Generation Expenses	548	137									
8	Miscellaneous Other Power Generation Expenses	549										
9	Rents	550										
10	NON- FUEL SUB-TOTAL (1 + 7 thru 9)		137	0.00								
11	OPERATION EXPENSE (6 + 10)		5,433	0.00								
12	Maintenance, Supervision and Engineering	551										
13	Maintenance of Structures	552										
14	Maintenance of Generating and Electric Plant	553	2,437									
15	Maintenance of Miscellaneous Other Power Generating Pla	554										
16	MAINTENANCE EXPENSE (12 thru 15)		2,437	0.00								
17	TOTAL PRODUCTION EXPENSE (11 + 16)		7,870	0.00								
18	Depreciation	553, 512	7,660									
19	Interest	554, 513	191,422									
20	TOTAL FIXED COST (18 + 19)		199,082	0.00								
21	POWER COST (17 + 20)		206,952	0.00								

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

07/31/09

SECTION A. EXPENSE AND COSTS							
ITEM			Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>							
1	Supervision and Engineering		560	245,404	210,424		
2	Load Dispatching		561	725,293			
3	Station Expenses		562		574,193		
4	Overhead Line Expenses		563	625,832			
5	Underground Line Expenses		564				
6	Miscellaneous Expenses		566	125,544	157,471		
7	<b>SUBTOTAL (1 thru 6)</b>			1,722,073	942,088		
8	Transmission of Electricity by Others		565	1,690,306			
9	Rents		567		14,409		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			3,412,379	956,497		
<b>TRANSMISSION MAINTENANCE</b>							
11	Supervision and Engineering		568	162,605	187,224		
12	Structures		569		2,893		
13	Station Equipment		570		914,334		
14	Overhead Lines		571	1,008,221			
15	Underground Lines		572				
16	Miscellaneous Transmission Plant		573	28,034	40,926		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			1,198,860	1,145,377		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			4,611,239	2,101,874		
19	Distribution Expense - Operation		580-589				
20	Distribution Expense - Maintenance		590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>						
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			4,611,239	2,101,874		
<b>FIXED COSTS</b>							
23	Depreciation - Transmission		403.5	1,461,248	1,647,954		
24	Depreciation - Distribution		403.6				
25	Interest - Transmission		427	2,393,569	3,083,114		
26	Interest - Distribution		427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			8,466,056	6,832,942		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-		
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			8,466,056	6,832,942		
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES	45	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (kVA)	ITEM	LINES	
1	69 KV	826.51	13. Distr. Lines		2. Oper. Labor	1,095,135	
2	345 KV	68.40			3. Maint Labor	572,496	836,327
3	138 KV	14.40			14. Total (12 + 13)	1,261.81	
4	161 KV	352.50			15. Stepup at	1,879,800	
5			Generating Plants		4. Oper. Material	2,317,244	
6			16. Transmission	3,540,000	5. Maint. Material	626,364	
7			17. Distribution		<b>SECTION D. OUTAGES</b>		
8					1. TOTAL	5,992,550.80	
9					2. Avg. No. Dist. Cons. Served	111,694.00	
10					3. Avg No. Hours Out Per Cons.	53.65	
11			18. Total				
12	OTAL ( 1 thru 1	1,261.81	(15 thru 17)	5,419,800			



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION FY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
June, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717B-3.

BORROWER NAME

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.

DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII

*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. Barclay

7/20/09  
DATE



UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION RY0062		
OPERATING REPORT - FINANCIAL		PERIOD ENDED June, 2009		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 961 et. seq.) and may be confidential.		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	105,950,757	102,719,655	99,352,702	13,543,657
2. Income From Leased Property (Net)	14,927,673	14,475,905	14,352,497	2,435,992
3. Other Operating Revenue and Income	5,186,409	7,663,783	7,784,678	1,267,564
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>125,064,839</b>	<b>124,861,343</b>	<b>121,389,880</b>	<b>15,248,543</b>
5. Operating Expense - Production - (Excluding Fuel)				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	55,627,731	51,796,774	51,451,843	9,071,995
8. Operating Expense - Transmission	3,586,932	3,725,435	3,773,343	607,057
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	335,207	320,066	350,597	51,098
12. Operating Expense - Sales	135,343	35,990	424,955	5,057
13. Operating Expense - Administrative & General	9,498,200	8,305,733	7,446,119	1,484,572
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>70,183,413</b>	<b>74,194,016</b>	<b>72,456,857</b>	<b>11,229,202</b>
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	1,942,654	1,943,237	2,156,225	297,721
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	139,617	53,990	95,772	6,314
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>2,082,271</b>	<b>1,997,227</b>	<b>2,252,000</b>	<b>304,035</b>
20. Depreciation and Amortization Expense	2,550,625	2,796,755	2,863,684	462,318
21. Taxes	540,012	556,152	552,960	92,135
22. Interest on Long-Term Debt	19,309,567	14,227,501	15,993,196	5,292,435
23. Interest Charged to Construction - Credit	1267,582	161,598	101,710	(9,243)
24. Other Interest Expense	5,010	799	3,600	233
25. Asset Retirement Obligations				
26. Other Deductions	11,395,225	3,064,474	2,139,777	340,058
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>123,007,641</b>	<b>125,755,629</b>	<b>116,163,367</b>	<b>17,705,161</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>13,056,548</b>	<b>9,105,716</b>	<b>5,226,513</b>	<b>1,543,382</b>
29. Interest Income	5,649,998	70,767	187,012	5,552
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	787,217	534,563	546,753	
35. Extraordinary Items				
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>22,493,753</b>	<b>9,710,986</b>	<b>5,960,278</b>	<b>1,551,535</b>

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION RY00002
	PERIOD ENDED June, 2009
<b>OPERATING REPORT - FINANCIAL</b>	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1317B-2.	<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.</i>

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,792,046,436	32. Memberships	75
2. Construction Work in Progress	14,264,337	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 - 2)</b>	1,806,310,773	a. Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	893,967,659	b. Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	906,332,914	c. Retired Prior years	
6. Non-Utility Property (Net)		d. Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	1256,463,074
8. Invest. in Assoc. Org. - Patronage Capital	2,974,014	35. Operating Margin - Current Year	9,646,282
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,887,623
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Liquities	2,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 - 35d thru 37)</b>	1144,890,593
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	818,126,780
13. Special Funds	379,683	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,553,424	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	7,439	42. Long-Term Debt - Other (Net)	156,893,274
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,492	44. Payments - Unapplied	
18. Temporary Investments	34,391,619	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	972,980,059
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	36,958,160	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,356,678
21. Accounts Receivable - Other (Net)	1,123,863	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 - 47)</b>	7,356,678
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	841,520	50. Accounts Payable	12,526,803
24. Prepayments	4,341,320	51. Current Maturities Long-Term Debt	52,782,495
25. Other Current and Accrued Assets	279,578	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	56,521,039	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	108,742	54. Taxes Accrued	1,278,491
28. Regulatory Assets		55. Interest Accrued	7,613,780
29. Other Deferred Debits	95,899,268	56. Other Current and Accrued Liabilities	1,696,799
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	75,319,383
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 - 14 26 thru 30)</b>	1,062,809,387	58. Deferred Credits	181,043,859
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 - 45 - 48 - 57 thru 59)</b>	1,062,809,387

<p style="text-align: center;">USDA-RUS</p> <p style="text-align: center;"><b>FINANCIAL AND STATISTICAL REPORT</b></p> <p style="text-align: center;"><i>INSTRUCTIONS - See RUS Bulletin 177 7B-3</i></p>	<p>BORROWER DESIGNATION KY0062</p> <p>PERIOD ENDED June, 2009</p>
<p><b>SECTION C. Notes to Financial Statements</b></p>	
<p><b>Footnote to RUS Form 12b SE</b></p> <p>Kenergy "LF" Contract termination date is March 31, 2011.</p>	

RUS Form 12b SE  
Operating Report  
Sales of Electricity

06/30/09  
Page 1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	127	138	124
3	Meade County Rural ECC	RQ	KY0018	96	102	89
4	Kenergy Corporation	RQ	KY0065	349	365	350
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	LG&E Energy Marketing	OS				
17	Midwest Independent Trans.	OS				
18	PJM Interconnection	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
23	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			572	605	563
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			572	605	563

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

06/30/09  
 Page 2

Sale No	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue Total (h+i+j+k)
1					
2	318,076	5,664,318	6,435,372		12,099,690
3	229,613	4,243,162	4,684,181		8,927,363
4	983,112	17,710,112	17,201,002		34,911,114
5	2,744		55,253		55,253
6	544,812		29,403,690		29,403,690
7					
8	115		3,840		3,840
9	475		17,300		17,300
10	4,786		162,385		162,385
11	8,319		241,597		241,597
12					
13	14,545		439,071		439,071
14	20,576		572,043		572,043
15	217,921		6,802,520		6,802,520
16	46,786		1,641,755		1,641,755
17	96,745		2,376,125		2,376,125
18	49,315		1,573,777		1,573,777
19	26,068		796,429		796,429
20	6,241		193,838		193,838
21	60,720		1,807,094		1,807,094
22	21,037		641,521		641,521
23	1,638		53,251		53,251

-	-	-	-	-
2,078,357	27,617,612	57,779,498	-	85,397,110
13,695	-	425,122	-	425,122
561,592	-	16,897,424	-	16,897,424
2,653,644	27,617,612	75,102,044	-	102,719,656

RUS Form 12b PP  
 Operating Report  
 Purchased Power

06/30/09  
 Page1

Purch No	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Southern Illinois Power Coop	OS	IL0050			
4						
5	Cargill-Alliant	OS				
6	Eagle Energy Partners	OS				
7	LG&E Energy Marketing	RQ				
8	Midwest Independent Trans. Sys. Op.	OS				
9	PJM Interconnection	OS				
10	Reliant Energy Services, Inc	SF				
11	Southeastern Power Admin	LF				
12	Southern Company Services	OS				
13	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

06/30/09  
 Page 2

Purch No.	Electricity	Power Exchanges	Power Exchanges	Revenue	Revenue	Revenue	Revenue	Total
	Purchased	Electricity	Electricity	Demand	Energy	Other	Revenue	
	(g)	(h)	(i)	(j)	(k)	(l)	(j+k+l)	
1	3,600				198,000		198,000	
2								
3	70,800				3,840,900		3,840,900	
4								
5	20				1,200		1,200	
6	65				3,530		3,530	
7	2,326,563				47,448,579		47,448,579	
8	125				3,384		3,384	
9	35				2,231		2,231	
10	1,189				588,176		588,176	
11	262,324				5,142,668		5,142,668	
12	119				7,238		7,238	
13	125				6,667		6,667	

3,630	-	-	-	198,000	-	198,000
70,800	-	-	-	3,840,900	-	3,840,900
2,610,565	-	-	-	53,203,673	-	53,203,673
2,684,965	-	-	-	57,242,573	-	57,242,573

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

06/30/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
PURCHASED POWER				
8 Total Purchased Power			2,684,965	57,242,573
INTERCHANGED POWER				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
TRANSMISSION FOR OR BY OTHERS - (WHEELING)				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheelied				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			2,684,965	
DISTRIBUTION OF ENERGY				
16 TOTAL Sales			2,653,644	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			2,653,644	
LOSSES				
20 Energy Losses - MWh (Line 15 minus 19)			31,321	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.17	



RUS Form 12i  
 OPERATING REPORT - LINES AND STATIONS

06/30/09

SECTION A. EXPENSE AND COSTS						
ITEM		Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering	560	200,328	171,328		
2	Load Dispatching	561	597,760			
3	Station Expenses	562		491,169		
4	Overhead Line Expenses	563	545,842			
5	Underground Line Expenses	564				
6	Miscellaneous Expenses	566	107,263	141,026		
7	<b>SUBTOTAL (1 thru 6)</b>		1,451,193	803,524		
8	Transmission of Electricity by Others	565	1,468,367			
9	Rents	567		12,351		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>		2,919,560	815,875		
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering	568	131,829	152,053		
12	Structures	569		2,855		
13	Station Equipment	570		723,057		
14	Overhead Lines	571	870,271			
15	Underground Lines	572				
16	Miscellaneous Transmission Plant	573	24,192	38,980		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>		1,026,292	916,945		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>		3,945,852	1,732,820		
19	Distribution Expense - Operation	580-589				
20	Distribution Expense - Maintenance	590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>		3,945,852	1,732,820		
<b>FIXED COSTS</b>						
23	Depreciation - Transmission	403.5	1,253,232	1,412,535		
24	Depreciation - Distribution	403.6				
25	Interest - Transmission	427	2,090,437	2,689,719		
26	Interest - Distribution	427				
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>					
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>		7,289,521	5,835,074		
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>		
<b>TRANSMISSION LINES</b>		<b>SUBSTATIONS</b>		1. NUMBER OF EMPLOYEES		47
VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	59 KV	826.51	13 Distr Lines	2 Oper Labor	900,483	443,591
2	345 KV	68.40	14 Total (12 + 13)	3 Maint Labor	479,805	676,866
3	135 KV	14.40				
4	181 KV	352.50	15 Stepup at Generating Plants	4 Oper Material	2,019,077	572,264
5						
6						
7			16 Transmission	5 Maint Material	546,487	236,079
8						
9			17 Distribution	<b>SECTION D. OUTAGES</b>		



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0573-0132. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
May, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717B-3.

BORROWER NAME

This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**

*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. Bailey      6/18/09  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

OPERATING REPORT - FINANCIAL

PERIOD ENDED May, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3.

This data will be used by RUS to review your financial situation. Your response is  
required (7 U.S.C. 901 et. seq.) and may be confidential.

SECTION A. STATEMENT OF OPERATIONS

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	89,626,280	87,175,888	83,567,777	16,882,080
2. Income From Leased Property (Net)	12,502,803	12,038,916	11,981,202	2,212,474
3. Other Operating Revenue and Income	4,366,288	6,187,899	6,487,003	1,292,625
4. TOTAL OPER. REVENUES & PATRONAGE CAPITAL (1 thru 3)	106,495,481	105,612,803	102,035,984	19,557,179
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	47,410,667	52,724,775	50,283,890	9,807,593
8. Operating Expense - Transmission	2,884,926	3,128,368	3,185,965	643,598
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	271,480	268,188	301,239	45,562
12. Operating Expense - Sales	115,252	27,924	388,925	73
13. Operating Expense - Administrative & General	7,662,403	6,821,561	6,448,732	1,331,071
14. TOTAL OPERATION EXPENSE (5 thru 13)	58,464,828	62,970,816	61,268,749	11,837,896
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	1,545,073	1,545,516	1,865,864	327,591
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	134,656	47,675	82,719	11,214
19. TOTAL MAINTENANCE EXPENSE (15 thru 18)	1,679,729	1,693,191	1,948,583	338,805
20. Depreciation and Amortization Expense	2,125,580	2,334,439	2,383,138	472,849
21. Taxes	467,235	463,977	480,805	92,161
22. Interest on Long-Term Debt	33,159,582	38,935,326	30,191,595	5,561,921
23. Interest Charged to Construction - Credit	(263,921)	(72,355)	(91,710)	(12,747)
24. Other Interest Expense	4,421	667	1,000	137
25. Asset Retirement Obligations				
26. Other Deductions	(1,163,344)	1,724,405	1,780,887	238,133
27. TOTAL COST OF ELECTRIC SERVICE (14 - 19 thru 26)	94,474,110	98,050,487	97,947,139	18,618,345
28. OPERATING MARGINS (4 less 27)	12,021,371	7,562,326	4,088,845	968,834
29. Interest Income	7,305,738	62,155	158,317	9,180
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	787,237	534,562	546,753	
35. Extraordinary Items				
36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)	20,114,346	8,159,053	4,793,915	978,024

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062	
OPERATING REPORT - FINANCIAL		PERIOD ENDED May, 2009	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717H-3		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential	
SECTION B. BALANCE SHEET			
ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,787,168,229	32. Memberships	75
2. Construction Work in Progress	11,247,359	33. Patronage Capital	
3. TOTAL UTILITY PLANT (1 + 2)	1,798,415,588	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	891,574,093	b Retired This year	
5. NET UTILITY PLANT (3 - 4)	906,841,505	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	1256,263,073
8. Invest. in Assoc. Org. - Patronage Capital	3,574,013	35. Operating Margin - Current Year	8,086,892
9. Invest. in Assoc. Org. - Other - General Funds	684,893	36. Non-Operating Margins	97,879,071
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. TOTAL MARGINS & EQUITIES (32 + 33d thru 37)	(146,442,527)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	813,608,654
13. Special Funds	495,497	40. Long-Term Debt - FFB - RUS Guaranteed	
14. TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)	4,769,527	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,384	42. Long-Term Debt - Other (Net)	156,906,424
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,431	44. Payments - Unapplied	
18. Temporary Investments	30,226,276	45. TOTAL LONG-TERM DEBT (39 thru 43 - 44)	970,515,075
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	16,959,250	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,271,325
21. Accounts Receivable - Other (Net)	1,443,815	48. TOTAL OTHER NONCURRENT LIABILITIES (46 - 47)	7,271,325
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	806,561	50. Accounts Payable	13,188,198
24. Prepayments	4,424,814	51. Current Maturities Long-Term Debt	52,789,421
25. Other Current and Accrued Assets	233,203	52. Current Maturities Long-Term Debt - Rural Development	
26. TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)	54,672,674	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	713,135	54. Taxes Accrued	1,119,557
28. Regulatory Assets		55. Interest Accrued	6,321,169
29. Other Deferred Debits	90,957,044	56. Other Current and Accrued Liabilities	1,753,520
30. Accumulated Deferred Income Taxes		57. TOTAL CURRENT & ACCRUED LIABILITIES (49 thru 56)	75,160,315
31. TOTAL ASSETS AND OTHER DEBITS (5 + 14 - 26 thru 30)	1,057,964,195	58. Deferred Credits	151,358,994
		59. Accumulated Deferred Income Taxes	
		60. TOTAL LIABILITIES AND OTHER CREDITS (38 - 45 + 48 + 57 thru 59)	2,057,964,195

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

*INSTRUCTIONS - See RUS Bulletin 1717E-3*

BORROWER DESIGNATION

KY0062

PERIOD ENDED:

May, 2009

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**05/31/09  
Page 1**

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	121	133	119
3	Meade County Rural ECC	RQ	KY0018	97	103	89
4	Kenergy Corporation	RQ	KY0065	342	355	338
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	LG&E Energy Marketing	OS				
17	Midwest Independent Trans.	OS				
18	PJM Interconnection	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
23	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)				0	0	0
Total for Distribution Borrowers				560	591	546
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				560	591	546

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**05/31/09  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue Total (h+i+j+k)
1					
2	253,007	4,529,120	5,116,652		9,645,772
3	191,244	3,575,025	3,901,446		7,476,471
4	800,821	14,472,536	13,974,119		28,446,655
5	2,221		61,138		61,138
6	492,795		25,949,354		25,949,354
7					
8	115		3,840		3,840
9	475		17,300		17,300
10	4,302		146,721		146,721
11	8,319		241,597		241,597
12					
13	14,321		429,895		429,895
14	16,991		473,476		473,476
15	203,327		6,393,037		6,393,037
16	44,581		1,572,925		1,572,925
17	80,121		1,803,743		1,803,743
18	46,211		1,479,359		1,479,359
19	22,865		707,708		707,708
20	6,035		187,726		187,726
21	54,728		1,620,713		1,620,713
22	14,788		465,307		465,307
23	1,638		53,251		53,251

-	-	-	-	-
1,740,088	22,576,681	49,002,709	-	71,579,390
13,211	-	409,458	-	409,458
505,586	-	15,187,140	-	15,187,140
2,258,885	22,576,681	64,599,307	-	87,175,988



RUS Form 12b PP  
 Operating Report  
 Purchased Power

05/31/09  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Southern Illinois Power Coop	OS	IL0050			
4						
5	Cargill-Alliant	OS				
6	Eagle Energy Partners	OS				
7	LG&E Energy Marketing	RQ				
8	Midwest Independent Trans. Sys. Op.	OS				
9	PJM Interconnection	OS				
10	Reliant Energy Services, Inc	SF				
11	Southeastern Power Admin	LF				
12	Southern Company Services	OS				
13	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

05/31/09  
 Page 2

Purch No	Electricity Purchased (g)	Power Exchanges Electricity Received (h)	Power Exchanges Electricity Delivered (i)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (l)	Revenue Total (j+k+l)
1	2.880				158,400		158,400
2							
3	70.800				3,840,900		3,840,900
4							
5	20				1,200		1,200
6	65				3,530		3,530
7	1,954.355				39,864.677		39,864,677
8	125				3,384		3,384
9	35				2,231		2,231
10	1,189				498,421		498,421
11	256.214				4,550.917		4,550,917
12	119				7,238		7,238
13	125				6,667		6,667

2.880	-	-	-	158,400	-	158,400
70.800	-	-	-	3,840,900	-	3,840,900
2,212,247	-	-	-	44,938,265	-	44,938,265
2,285,927	-	-	-	48,937,565	-	48,937,565

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

05/31/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d. e, f and g)</b>				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
<b>PURCHASED POWER</b>				
8 Total Purchased Power			2,285,927	48,937,565
<b>INTERCHANGED POWER</b>				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			2,285,927	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			2,258,885	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			2,258,885	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			27,042	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.18	

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

05/31/09

SECTION A. EXPENSE AND COSTS						
ITEM		Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering	560	170,033	145,277		
2	Load Dispatching	561	498,584			
3	Station Expenses	562		419,520		
4	Overhead Line Expenses	563	453,063			
5	Underground Line Expenses	564				
6	Miscellaneous Expenses	566	90,376	82,409		
7	<b>SUBTOTAL (1 thru 6)</b>		1,212,066	647,206		
8	Transmission of Electricity by Others	565	1,258,804			
9	Rents	567		10,292		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>		2,470,870	657,498		
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering	568	111,928	129,000		
12	Structures	569		2,855		
13	Station Equipment	570		605,526		
14	Overhead Lines	571	741,296			
15	Underground Lines	572				
16	Miscellaneous Transmission Plant	573	18,316	36,595		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>		871,540	773,976		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>		3,342,410	1,431,474		
19	Distribution Expense - Operation	580-589				
20	Distribution Expense - Maintenance	590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>		3,342,410	1,431,474		
<b>FIXED COSTS</b>						
23	Depreciation - Transmission	403.5	1,045,215	1,177,111		
24	Depreciation - Distribution	403.6				
25	Interest - Transmission	427	1,763,451	2,272,442		
26	Interest - Distribution	427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>		6,151,076	4,881,027		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>		-	-		
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>		6,151,076	4,881,027		
<b>SECTION B. FACILITIES IN SERVICE</b>			<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>		<b>SUBSTATIONS</b>		1. NUMBER OF EMPLOYEES	47	
VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	69 KV	826.51	13. Distr. Lines	2. Oper. Labor	761,778	376,339
2	345 KV	68.40		3. Maint Labor	401,177	572,183
3	138 KV	14.40	14. Total (12 + 13)	4. Oper. Material	1,709,092	281,159
4	161 KV	352.50		5. Maint. Material	470,363	201,793
5			15. Stepup at Generating Plants			
6						
7			16 Transmission			
8						
9			17 Distribution			
10				<b>SECTION D. OUTAGES</b>		
11			18. Total	1. TOTAL	5,981,635.90	
12	OTAL ( 1 thru 1	1,261.81	(15 thru 17)	2. Avg. No. Dist. Cons. Served	111,694.00	
			5,419,800	3. Avg No. Hours Out Per Cons.	53.55	



*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0577-0022. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION RY0062
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 17174-3.	PERIOD ENDED April, 2009
This data will be used by RUS to review your financial situation. Your response is required. (7 U.S.C., 907 et. seq.) may be confidential.	BORROWER NAME:  Big Rivers Electric Corporation

**CERTIFICATION**

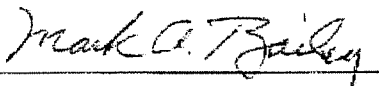

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
*(check one of the following)*

- |  |   |
|--|---|
| <input type="checkbox"/> All of the obligations under the RUS loan documents have been fulfilled in all material respects. | <input type="checkbox"/> There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report. |
|--|---|

  
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UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062		
OPERATING REPORT - FINANCIAL		PERIOD ENDED April, 2009		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3		This data will be used by RUS to review your financial situation. Your response is required. 7 U.S.C. 901 et seq. and may be confidential.		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	71,782,524	71,083,909	69,393,527	16,818,173
2. Income From Leased Property (Net)	10,016,790	9,626,442	8,596,153	2,440,217
3. Other Operating Revenue and Income	2,439,929	5,105,274	6,159,859	1,205,605
4. <b>TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	84,239,243	85,815,624	84,149,539	19,464,095
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	37,839,557	42,937,182	41,962,449	8,406,373
8. Operating Expense - Transmission	2,390,335	2,484,770	2,595,615	667,345
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	229,504	232,626	231,763	75,278
12. Operating Expense - Sales	77,879	37,852	204,614	6,786
13. Operating Expense - Administrative & General	5,996,502	5,450,420	5,337,105	1,564,951
14. <b>TOTAL OPERATION EXPENSE (5 thru 13)</b>	46,524,637	51,142,927	50,352,559	11,947,334
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	1,235,932	1,317,925	1,551,722	375,650
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	246,121	36,463	88,778	12,766
19. <b>TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	1,482,053	1,354,388	1,640,500	388,416
20. Depreciation and Amortization Expense	1,706,372	1,861,450	1,900,805	460,704
21. Taxes	374,457	271,611	352,644	82,161
22. Interest on Long-Term Debt	23,962,697	20,274,361	24,200,639	5,711,522
23. Interest Charged to Construction - Credit	(223,436)	(50,600)	(81,710)	(11,855)
24. Other Interest Expense	2,607	631	2,400	122
25. Asset Retirement Obligations				
26. Other Deductions	(921,902)	1,386,283	1,430,827	355,343
27. <b>TOTAL COST OF ELECTRIC SERVICE (14 - 19 thru 26)</b>	74,932,945	79,432,122	79,787,955	18,854,258
28. <b>OPERATING MARGINS (4 less 27)</b>	10,316,398	6,383,502	4,361,584	489,837
29. Interest Income	3,920,639	52,962	135,578	6,409
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	787,237	524,563	546,753	5,278
35. Extraordinary Items				
36. <b>NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	11,026,274	7,181,030	4,967,737	501,634

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION RUC062	
OPERATING REPORT - FINANCIAL		PERIOD ENDED April, 2009	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.	
<b>SECTION B. BALANCE SHEET</b>			
<b>ASSETS AND OTHER DEBITS</b>		<b>LIABILITIES AND OTHER CREDITS</b>	
1. Total Utility Plant in Service	1,786,422,756	32. Memberships	75
2. Construction Work in Progress	10,067,012	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 - 2)</b>	1,796,489,770	a. Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	888,386,907	b. Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	908,098,863	c. Retired Prior years	
6. Non-Utility Property (Net)		d. Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,074)
8. Invest. in Assoc. Org. - Patronage Capital	3,574,014	35. Operating Margin - Current Year	7,126,045
9. Invest. in Assoc. Org. - Other - General Funds	684,893	36. Non-Operating Margins	87,889,882
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,302
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 - 33d thru 37)</b>	(147,420,551)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	813,608,653
13. Special Funds	452,387	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,766,738	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	5,851	42. Long-Term Debt - Other (Net)	256,959,222
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	571,369	44. Payments - Unapplied	
18. Temporary Investments	24,694,829	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	870,567,875
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	12,678,427	47. Accumulated Operating Provisions and Asset Retirement Obligations	(1,322,846)
21. Accounts Receivable - Other (Net)	1,318,283	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 - 47)</b>	(1,322,846)
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	818,209	50. Accounts Payable	11,307,861
24. Prepayments	4,425,000	51. Current Maturities Long-Term Debt	50,765,375
25. Other Current and Accrued Assets	766,733	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	48,769,761	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	717,675	54. Taxes Accrued	685,236
28. Regulatory Assets		55. Interest Accrued	1,606,283
29. Other Deferred Debits	91,309,342	56. Other Current and Accrued Liabilities	1,789,570
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	71,377,235
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 - 14 - 26 thru 30)</b>	1,053,462,379	58. Deferred Credits	152,777,874
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 - 45 - 48 - 57 thru 59)</b>	1,053,462,379



RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

04/30/09  
 Page1

Sale No	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	122	134	119
3	Meade County Rural ECC	RQ	KY0018	105	110	98
4	Kenergy Corporation	RQ	KY0065	353	365	354
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	LG&E Energy Marketing	OS				
17	Midwest Independent Trans.	OS				
18	PJM Interconnection	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
23	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			580	609	571
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			580	609	571

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**04/30/09  
Page 2**

Sale No	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue Total (h+i+j+k)
1					
2	204,938	3,659,700	4,146,849		7,806,549
3	161,630	3,086,902	3,297,311		6,384,213
4	648,090	11,901,109	11,339,646		23,240,755
5	1,238		12,937		12,937
6	435,557		22,339,535		22,339,535
7					
8	115		3,840		3,840
9	475		17,300		17,300
10	3,337		110,101		110,101
11	6,352		184,019		184,019
12					
13	13,273		400,671		400,671
14	8,127		248,027		248,027
15	145,001		4,657,901		4,657,901
16	33,837		1,255,039		1,255,039
17	47,680		1,059,904		1,059,904
18	37,506		1,253,500		1,253,500
19	22,210		686,859		686,859
20	4,328		131,894		131,894
21	29,958		904,805		904,805
22	10,671		342,808		342,808
23	1,638		53,251		53,251

-	-	-	-	-
1,451,453	18,647,711	41,136,278	-	59,783,989
10,279	-	315,260	-	315,260
354,229	-	10,994,659	-	10,994,659
1,815,961	18,647,711	52,446,197	-	71,093,908

<p style="text-align: center;">USDA-RUS</p> <p style="text-align: center;"><b>FINANCIAL AND STATISTICAL REPORT</b></p> <p style="text-align: center;"><i>INSTRUCTIONS - See RUS Bulletin 1717E-3</i></p>	<p>BORROWER DESIGNATION KY052</p> <p>PERIOD ENDED April 2009</p>
<b>SECTION C. Notes to Financial Statements</b>	
<p><b>Footnote to RUS Form 12b SE</b></p> <p>Kenergy "LF" Contract termination date is March 31, 2011.</p>	

RUS Form 12b PP  
 Operating Report  
 Purchased Power

04/30/09  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Southern Illinois Power Coop	OS	IL0050			
4						
5	Cargill-Alliant	OS				
6	Eagle Energy Partners	OS				
7	LG&E Energy Marketing	RQ				
8	Midwest Independent Trans. Sys. Op.	OS				
9	PJM Interconnection	OS				
10	Reliant Energy Services, Inc	SF				
11	Southeastern Power Admin	LF				
12	Southern Company Services	OS				
13	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

04/30/09  
 Page 2

Purch No	Electricity Purchased (g)	Power Exchanges Electricity Received (n)	Power Exchanges Electricity Delivered (l)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (f)	Revenue (i+k+f)	Total
1	2,136				117,480		117,480	
2								
3	70,800				3,840,900		3,840,900	
4								
5	20				1,200		1,200	
6	65				3,530		3,530	
7	1,567,839				31,975,791		31,975,791	
8	125				3,384		3,384	
9	35				2,231		2,231	
10	640				388,369		388,369	
11	194,834				3,512,295		3,512,295	
12	119				7,238		7,238	
13	125				6,667		6,667	

2,136	-	-	-	117,480	-	117,480
70,800	-	-	-	3,840,900	-	3,840,900
1,763,802	-	-	-	35,900,705	-	35,900,705
1,836,738	-	-	-	39,859,085	-	39,859,085

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

04/30/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
PURCHASED POWER				
8 Total Purchased Power			1,836,738	39,859,085
INTERCHANGED POWER				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
TRANSMISSION FOR OR BY OTHERS - (WHEELING)				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			1,836,738	
DISTRIBUTION OF ENERGY				
16 TOTAL Sales			1,815,961	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			1,815,961	
LOSSES				
20 Energy Losses - MWh (Line 15 minus 19)			20,777	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.13	

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

04/30/09

SECTION A. EXPENSE AND COSTS						
ITEM			Account Number	LINES (a)	STATIONS (b)	
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering		560	138,996	118,344	
2	Load Dispatching		561	406,949		
3	Station Expenses		562		314,599	
4	Overhead Line Expenses		563	356,267		
5	Underground Line Expenses		564			
6	Miscellaneous Expenses		566	74,886	68,741	
7	<b>SUBTOTAL (1 thru 6)</b>			977,098	501,684	
8	Transmission of Electricity by Others		565	997,754		
9	Rents		567		8,234	
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			1,974,852	509,918	
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering		568	90,995	104,818	
12	Structures		569		1,042	
13	Station Equipment		570		463,728	
14	Overhead Lines		571	588,252		
15	Underground Lines		572			
16	Miscellaneous Transmission Plant		573	14,985	34,105	
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			694,232	623,693	
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			2,669,084	1,133,611	
19	Distribution Expense - Operation		580-589			
20	Distribution Expense - Maintenance		590-598			
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			2,669,084	1,133,611	
<b>FIXED COSTS</b>						
23	Depreciation - Transmission		403.5	826,565	941,687	
24	Depreciation - Distribution		403.6			
25	Interest - Transmission		427	1,424,020	1,832,953	
26	Interest - Distribution		427			
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			4,919,669	3,908,251	
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-	
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			4,919,669	3,908,251	
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>		
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES 47	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES
1	69 KV	826.51	13 Distr Lines		2 Oper Labor	618,589
2	345 KV	66.40				304,209
3	138 KV	14.40	14 Total (12 + 13)	1,261.81	3 Maint Labor	322,289
4	161 KV	352.50				457,767
5			15 Stepup at	1,879,800	4 Oper Material	1,358,283
6			Generating Plants			205,709
7			16 Transmission	3,540,000	5 Maint Material	371,943
8						166,926
9			17 Distribution		<b>SECTION D. OUTAGES</b>	
10					1. TOTAL 5,954,128.30	
11			18 Total		2. Avg. No. Dist. Cons. Served 111,694.00	
12	TOTAL ( 1 thru 11)	1,261.81	(15 thru 17)	5,419,800	3. Avg No. Hours Out Per Cons. 63.40	





*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
March, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3

BORROWER NAME

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. Bailey

4/23/09  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION <b>KY0062</b>
	PERIOD ENDED <b>March, 2009</b>
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin #717B-3	<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 961 et seq) and may be confidential.</i>

**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	52,228,628	55,255,736	53,291,597	17,386,025
2. Income From Leased Property (Net)	7,591,766	7,486,224	7,339,250	2,453,329
3. Other Operating Revenue and Income	2,474,784	3,839,410	3,892,140	1,274,226
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>62,306,239</b>	<b>66,581,370</b>	<b>64,522,987</b>	<b>21,113,580</b>
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	26,235,575	33,285,009	32,242,357	10,697,166
8. Operating Expense - Transmission	1,765,709	1,817,625	1,991,297	656,058
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	361,772	143,347	193,682	44,467
12. Operating Expense - Sales	79,099	31,065	253,322	19,928
13. Operating Expense - Administrative & General	3,870,329	3,925,540	4,046,706	1,306,767
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>34,176,484</b>	<b>39,195,585</b>	<b>39,633,364</b>	<b>12,124,388</b>
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	841,128	942,255	1,216,562	204,806
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	237,714	22,695	57,131	5,212
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>1,078,842</b>	<b>964,950</b>	<b>1,273,693</b>	<b>210,018</b>
20. Depreciation and Amortization Expense	3,275,195	1,401,265	1,422,720	466,940
21. Taxes	281,681	275,655	276,483	95,333
22. Interest on Long-Term Debt	19,543,553	17,652,763	18,399,035	6,006,156
23. Interest Charged to Construction - Credit	(347,437)	(47,753)	(91,710)	138,036
24. Other Interest Expense	3,146	397	1,800	137
25. Asset Retirement Obligations				
26. Other Deductions	(706,128)	1,020,941	1,070,367	329,273
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>55,505,336</b>	<b>60,477,854</b>	<b>61,955,752</b>	<b>19,224,269</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>6,800,903</b>	<b>6,103,516</b>	<b>2,537,135</b>	<b>1,889,311</b>
29. Interest Income	4,568,414	44,496	106,296	16,320
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	778,500	529,384	546,752	529,384
35. Extraordinary Items				
<b>36. NETPATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>12,147,817</b>	<b>6,677,396</b>	<b>3,190,184</b>	<b>2,435,025</b>

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

PERIOD ENDED March, 2009

**OPERATING REPORT - FINANCIAL**

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically.  
For detailed instructions, see RUS Bulletin 1717B-3

This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et seq.) and may be confidential.

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,784,520,795	32. Memberships	75
2. Construction Work in Progress	11,546,104	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 - 2)</b>	1,796,066,900	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	887,342,974	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	908,723,926	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	1256,863,074
8. Invest. in Assoc. Org. - Patronage Capital	3,568,835	35. Operating Margin - Current Year	6,632,900
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,861,412
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 - 33d thru 37)</b>	(147,924,185)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	922,559,855
13. Special Funds	497,019	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,766,181	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,110	42. Long-Term Debt - Other (Net)	157,011,672
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	371,308	44. Payments - Unapplied	
18. Temporary Investments	25,110,625	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	979,571,526
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	17,889,666	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,325,467
21. Accounts Receivable - Other (Net)	2,336,138	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 - 47)</b>	7,325,467
22. Fuel Stock	839,115	49. Notes Payable	
23. Materials and Supplies - Other	4,569,375	50. Accounts Payable	12,481,349
24. Prepayments	140,732	51. Current Maturities Long-Term Debt	52,281,454
25. Other Current and Accrued Assets		52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	60,663,069	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	722,068	54. Taxes Accrued	672,497
28. Regulatory Assets		55. Interest Accrued	6,440,946
29. Other Deferred Debits	91,811,065	56. Other Current and Accrued Liabilities	1,623,071
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	75,659,317
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 + 14 - 26 thru 30)</b>	1,066,785,309	58. Deferred Credits	152,113,184
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 - 45 + 48 - 57 thru 59)</b>	1,066,785,309

<p style="text-align: center;">USDA-RUS</p> <p style="text-align: center;"><b>FINANCIAL AND STATISTICAL REPORT</b></p> <p style="text-align: center;"><i>INSTRUCTIONS - See RUS Bulletin 1717B-3</i></p>	<p>BORROWER DESIGNATION KY0062</p> <p>PERIOD ENDED March, 2009</p>
<b>SECTION C. Notes to Financial Statements</b>	
<p><b>Footnote to RUS Form 12b SE</b></p> <p>Kenergy "LF" Contract termination date is March 31, 2011.</p>	

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

03/31/09  
 Page1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	131	143	127
3	Meade County Rural ECC	RQ	KY0018	115	121	107
4	Kenergy Corporation	RQ	KY0065	371	383	374
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
12						
13	Cargill-Alliant	OS				
14	Constellation Power Source	OS				
15	Eagle Energy Partners	OS				
16	LG&E Energy Marketing	OS				
17	Midwest Independent Trans.	OS				
18	PJM Interconnection	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
23	Westar Energy, Inc.	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			617	647	608
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			617	647	608

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

03/31/09  
 Page 2

Sale No	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue (h+i+j+k)	Total
1						
2	160,180	2,933,918	3,244,454			6,178,372
3	130,605	2,533,297	2,664,379			5,197,676
4	501,847	9,316,641	8,811,254			18,127,895
5	1,094		14,226			14,226
6	364,541		18,265,886			18,265,886
7						
8	115		3,840			3,840
9	475		17,300			17,300
10	1,155		42,845			42,845
11	3,152		92,319			92,319
12						
13	6,854		216,909			216,909
14	3,486		122,324			122,324
15	92,796		3,102,402			3,102,402
16	21,348		844,567			844,567
17	22,504		657,062			657,062
18	30,413		1,036,161			1,036,161
19	19,459		602,513			602,513
20	2,166		66,624			66,624
21	11,144		377,557			377,557
22	7,338		239,179			239,179
23	1,534		50,079			50,079

-	-	-	-	-
1,158,267	14,783,856	33,000,199	-	47,784,055
4,897	-	156,304	-	156,304
219,042	-	7,315,377	-	7,315,377
1,382,206	14,783,856	40,471,880	-	55,255,736

RUS Form 12b PP  
 Operating Report  
 Purchased Power

03/31/09  
 Page1

Purch No	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Southern Illinois Power Coop	OS	IL0050			
4						
5	Cargill-Alliant	OS				
6	Eagle Energy Partners	OS				
7	LG&E Energy Marketing	RQ				
8	PJM Interconnection	OS				
9	Reliant Energy Services, Inc	SF				
10	Southeastern Power Admin	LF				
11	Southern Company Services	OS				
12	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

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 Page 2

Purch No.	Electricity Purchased (g)	Power Exchanges Electricity Received (h)	Power Exchanges Electricity Delivered (i)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (l)	Revenue Total (j+k+l)
1	1,416				77,880		77,880
2							
3	70,800				3,840,900		3,840,900
4							
5	20				1,200		1,200
6	65				3,530		3,530
7	1,185,312				24,192,296		24,192,296
8	35				2,231		2,231
9	634				298,277		298,277
10	137,753				2,528,142		2,528,142
11	119				7,238		7,238
12	125				6,667		6,667

1,416	-	-	-	77,880	-	77,880
70,800	-	-	-	3,840,900	-	3,840,900
1,324,063	-	-	-	27,039,581	-	27,039,581
1,396,279	-	-	-	30,958,361	-	30,958,361



RUS Form 12c  
Operating Report  
Sources and Distribution of Energy

03/31/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
<b>PURCHASED POWER</b>				
8 Total Purchased Power			1,396,279	30,956,361
<b>INTERCHANGED POWER</b>				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			1,396,279	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			1,362,206	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			1,362,206	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			14,073	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.01	

RUS Form 12)  
OPERATING REPORT - LINES AND STATIONS

03/31/09

SECTION A. EXPENSE AND COSTS							
ITEM			Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>							
1	Supervision and Engineering		560	97,870	84,636		
2	Load Dispatching		561	290,758			
3	Station Expenses		562		231,381		
4	Overhead Line Expenses		563	264,438			
5	Underground Line Expenses		564				
6	Miscellaneous Expenses		566	57,016	45,541		
7	<b>SUBTOTAL (1 thru 6)</b>			710,082	361,558		
8	Transmission of Electricity by Others		565	739,810			
9	Rents		567		6,175		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			1,449,892	367,733		
<b>TRANSMISSION MAINTENANCE</b>							
11	Supervision and Engineering		568	64,504	74,447		
12	Structures		569		981		
13	Station Equipment		570		387,640		
14	Overhead Lines		571	372,358			
15	Underground Lines		572				
16	Miscellaneous Transmission Plant		573	9,392	32,943		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			446,254	496,011		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			1,896,146	863,744		
19	Distribution Expense - Operation		580-589				
20	Distribution Expense - Maintenance		590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>						
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			1,896,146	863,744		
<b>FIXED COSTS</b>							
23	Depreciation - Transmission		403.5	620,606	706,309		
24	Depreciation - Distribution		403.6				
25	Interest - Transmission		427	1,075,703	1,382,155		
26	Interest - Distribution		427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			3,592,455	2,952,208		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>						
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			3,592,455	2,952,208		
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1 NUMBER OR EMPLOYEES	46	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	69 KV	826.51	13 Distr. Lines		2 Oper. Labor	426,877	211,472
2	345 KV	68.40			3 Maint Labor	213,351	343,024
3	138 KV	14.40	14 Total (12 + 13)	1,261,81	4 Oper Material	1,023,015	156,261
4	161 KV	352.50			5 Maint Material	232,903	152,987
5			15 Stepup at Generating Plants	1,579,800			
6							
7			16 Transmission	3,540,000			
8							
9			17 Distribution				
10					<b>SECTION D. OUTAGES</b>		
11			18 Total (15 thru 17)	5,419,800	1. TOTAL		
12	TOTAL ( 1 thru 11)	1,261.81			2. Avg. No. Dist. Cons. Served		
					3. Avg. No. Hours Out Per Cons.		



*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0132. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  <b>OPERATING REPORT - FINANCIAL</b>	BORROWER DESIGNATION KY0062
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3	PERIOD ENDED February, 2009
This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.	BORROWER NAME  Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. T. Jolley

3/20/09  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062		
OPERATING REPORT - FINANCIAL		PERIOD ENDED February, 2009		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3.		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 90) et. seq.) and may be confidential		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	33,265,274	37,869,713	37,299,557	18,034,246
2. Income From Leased Property (Net)	5,076,853	5,032,885	5,026,332	2,475,071
3. Other Operating Revenue and Income	1,639,201	2,565,184	2,594,865	1,274,213
4. <b>TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	39,981,328	45,467,782	44,920,754	21,783,530
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	18,595,156	23,190,840	23,271,638	13,051,777
8. Operating Expense - Transmission	1,193,632	1,161,566	1,360,028	582,615
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	104,051	98,880	122,204	49,293
12. Operating Expense - Sales	74,310	1,138	107,386	1,430
13. Operating Expense - Administrative & General	2,531,574	2,618,773	2,448,116	1,120,587
14. <b>TOTAL OPERATION EXPENSE (5 thru 13)</b>	22,498,723	27,071,197	27,909,372	12,804,762
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	595,033	737,459	905,355	405,867
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	216,800	17,483	42,046	5,757
19. <b>TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	811,833	754,942	947,401	411,674
20. Depreciation and Amortization Expense	850,228	934,345	943,595	467,454
21. Taxes	185,554	184,322	184,322	92,161
22. Interest on Long-Term Debt	12,623,426	11,656,587	12,407,210	5,682,077
23. Interest Charged to Construction - Credit	(112,362)	(29,737)	(91,710)	(15,842)
24. Other Interest Expense	2,191	261	1,200	123
25. Asset Retirement Obligations				
26. Other Deductions	(465,753)	681,665	707,494	329,405
27. <b>TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	36,194,040	41,253,585	43,008,884	19,782,814
28. <b>OPERATING MARGINS (4 less 27)</b>	3,587,288	4,214,197	1,912,270	2,000,716
29. Interest Income	3,039,183	28,176	67,625	12,452
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends				
35. Extraordinary Items				
36. <b>NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	6,626,471	4,242,373	1,979,895	2,013,168

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION RUG562

PERIOD ENDED February, 2009

**OPERATING REPORT - FINANCIAL**

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717R-3

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,784,561,228	32. Memberships	75
2. Construction Work in Progress	9,966,828	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,794,528,056	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	884,591,529	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	909,936,527	c Retired Prior years	
6. Non-Utility Property (Net)		d <b>Net Patronage Capital</b>	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,074)
8. Invest. in Assoc. Org. - Patronage Capital	3,384,730	35. Operating Margin - Current Year	4,214,195
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,845,092
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 - 33d thru 37)</b>	(150,359,210)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	821,076,400
13. Special Funds	502,432	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,587,489	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,473	42. Long-Term Debt - Other (Net)	157,063,772
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	573,076	44. Payments - Unapplied	
18. Temporary Investments	33,849,114	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	978,142,172
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	19,342,371	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,319,748
21. Accounts Receivable - Other (Net)	3,229,577	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)</b>	7,319,748
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	743,800	50. Accounts Payable	17,040,265
24. Prepayments	4,642,527	51. Current Maturities Long-Term Debt	52,277,461
25. Other Current and Accrued Assets	95,005	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	62,479,741	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	726,607	54. Taxes Accrued	791,998
28. Regulatory Assets		55. Interest Accrued	6,024,433
29. Other Deferred Debits	91,174,737	56. Other Current and Accrued Liabilities	1,829,213
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	78,763,389
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 + 14 + 26 thru 30)</b>	1,068,905,101	58. Deferred Credits	155,039,002
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,968,905,101

<p style="text-align: center;">USDA-RUS</p> <p style="text-align: center;"><b>FINANCIAL AND STATISTICAL REPORT</b></p> <p style="text-align: center;"><i>INSTRUCTIONS - See RUS Bulletin 1717B-3</i></p>	<p>BORROWER DESIGNATION KY0062</p> <p>PERIOD ENDED February, 2009</p>
<b>SECTION C. Notes to Financial Statements</b>	
<p><b>Footnote to RUS Form 12b SE</b></p> <p>Kenergy "LF" Contract termination date is March 31, 2011.</p>	

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

02/28/09  
 Page1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	137	149	146
3	Meade County Rural ECC	RQ	KY0018	119	127	126
4	Kenergy Corporation	RQ	KY0065	379	393	396
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	Oglethorpe Power	OS	GA0109			
10	PowerSouth Energy Coop	OS	AL0042			
11						
12	Cargill-Alliant	OS				
13	Constellation Power Source	OS				
14	Eagle Energy Partners	OS				
15	LG&E Energy Marketing	OS				
16	Midwest Independent Trans.	OS				
17	PJM Interconnection	OS				
18	Southern Company Services	OS				
19	Tenaska Power Services	OS				
20	Tennessee Valley Authority	OS				
21	The Energy Authority	OS				

Total for Ultimate Consumer(s)				0	0	0
Total for Distribution Borrowers				635	669	668
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				635	669	668



RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

02/28/09  
 Page 2

Sale No	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue Total (h+i+j+k)
1					
2	110,400	2,040,809	2,234,785		4,275,594
3	93,974	1,758,349	1,917,107		3,675,456
4	339,556	6,349,926	5,995,139		12,345,065
5	763		15,940		15,940
6	268,956		13,589,633		13,589,633
7					
8	115		3,840		3,840
9	730		27,770		27,770
10	1,698		46,929		46,929
11					
12	2,942		94,290		94,290
13	1,940		74,574		74,574
14	37,063		1,395,816		1,395,816
15	21,348		844,567		844,567
16	14,030		329,007		329,007
17	18,580		639,100		639,100
18	9,475		299,860		299,860
19	50		1,700		1,700
20	2,332		98,718		98,718
21	3,510		111,852		111,852

-	-	-	-	-
813,649	10,149,084	23,752,604	-	33,901,688
2,543	-	78,539	-	78,539
111,270	-	3,889,484	-	3,889,484
927,462	10,149,084	27,720,627	-	37,869,711

RUS Form 12b PP  
 Operating Report  
 Purchased Power

02/28/09  
 Page 1

Purch No	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KYD065			
2						
3	Southern Illinois Power Coop	OS	IL0050			
4						
5	Cargill-Alliant	OS				
6	Eagle Energy Partners	OS				
7	LG&E Energy Marketing	RQ				
8	Reliant Energy Services, Inc	SF				
9	Southeastern Power Admin	LF				
10	Southern Company Services	OS				
11	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				0	0	0
Grand Total				0	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

02/28/09  
 Page 2

Purch No.	Electricity Purchased (g)	Power Exchanges Electricity Received (h)	Power Exchanges Electricity Delivered (i)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (l)	Revenue Total (j+k+l)
1	672				36,960		36,960
2							
3	70,800				3,840,900		3,840,900
4							
5	20				1,200		1,200
6	65				3,530		3,530
7	779,734				15,936,714		15,936,714
8	361				198,549		198,549
9	83,177				1,575,727		1,575,727
10	119				7,238		7,238
11	125				6,667		6,667

672	-	-	-	36,960	-	36,960
70,800	-	-	-	3,840,900	-	3,840,900
863,601	-	-	-	17,729,625	-	17,729,625
935,073	-	-	-	21,607,485	-	21,607,485

**RUS Form 12c**  
**Operating Report**  
**Sources and Distribution of Energy**

02/28/09

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
<b>PURCHASED POWER</b>				
8 Total Purchased Power			935,073	21,607,485
<b>INTERCHANGED POWER</b>				
9 Received into System				
10 Delivered Out of System				
11 Net interchange				
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			935,073	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			927,462	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			927,462	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			7,611	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			0.8%	

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

02/28/09

SECTION A. EXPENSE AND COSTS							
ITEM			Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>							
1	Supervision and Engineering		560	65,826	57,524		
2	Load Dispatching		561	192,925			
3	Station Expenses		562		167,147		
4	Overhead Line Expenses		563	177,882			
5	Underground Line Expenses		564				
6	Miscellaneous Expenses		566	39,038	31,036		
7	<b>SUBTOTAL (1 thru 6)</b>			475,671	255,707		
8	Transmission of Electricity by Others		565	426,071			
9	Rents		567		4,117		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			901,742	259,824		
<b>TRANSMISSION MAINTENANCE</b>							
11	Supervision and Engineering		568	43,459	49,976		
12	Structures		569		89		
13	Station Equipment		570		244,578		
14	Overhead Lines		571	390,700			
15	Underground Lines		572				
16	Miscellaneous Transmission Plant		573	4,695	3,962		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			438,854	298,605		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			1,340,596	558,429		
19	Distribution Expense - Operation		580-589				
20	Distribution Expense - Maintenance		590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>						
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			1,340,596	558,429		
<b>FIXED COSTS</b>							
23	Depreciation - Transmission		403.5	413,887	470,877		
24	Depreciation - Distribution		403.6				
25	Interest - Transmission		427	710,971	912,313		
26	Interest - Distribution		427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			2,465,454	1,941,619		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-		
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			2,465,454	1,941,619		
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OF EMPLOYEES 55		
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	69 KV	826.51	13 Distr Lines		2 Oper. Labor	282,641	151,335
2	345 KV	68.40					
3	138 KV	14.40	14. Total (12 + 13)	1,261.81	3 Maint Labor	321,519	234,200
4	161 KV	352.50					
5			15. Stepup at Generating Plants	1,879,800	4 Oper. Material	619,101	108,489
6							
7			16. Transmission	3,540,000	5 Maint Material	117,335	64,405
8							
9			17. Distribution		<b>SECTION D. OUTAGES</b>		
10							
11			18. Total (15 thru 17)	5,419,800	1. TOTAL		
12	TOTAL ( 1 thru 11)	1,261.81			2. Avg. No. Dist. Cons. Served		
					3. Avg No. Hours Out Per Cons.		



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0932. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0002

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
January, 2009

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717B-3.

BORROWER NAME:

This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

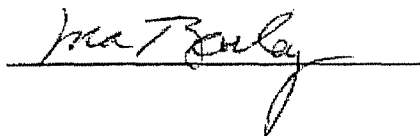
**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

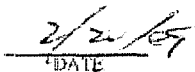
**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**

*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.



  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0652		
OPERATING REPORT - FINANCIAL		PERIOD ENDED January, 2009		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	17,007,386	19,635,464	19,459,556	19,038,464
2. Income From Leased Property (Net)	2,554,294	2,557,615	2,516,592	2,557,615
3. Other Operating Revenue and Income	613,806	1,290,971	1,287,743	1,290,971
4. <b>TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	20,175,486	23,484,050	23,263,891	23,484,050
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	9,636,621	12,139,064	12,772,511	12,139,064
8. Operating Expense - Transmission	580,308	579,953	605,525	579,953
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	52,301	49,588	63,446	49,588
12. Operating Expense - Sales	46,825	(353)	53,457	(353)
13. Operating Expense - Administrative & General	1,115,204	1,438,186	1,271,372	1,498,186
14. <b>TOTAL OPERATION EXPENSE (5 thru 13)</b>	11,431,269	14,266,436	14,766,314	14,266,436
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	303,338	331,572	464,498	331,572
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	162,536	11,696	26,707	11,696
19. <b>TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	465,874	343,268	491,205	343,268
20. Depreciation and Amortization Expense	425,196	466,891	471,689	466,891
21. Taxes	92,777	92,161	92,161	92,161
22. Interest on Long-Term Debt	6,274,584	6,973,510	6,136,100	6,973,510
23. Interest Charged to Construction - Credit	(63,283)	(13,855)	(43,890)	(13,895)
24. Other Interest Expense	1,297	137	600	137
25. Asset Retirement Obligations				
26. Other Deductions	(240,300)	342,263	364,980	342,263
27. <b>TOTAL COST OF ELECTRIC SERVICE (14 - 19 thru 26)</b>	18,387,408	21,470,771	22,339,059	21,470,771
28. <b>OPERATING MARGINS (4 less 27)</b>	1,988,178	2,213,479	924,832	2,213,479
29. Interest Income	1,588,159	15,724	37,329	15,724
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends				
35. Extraordinary Items				
36. <b>NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	3,576,337	2,229,203	971,161	2,229,203



UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0862

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED January, 2008

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717R-3

This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential

**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,783,190,962	32. Memberships	75
2. Construction Work in Progress	9,489,266	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,792,680,268	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	881,759,274	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	910,920,834	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(256,863,074)
8. Invest. in Assoc. Org. - Patronage Capital	3,384,731	35. Operating Margin - Current Year	2,213,479
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,822,640
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,802
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 + 33d thru 37)</b>	(152,372,375)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	821,224,051
13. Special Funds	510,560	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,595,618	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	4,930	42. Long-Term Debt - Other (Net)	157,115,528
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	570,867	44. Payments - Unapplied	
18. Temporary Investments	26,010,654	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	878,349,579
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	21,514,787	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,307,467
21. Accounts Receivable - Other (Net)	1,922,952	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 - 47)</b>	7,307,467
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	759,252	50. Accounts Payable	15,301,758
24. Prepayments	4,712,978	51. Current Maturities Long-Term Debt	52,273,494
25. Other Current and Accrued Assets	49,661	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	55,546,091	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	730,707	54. Taxes Accrued	635,743
28. Regulatory Assets		55. Interest Accrued	4,345,272
29. Other Deferred Debits	91,504,825	56. Other Current and Accrued Liabilities	2,295,428
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	74,551,725
31. <b>TOTAL ASSETS AND OTHER DEBITS (5 - 14 - 26 thru 30)</b>	1,063,298,075	58. Deferred Credits	155,461,632
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,063,298,075

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

*INSTRUCTIONS - See RUS Bulletin 1717B-3*

BORROWER DESIGNATION

KY0062

PERIOD ENDED

January, 2009

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**01/31/09  
Page1**

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	153	165	146
3	Meade County Rural ECC	RQ	KY0018	133	137	126
4	Kenergy Corporation	RQ	KY0065	412	423	396
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	Oglethorpe Power	OS	GA0109			
10						
11	Cargill-Alliant	OS				
12	Constellation Power Source	OS				
13	Eagle Energy Partners	OS				
14	LG&E Energy Marketing	OS				
15	Midwest Independent Trans.	OS				
16	PJM Interconnection	OS				
17	Southern Company Services	OS				
18	Tenaska Power Services	OS				
19	Tennessee Valley Authority	OS				
20	The Energy Authority	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			698	725	668
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			698	725	668

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**01/31/09  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (l)	Revenue Other (j)	Revenue (h+l+j+k)	Total
1						
2	63,483	1,137,135	1,285,706			2,422,841
3	52,795	976,856	1,077,042			2,053,898
4	186,607	3,421,666	3,327,821			6,749,487
5	622		29,817			29,817
6	139,749		7,062,380			7,062,380
7						
8	115		3,840			3,840
9	330		15,120			15,120
10						
11	1,630		58,860			58,860
12	1,570		64,374			64,374
13	15,110		573,807			573,807
14	1,089		42,914			42,914
15	5,655		180,486			180,486
16	12,028		403,402			403,402
17	3,325		104,635			104,635
18	50		1,700			1,700
19	489		22,434			22,434
20	1,441		45,469			45,469

	-	-	-	-	-
	443,256	5,535,657	12,782,766	-	18,318,423
	445	-	18,960	-	18,960
	42,387	-	1,498,081	-	1,498,081
	486,088	5,535,657	14,299,807	-	19,835,464

RUS Form 12b PP  
 Operating Report  
 Purchased Power

01/31/09  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Southern Illinois Power Coop	OS	ILD050			
2						
3	Eagle Energy Partners	OS				
4	LG&E Energy Marketing	RQ				
5	Reliant Energy Services, Inc	SF				
6	Southeastern Power Admin	LF		178		
7	Southern Company Services	OS				
8	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				178	0	0
Grand Total				178	0	0

RUS Form 12b PP  
 Operating Report  
 Purchased Power

01/31/09  
 Page 2

Purch No.	Electricity Purchased (g)	Power Exchanges Electricity Received (h)	Power Exchanges Electricity Delivered (i)	Revenue Demand (j)	Revenue Energy (k)	Revenue Other (l)	Revenue Total (j+k+l)
1	37,200				2,018,100		2,018,100
2							
3	65				3,530		3,530
4	402,857				8,268,639		8,268,639
5	246				103,384		103,384
6	48,689			260,937	616,890		877,827
7	119				7,238		7,238
8	125				6,667		6,667

	-	-	-	-	-	-	-
	37,200	-	-	-	2,018,100	-	2,018,100
	452,101	-	-	260,937	9,006,348	-	9,267,285
	489,301	-	-	260,937	11,024,448	-	11,285,385

RUS Form 12c  
Operating Report  
Sources and Distribution of Energy

01/31/09

Sources of Energy	(a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>					
1 Fossil Steam					
2 Nuclear					
3 Hydro					
4 Combined Cycle					
5 Internal Combustion					
6 Other					
7 TOTAL In Own Plant (Sum of lines 1 thru 6)					
<b>PURCHASED POWER</b>					
8 Total Purchased Power				489,301	11,285,385
<b>INTERCHANGED POWER</b>					
9 Received into System					
10 Delivered Out of System					
11 Net Interchange					
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>					
12 Received into System					
13 Delivered Out of System					
14 Net Energy Wheeling					
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)				489,301	
<b>DISTRIBUTION OF ENERGY</b>					
16 TOTAL Sales				485,088	
17 Energy Furnished to Others Without Charge					
18 Energy Used by Borrower					
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)				485,088	
<b>LOSSES</b>					
20 Energy Losses - MWh (Line 15 minus 19)				3,213	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)				0.65	

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

01/31/09

SECTION A. EXPENSE AND COSTS							
ITEM			Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>							
1	Supervision and Engineering		560	35,783	29,915		
2	Load Dispatching		561	98,824			
3	Station Expenses		562		72,281		
4	Overhead Line Expenses		563	85,929			
5	Underground Line Expenses		564				
6	Miscellaneous Expenses		565	23,184	17,711		
7	<b>SUBTOTAL (1 thru 6)</b>			243,720	119,907		
8	Transmission of Electricity by Others		565	214,256			
9	Rents		567		2,058		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>			457,956	121,965		
<b>TRANSMISSION MAINTENANCE</b>							
11	Supervision and Engineering		568	24,349	27,660		
12	Structures		569		89		
13	Station Equipment		570		141,837		
14	Overhead Lines		571	134,021			
15	Underground Lines		572				
16	Miscellaneous Transmission Plant		573	2,251	1,365		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>			160,621	170,951		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>			618,607	292,916		
19	Distribution Expense - Operation		580-589				
20	Distribution Expense - Maintenance		590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>						
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>			618,607	292,916		
<b>FIXED COSTS</b>							
23	Depreciation - Transmission		403.5	206,661	235,439		
24	Depreciation - Distribution		403.6				
25	Interest - Transmission		427	365,664	468,833		
26	Interest - Distribution		427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>			1,190,932	997,188		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			-	-		
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>			1,190,932	997,188		
<b>SECTION B. FACILITIES IN SERVICE</b>				<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>			<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES	55	
	VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	69 KV	826.51	13. Distr Lines		2 Oper Labor	151,118	73,454
2	345 KV	68.40					
3	138 KV	14.40	14. Total (12 + 13)	1,261.81	3 Maint Labor	136,130	140,135
4	161 KV	352.50					
5			15. Stepup at	1,879,800	4 Oper Material	305,668	48,511
6			Generating Plants				
7			16. Transmission	3,540,000	5 Maint. Material	24,491	30,816
8							
9			17. Distribution		<b>SECTION D. OUTAGES</b>		
10					1. TOTAL		
11			18. Total		2. Avg. No. Dist. Cons. Served		
12	TOTAL ( 1 thru 11)	1,261.81	(15 thru 17)	5,419,800	3. Avg. No. Hours Out Per Cons.		





According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
December, 2008

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically.  
For detailed instructions, see RUS Bulletin 1717B-3.

BORROWER NAME

This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
(check one of the following)

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. T. Bailey

3/27/09  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
	PERIOD ENDED December, 2008
<b>OPERATING REPORT - FINANCIAL</b>	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. Detailed instructions, see RUS Bulletin 1717B-3.	<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential</i>

**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	261,892,197	204,519,279	188,244,374	17,232,698
2. Income From Leased Property (Net)	29,588,017	29,347,945	29,353,161	2,425,785
3. Other Operating Revenue and Income	9,713,360	10,239,393	9,577,770	890,438
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>301,193,574</b>	<b>244,106,617</b>	<b>227,175,305</b>	<b>20,548,921</b>
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	167,963,322	112,760,848	106,913,867	9,731,103
8. Operating Expense - Transmission	9,373,779	7,222,057	6,977,733	645,893
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	672,261	697,008	758,793	69,973
12. Operating Expense - Sales	605,174	723,821	800,335	208,732
13. Operating Expense - Administrative & General	14,195,360	17,477,145	14,192,510	1,855,798
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>192,809,896</b>	<b>138,880,879</b>	<b>129,643,238</b>	<b>12,511,499</b>
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	3,780,891	4,002,384	4,005,071	652,044
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	415,681	208,636	395,110	13,192
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>4,196,572</b>	<b>4,211,020</b>	<b>4,400,181</b>	<b>665,236</b>
20. Depreciation and Amortization Expense	5,067,903	5,303,401	5,402,203	601,007
21. Taxes	1,085,598	1,071,941	1,113,323	48,045
22. Interest on Long-Term Debt	74,115,114	75,192,513	73,704,107	6,010,540
23. Interest Charged to Construction - Credit	(391,428)	(492,404)	(793,880)	(12,293)
24. Other Interest Expense	27,209	7,798	16,920	341
25. Asset Retirement Obligations				
26. Other Deductions	(2,797,156)	4,870,100	(2,650,567)	6,271,719
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>274,113,708</b>	<b>229,045,248</b>	<b>210,835,525</b>	<b>26,096,094</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>27,079,866</b>	<b>15,061,369</b>	<b>16,339,780</b>	<b>(5,547,173)</b>
29. Interest Income	19,310,948	11,962,932	19,252,298	35,322
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	786,063	791,430	778,506	
35. Extraordinary Items				
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>47,176,877</b>	<b>27,815,731</b>	<b>36,370,584</b>	<b>(5,511,851)</b>

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

PERIOD ENDED December, 2008

**OPERATING REPORT - FINANCIAL**

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically.  
or detailed instructions, see RUS Bulletin 1717B-3.

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**SECTION B. BALANCE SHEET**

ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,783,587,001	32. Memberships	75
2. Construction Work in Progress	8,185,240	33. Patronage Capital	
3. <b>TOTAL UTILITY PLANT (1 + 2)</b>	1,791,772,241	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	879,073,595	b Retired This year	
5. <b>NET UTILITY PLANT (3 - 4)</b>	912,698,646	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(272,715,872)
8. Invest. in Assoc. Org. - Patronage Capital	3,384,731	35. Operating Margin - Current Year	15,852,799
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,816,916
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. <b>TOTAL MARGINS &amp; EQUITIES (32 + 33d thru 37)</b>	(154,601,580)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	830,181,689
13. Special Funds	510,213	40. Long-Term Debt - FFB - RUS Guaranteed	
14. <b>TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)</b>	4,595,271	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	6,193	42. Long-Term Debt - Other (Net)	157,166,941
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	570,634	44. Payments - Unapplied	
18. Temporary Investments	38,423,957	45. <b>TOTAL LONG-TERM DEBT (39 thru 43 - 44)</b>	987,348,630
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	18,640,706	47. Accumulated Operating Provisions and Asset Retirement Obligations	7,297,421
21. Accounts Receivable - Other (Net)	1,823,032	48. <b>TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)</b>	7,297,421
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	756,008	50. Accounts Payable	15,167,553
24. Prepayments	4,291,457	51. Current Maturities Long-Term Debt	51,771,143
25. Other Current and Accrued Assets	4,555	52. Current Maturities Long-Term Debt - Rural Development	
26. <b>TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)</b>	64,516,542	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	735,247	54. Taxes Accrued	1,022,543
28. Regulatory Assets		55. Interest Accrued	8,018,660
29. Other Deferred Debits	91,890,501	56. Other Current and Accrued Liabilities	2,111,339
30. Accumulated Deferred Income Taxes		57. <b>TOTAL CURRENT &amp; ACCRUED LIABILITIES (49 thru 56)</b>	78,091,238
31. <b>TOTAL ASSETS AND OTHER DEBITS (5+14+26 thru 30)</b>	1,074,436,207	58. Deferred Credits	156,300,498
		59. Accumulated Deferred Income Taxes	
		60. <b>TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)</b>	1,074,436,207

## FINANCIAL AND STATISTICAL REPORT

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

INSTRUCTIONS - See RUS Bulletin 1717B-3

## SECTION C. Notes to Financial Statements

## Footnote to RUS Form 12a

Depreciation and Amortization Expense on Leased Property (included in Statement of Operations Line 2):

2008	2007
\$27,402,584	\$27,195,960

Financial Ratios:	2008	2007
TIER	1.37	1.64
DISC	1.17	2.04

## Footnote to RUS Form 12b

Kenergy "LF" Contract termination date is March 31, 2011.

USDA-RUS

## OPERATING REPORT

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

## OPERATING REPORT SALES OF ELECTRICITY

Sale No.	Name Of Company or Public Authority (a)	Statistical Classification (b)	RUS Borrower Designation (c)	Average Monthly Billing Demand (MW) (d)	Actual Average Monthly NCP Demand (e)	Actual Average Monthly CP Demand (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	131	143	124
3	Meade County Rural E C C (KY0018)	RQ	KY0018	91	95	89
4	Kenergy Corporation (KY0065)	RQ	KY0065	354	367	355
5	Kenergy Corporation (KY0065)	IF	KY0065			
6	Kenergy Corporation (KY0065)	LF	KY0065			
7	Associated Electric Coop, Inc	OS	MO0073			
8	East Kentucky Power Coop, Inc	OS	KY0059			
9	Oglethorpe Power Corporation	OS	GA0109			
10	Alabama Electric Coop, Inc (AL0042)	OS	AL0042			
11	Cargill-Alliant LLC	OS				
12	Constellation Power Source Inc	OS				
13	Eagle Energy Partners	OS				
14	LG&E Energy Marketing, Inc	OS				
15	Louisville Gas & Electric Co	OS				
16	Midwest Independent Transmission	OS				
17	Morgan Stanley Capital Grp Inc	OS				
18	PJM Interconnection (PA)	OS				
19	Southern Company Services	OS				
20	Tenaska Power Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				
	Total for Ultimate Consumer(s)					
	Total for Distribution Borrowers			576	605	568
	Total for G&T Borrowers			0	0	0
	Total for Other			0	0	0
	Grand Total			576	605	568

USDA-RUS

## OPERATING REPORT

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

## OPERATING REPORT SALES OF ELECTRICITY

Sale No	Electricity Sold (MWh) (g)	Revenue Demand Charges (h)	Revenue Energy Charges (i)	Revenue Other Charges (j)	Revenue Total (h + i + j) (k)
1					
2	711,876	11,233,347	14,389,354		25,622,701
3	476,340	7,659,568	9,717,416		17,376,984
4	2,124,493	34,229,569	37,284,263		71,513,832
5	19,149		983,387		983,387
6	1,070,409		51,368,773		51,368,773
7	2,394		153,135		153,135
8	5,790		372,612		372,612
9	20,246		1,082,680		1,082,680
10	3,765		141,950		141,950
11	87,077		4,315,491		4,315,491
12	75,569		3,810,312		3,810,312
13	100,755		5,051,631		5,051,631
14	104,373		5,556,957		5,556,957
15	166		14,668		14,668
16	111,756		5,773,181		5,773,181
17	7,050		287,325		287,325
18	79,706		3,474,699		3,474,699
19	104,903		4,775,215		4,775,215
20	227		9,905		9,905
21	34,095		2,021,357		2,021,357
22	17,247		812,484		812,484
	4,402,267	53,122,484	113,743,193	0	166,865,677
	32,195	0	1,750,377	0	1,750,377
	722,924	0	35,903,225	0	35,903,225
	5,157,386	53,122,484	151,396,795	0	204,519,279

USDA-RUS

**OPERATING REPORT**

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

**OPERATING REPORT SALES OF ELECTRICITY**

Sale No	Comments
1	
2	
3	
4	
5	
6	
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9	
10	
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12	
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17	
18	
19	
20	
21	
22	



USDA-RUS

## OPERATING REPORT

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

## OPERATING REPORT PURCHASED POWER

Purchase No.	Name Of Company or Public Authority (a)	Statistical Classification (b)	RUS Borrower Designation (c)	Average Monthly Billing Demand (MW) (d)	Actual Average Monthly NCP Demand (e)	Actual Average Monthly CP Demand (f)
1	Kenergy Corporation (KY0065)	SF	KY0065			
2	Southern Illinois Power Coop (IL0050)	OS	IL0050			
3	Cargill-Alliant LLC	OS				
4	Constellation Energy Commodities Group	OS				
5	Eagle Energy Partners	OS				
6	Fortis Financial Services, LLC (NJ)	OS				
7	LG&E Energy Marketing, Inc	RQ				
8	Midwest Independent Transmission System Operator (IN)	OS				
9	Reliant Energy Services, Inc	SF				
10	Southeastern Power Admin	LF				
11	Southern Company Services	OS				
12	Tenaska Power Services	OS				
13	The Energy Authority	OS				
	Total for Distribution Borrowers			0	0	0
	Total for G&T Borrowers			0	0	0
	Total for Other			0	0	0
	Grand Total			0	0	0

USDA-RUS

**OPERATING REPORT**

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

**OPERATING REPORT PURCHASED POWER**

Purchase No	Electricity Purchased (MWh) (g)	Electricity Received (MWh) (h)	Electricity Delivered (MWh) (i)	Demand Charges (j)	Energy Charges (k)	Other Charges (l)	Total (j + k + l) (m)
1	8,785				483,175		483,175
2	20,401				999,649		999,649
3	2,437				170,880		170,880
4	225				20,025		20,025
5	85				4,755		4,755
6	(25)				(946)		(946)
7	4,934,677				99,699,753		99,699,753
8	571				41,325		41,325
9	8,845				1,750,803		1,750,803
10	235,464				5,935,798		5,935,798
11	195				11,264		11,264
12	52				3,120		3,120
13	77				4,630		4,630
	8,785	0	0	0	483,175	0	483,175
	20,401	0	0	0	999,649	0	999,649
	5,182,603	0	0	0	107,641,407	0	107,641,407
	5,211,789	0	0	0	109,124,231	0	109,124,231

USDA-RUS

**OPERATING REPORT**

INSTRUCTIONS - See RUS Bulletin 1717B-3

BORROWER DESIGNATION

KY0062

PERIOD ENDED

December, 2008

**OPERATING REPORT PURCHASED POWER**

Purchase No	Comments
1	
2	
3	
4	
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6	
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9	
10	
11	
12	
13	

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION		
OPERATING REPORT SOURCES AND DISTRIBUTION OF ENERGY		KY0062		
		PERIOD ENDED December, 2008		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717B-3.		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.		
SOURCES OF ENERGY (a)	NO. OF PLANTS (b)	NAMEPLATE CAPACITY (kW) (c)	NET ENERGY RECEIVED BY SYSTEM (MWh) (d)	COST (\$) (e)
GENERATED IN OWN PLANT (Details on Forms 12d, e, f, and g)				
1. Fossil Steam	0	0	0	0
2. Nuclear	0	0	0	0
3. Hydro	0	0	0	0
4. Combined Cycle	0	0	0	0
5. Internal Combustion	0	0	0	0
6. Other	0	0	0	0
7. TOTAL in Own Plant (Sum of lines 1 thru 6)	0	0	0	0
PURCHASED POWER			5,211,789	109,124,231
8. TOTAL PURCHASED POWER				
INTERCHANGED POWER			0	0
9. Received Into System (Gross)				
10. Delivered Out of System (Gross)			0	0
11. Net Interchange (Line 9 minus 10)			0	0
TRANSMISSION FOR OR BY OTHERS - (WHEELING)			2,731,203	10,021,553
12. Received Into System				
13. Delivered Out of System			2,731,203	10,021,553
14. Net Energy Wheeled (Line 12 minus 13)			0	0
15. TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			5,211,789	
DISTRIBUTION OF ENERGY				
16. TOTAL Sales			5,157,386	
17. Energy Furnished to Others Without Charge			0	
18. Energy Used by Borrower (Excluding Station Use)			0	
19. TOTAL Energy Accounted For (Sum of lines 16 thru 18)			5,157,386	
LOSSES			54,403	
20. Energy Losses - MWh (Line 15 minus 19)				
21. Energy Losses - Percentage ((Line 20 divided by line 15) * 100)			1.04%	

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
	PERIOD ENDED December, 2008
OPERATING REPORT - ANNUAL SUPPLEMENT	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see Bulletin 1717B-3	<i>This data will be used to determine your financial situation. Your response is required (7 U.S.C. 901 et seq.) and may be confidential.</i>

**SECTION A. UTILITY PLANT**

ITEM	BALANCE BEGINNING OF YEAR (a)	ADDITIONS (b)	RETIREMENTS (c)	ADJUSTMENTS AND TRANSFERS (d)	BALANCE END OF YEAR (e)
1. Total Intangible Plant (301 thru 303)	66,895				66,895
2. Total Steam Production Plant (310 thru 317)	0				0
3. Total Nuclear Production Plant (320 thru 326)	0				0
4. Total Hydro Production Plant (330 thru 337)	0				0
5. Total Other Production Plant (340 thru 347)	47,500	428,468		(475,968)	0
6. Total Production Plant (2 thru 5)	47,500	428,468		(475,968)	0
7. Land and Land Rights (350)	12,659,644	435,850			13,095,494
8. Structures and Improvements (352)	6,495,974	40,667			6,536,641
9. Station Equipment (353)	107,737,500	227,957	43,008		107,922,449
10. Other Transmission Plant (354 thru 359.1)	82,654,324	1,709,267	247,325		84,116,266
11. Total Transmission Plant (7 thru 10)	209,547,442	2,413,741	290,333		211,670,850
12. Land and Land Rights (360)	0				0
13. Structures and Improvements (361)	0				0
14. Station Equipment (362)	0				0
15. Other Distribution Plant (363 thru 374)	0				0
16. Total Distribution Plant (12 thru 15)	0				0
17. Total General Plant (389 thru 399.1)	15,771,829	1,774,022	305,510		17,240,341
18. Electric Plant in Service (1 + 6 + 11 + 16 + 17)	225,433,666	4,616,231	595,843	(475,968)	228,978,086
19. Electric Plant Purchased or Sold (102)	0				0
20. Electric Plant Leased to Others (104)	1,524,420,559	16,978,572	6,395,426		1,535,003,705
21. Electric Plant Held for Future Use (105)	0			475,968	475,968
22. Completed Construction Not Classified (106)	0	19,129,242			19,129,242
23. Acquisition Adjustments (114)	0				0
24. Other Utility Plant (118)	0				0
25. Nuclear Fuel Assemblies (120.1 thru 120.4)	0				0
26. Total Utility Plant in Service (18 thru 25)	1,749,854,225	40,724,045	6,991,269	0	1,783,587,001
27. Construction Work in Progress (107)	15,069,982	(6,884,742)			8,185,240
28. Total Utility Plant (26 + 27)	1,764,924,207	33,839,303	6,991,269	0	1,791,772,241

**SECTION B. ACCUMULATED PROVISION FOR DEPRECIATION AND AMORTIZATION - UTILITY PLANT**

ITEM	COMP. RATE (%) (a)	BALANCE BEGINNING OF YEAR (b)	ANNUAL ACCRUALS (c)	RETIREMENTS LESS NET SALVAGE (d)	ADJUSTMENTS AND TRANSFERS (e)	BALANCE END OF YEAR (f)
1. Depr. of Steam Prod. Plant (108.1)	1.78	731,385,756	25,594,337	5,956,308	205,188	751,228,973
2. Depr. of Nuclear Prod. Plant (108.2)		0				0
3. Depr. of Hydraulic Prod. Plant (108.3)		0				0
4. Depr. of Other Prod. Plant (108.4)	2.40	5,039,084	189,857			5,228,941
5. Depr. of Transmission Plant (108.5)	2.45	94,480,769	5,018,270	535,859		98,963,180
6. Depr. of Distribution Plant (108.6)		0				0
7. Depr. of General Plant (108.7)		5,749,499	419,198	297,174		5,871,523
8. Retirement Work in Progress (108.8)		(101,052)		33,046		(134,098)
9. Total Depr. for Elec. Plant in Serv. (1-8)		836,554,056			205,188	861,158,519
10. Depr. of Plant Leased to Others (109)		0				0
11. Depr. of Plant Held for Future Use (110)		0				0
12. Amort. of Elec. Plant in Service (111)	1.86	16,735,804	1,618,390	439,118		17,915,076
13. Amort. of Leased Plant (112)		0				0
14. Amort. of Plant Held for Future Use		0				0
15. Amort. of Acquisition Adj. (115)		0				0
16. Depr. & Amort. Other Plant (119)		0				0
17. Amort. of Nuclear Fuel (120.5)		0				0
18. Total Prov. for Depr. & Amort. (9 - 17)		853,289,860	32,840,052	7,261,505	205,188	879,073,595

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE  OPERATING REPORT - ANNUAL SUPPLEMENT	BORROWER DESIGNATION KY0062
	PERIOD ENDED December, 2008
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see Bulletin 1717B-3	<i>This data will be used to determine your financial situation. Your response is required (7 U.S.C 901 et seq.) and may be confidential.</i>

SECTION B. ACCUMULATED PROVISION FOR DEPRECIATION AND AMORTIZATION - UTILITY PLANT (Continued)					
19. Amount of Annual Accrual Charged to Expense	20. Amount of Annual Accrual Charged to Other	21. Book Cost of Property Retired			
\$ 32,705,985	Accounts \$ 134,067	\$ 6,991,269			
22. Removal Cost of Property Retired	23. Salvage Material from Property Retired	24. Renewal and Replacement Cost			
\$ 278,571	\$ 8,335	\$ 9,028,470			

SECTION C. NONUTILITY PLANT					
ITEM	BALANCE BEGINNING OF YEAR (a)	ADDITIONS (b)	RETIREMENTS (c)	ADJUSTMENTS AND TRANSFERS (d)	BALANCE END OF YEAR (e)
1. NONUTILITY PROPERTY (121)					
2. PROVISION FOR DEPR. & AMORT. (122)					

SECTION D. DEMAND AND ENERGY AT POWER SOURCES					
MONTH	PEAK DEMAND (MW) (a)	MONTHLY PEAKS			ENERGY OUTPUT (MWh) (e)
		DATE (b)	TIME (c)	TYPE OF READING (d)	
1. JANUARY	716	01/21/2008	10	Coincident	450,578
2. FEBRUARY	705	02/11/2008	6	Coincident	424,506
3. MARCH	729	03/18/2008	11	Coincident	464,347
4. APRIL	681	04/12/2008	17	Coincident	454,614
5. MAY	678	05/16/2008	7	Coincident	435,524
6. JUNE	651	06/06/2008	21	Coincident	420,588
7. JULY	644	07/25/2008	17	Coincident	431,431
8. AUGUST	675	08/02/2008	2	Coincident	446,025
9. SEPTEMBER	637	09/13/2008	11	Coincident	405,965
10. OCTOBER	653	10/30/2008	7	Coincident	413,930
11. NOVEMBER	644	11/10/2008	6	Coincident	410,896
12. DECEMBER	735	12/22/2008	8	Coincident	453,385
13. ANNUAL PEAK	735			ANNUAL TOTAL	5,211,789

SECTION E. DEMAND AND ENERGY AT DELIVERY POINTS						
MONTH	DELIVERED TO RUS BORROWERS		DELIVERED TO OTHERS		TOTAL DELIVERED	
	DEMAND (MW) (a)	ENERGY (MWh) (b)	DEMAND (MW) (c)	ENERGY (MWh) (d)	DEMAND (MW) (e)	ENERGY (MWh) (f)
1. JANUARY	877	399,134	752	46,667	1,629	445,801
2. FEBRUARY	811	364,780	779	55,490	1,590	420,270
3. MARCH	903	362,869	960	96,581	1,863	459,450
4. APRIL	994	324,358	1,390	124,859	2,384	449,217
5. MAY	883	321,773	1,477	108,797	2,360	430,570
6. JUNE	880	369,401	1,371	46,778	2,251	416,179
7. JULY	867	401,678	782	25,457	1,649	427,135
8. AUGUST	855	395,869	820	45,769	1,675	441,638
9. SEPTEMBER	726	357,415	273	44,341	999	401,756
10. OCTOBER	720	351,401	633	58,046	1,353	409,447
11. NOVEMBER	691	365,426	528	41,158	1,219	406,584
12. DECEMBER	807	420,358	250	28,981	1,057	449,339
13. PEAK OR TOTAL	994	4,434,462	1,477	722,924	2,384	5,157,386

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## SECTION F: Part I. INVESTMENTS

No	DESCRIPTION (a)	INCLUDED (\$) (b)	EXCLUDED (\$) (c)	INCOME OR LOSS (\$) (d)	RURAL DEVELOPMENT (e)
<b>2</b>	<b>Investments in Associated Organizations</b>				
	United Utility Supply Capital	31,773			
	KY Assn for Electric Coops Capital Credit	14,068			
	Jackson Purchase Capital Credit		3,554		
	Kenergy Capital Credit		15,906		
	Meade County Capital Credit		661		
	Rural Cooperatives Credit Union Deposit	5			
	Touchtone Energy (NRECA) Capital Credit	1,742			
	CoBank Capital Credit		3,290,203		
	NRUCFC		2,039		
	Cooperative Membership Fees	2,280			
	ACES Power Marketing Membership Fees	678,000			
	Federated Rural Electrical Insurance Exchange	4,713	24,780		
	Totals	732,581	3,337,143		
<b>3</b>	<b>Investments in Economic Development Projects</b>				
	Breckenridge Co. Development Corp. Stock	5,000			X
	Hancock Co. Industrial Foundation Stock	5,000			X
	Totals	10,000			
<b>4</b>	<b>Other Investments</b>				
	Southern States Coop Capital Credit	5,334			
	Totals	5,334			
<b>5</b>	<b>Special Funds</b>				
	Other Special Funds-Deferred Compensation		37,364		
	Other Special Funds-RUS Counsel-Unwind	414,228			
	Other Special Funds-Maritime Communications Escrow		58,621		
	Totals	414,228	95,985		
<b>6</b>	<b>Cash - General</b>				
	General Fund		1,468		
	Right of Way Fund		1,000		
	Working Fund	3,725			
	Totals	3,725	2,468		
<b>7</b>	<b>Special Deposits</b>				
	TVA Transmission Reservation	570,634			
	Totals	570,634			
<b>8</b>	<b>Temporary Investments</b>				
	Fidelity-U.S. Treasury Only (#057)		38,423,957		
	Totals		38,423,957		
<b>9</b>	<b>Accounts and Notes Receivable - NET</b>				
	Accts Receivable-Employees-Other	978			
	Accts Receivable-Employees-Computer Assistance Program	12,591			
	Other Accts Receivable-Misc	36,775			
	Accts Receivable-WKE/Transmission	(5,032)			
	Accts Receivable-LG&E Lease	46,589			
	Accts Receivable-WKE Medical Prem	3,953			
	Accts Receivable-E.On-US-Unwind	1,271,020			
	Accts Receivable-Prop Taxes on Leased Assets	456,158			
	Totals	1,823,032			
<b>11</b>	<b>TOTAL INVESTMENTS (1 thru 10)</b>	<b>3,559,534</b>	<b>41,859,553</b>		

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**SECTION F: PART II. LOAN GUARANTEES**

No	ORGANIZATION (a)	MATURITY DATE (b)	ORIGINAL AMOUNT (\$) (c)	LOAN BALANCE (\$) (d)	RURAL DEVELOPMENT (e)
	Total				
	TOTAL (Included Loan Guarantees Only)				



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**SECTION F: Part III. RATIO**

RATIO OF INVESTMENTS AND LOAN GUARANTEES TO UTILITY PLANT

[Total Of Included Investments (Part I, 11b) and Loan Guarantees - Loan Balance (Part II, 5d) to Total Utility Plant (Form 12a, Section B, Line 3)]

.19 %

**SECTION F: PART IV. LOANS**

No	ORGANIZATION (a)	MATURITY DATE (b)	ORIGINAL AMOUNT (\$) (c)	LOAN BALANCE (\$) (d)	RURAL DEVELOPMENT (e)
Total					

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<b>OPERATING REPORT -          ANNUAL SUPPLEMENT</b>	PERIOD ENDED December, 2008
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see Bulletin 1717B-3.	<i>This data will be used to determine your financial situation. Your response is          required (7 U.S.C 90) et seq.) and may be confidential.</i>

**SECTION G. MATERIALS AND SUPPLIES INVENTORY**

ITEM	BALANCE BEGINNING OF YEAR (a)	PURCHASED & SALVAGED (b)	USED & SOLD (c)	BALANCE END OF YEAR (d)
1. Coal	0			8,060,650
2. Other Fuel	0			368,041
3. Production Plant Parts and Supplies	0			4,605,951
4. Station Transformers and Equipment	0			117,494
5. Line Materials and Supplies	768,193	380,915	393,100	570,025
6. Other Materials and Supplies	0			11,563
7. TOTAL (Sum of lines 1 thru 6)	768,193	380,915	393,100	13,733,724

RUS Form 12h

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## FINANCIAL AND STATISTICAL REPORT

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INSTRUCTIONS - See RUS Bulletin 1717B-3

## SECTION H. LONG-TERM DEBT AND DEBT SERVICE REQUIREMENTS

No	ITEM	BALANCE END OF YEAR (a)	INTEREST (Billed This Year) (b)	PRINCIPAL (Billed This Year) (c)	TOTAL (Billed This Year) (d)
1	RUS (Excludes RUS - Economic Development Loans)	868,981,797	48,142,496	40,247,233	88,389,729
2	National Rural Utilities Cooperative Finance Corporation				
3	Bank for Cooperatives				
4	Federal Financing Bank				
5	RUS - Economic Development Loans				
6	Payments Unapplied				
7	Ohio Co. Kentucky Bonds-Series 1983	58,800,000	3,108,006		3,108,006
8	Ohio Co. Kentucky Bonds-Series 2001A	83,300,000	6,943,425		6,943,425
9	Long Term Debt-Chapter 11 Settlements			45,000	45,000
10	LEM Settlement Promissory Note	15,657,976	1,276,575	545,739	1,822,314
11	Defeased S/L Lease Obligations		15,085,463	177,793,973	192,879,436
12	PMCC Promissory Note	12,380,000	263,075		263,075
	Total	1,039,119,773	74,819,040	218,631,945	293,450,985

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062	
<b>OPERATING REPORT - ANNUAL SUPPLEMENT</b>		PERIOD ENDED December, 2008	
		<i>This data will be used to determine your financial situation. Your response is required (7 U.S.C 901 et seq.) and may be confidential.</i>	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see Bulletin 1717B-3.			
<b>SECTION I. ANNUAL MEETING AND BOARD DATA</b>			
1. Date of Last Annual Meeting 9/18/2008	2. Total Number of Members 3	3. Number of Members Present at Meeting 3	4. Was Quorum Present? Yes
5. Number of Members Voting by Proxy or Mail 0	6. Total Number of Board Members 6	7. Total Amount of Fees and Expenses for Board Members \$ 198,621	8. Does Manager Have Written Contract? Yes
<b>SECTION J. MAN-HOUR AND PAYROLL STATISTICS</b>			
1. Number of Full Time Employees 114	4. Payroll Expensed 9,055,775		
2. Man-Hours Worked - Regular Time 209,163	5. Payroll Capitalized 472,015		
3. Man-Hours Worked - Overtime 12,133	6. Payroll Other 108,888		

RUS Form 12h

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**FINANCIAL AND STATISTICAL REPORT**

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**SECTION K. LONG-TERM LEASES**

No	NAME OF LESSER (a)	TYPE OF PROPERTY (b)	RENTAL THIS YEAR (c)
1	Louisvill Gas & Electric	Interconnect Facilities-Cloverport Sub	21,111
	Total		21,111

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
<b>OPERATING REPORT - LINES AND STATIONS</b>	PERIOD ENDED December, 2008
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**SECTION A. EXPENSE AND COSTS**

ITEM	ACCOUNT NUMBER	LINES (a)	STATIONS (b)
<b>TRANSMISSION OPERATION</b>			
1. Supervision and Engineering	560	405,355	354,413
2. Load Dispatching	561	1,325,296	
3. Station Expenses	562		942,853
4. Overhead Line Expenses	563	1,055,687	
5. Underground Line Expenses	564		
6. Miscellaneous Expenses	566	201,719	236,399
7. <b>SUBTOTAL (1 thru 6)</b>		2,988,057	1,533,665
8. Transmission of Electricity by Others	565	2,675,634	
9. Rents	567		24,701
10. <b>TOTAL TRANSMISSION OPERATION (7 thru 9)</b>		5,663,691	1,558,366
<b>TRANSMISSION MAINTENANCE</b>			
11. Supervision and Engineering	568	260,979	300,971
12. Structures	569		36,151
13. Station Equipment	570		1,627,050
14. Overhead Lines	571	1,689,253	
15. Underground Lines	572		
16. Miscellaneous Transmission Plant	573	34,403	53,577
17. <b>TOTAL TRANSMISSION MAINTENANCE (11 thru 16)</b>		1,984,635	2,017,749
18. <b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>		7,648,326	3,576,115
19. Distribution Expense - Operation	580-589		
20. Distribution Expense - Maintenance	590-598		
21. <b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>			
22. <b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>		7,648,326	3,576,115
<b>FIXED COSTS</b>			
23. Depreciation - Transmission	403.5	2,376,693	2,641,577
24. Depreciation - Distribution	403.6		
25. Interest - Transmission	427	3,766,123	4,552,050
26. Interest - Distribution	427		
27. <b>TOTAL TRANSMISSION (18 + 23 + 25)</b>		13,791,142	10,769,742
28. <b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>			
29. <b>TOTAL LINES AND STATIONS (27 + 28)</b>		13,791,142	10,769,742

**SECTION B. FACILITIES IN SERVICE**

**SECTION C. LABOR AND MATERIAL SUMMARY**

TRANSMISSION LINES				SUBSTATIONS		1. NUMBER OF EMPLOYEES		
VOLTAGE (kV)	MILES	TYPE	CAPACITY (kVA)	ITEM	LINES	STATIONS		
1. 69 KV	826.51	13. Distr. Lines		2. Oper. Labor	1,790,495	848,994		
2. 138 KV	14.40			3. Maint. Labor	946,338	1,403,526		
3. 161 KV	352.50	14. <b>TOTAL (12 + 13)</b>	1,261.81	4. Oper. Material	3,873,196	709,372		
4. 345 KV	68.40			5. Maint. Material	1,038,297	614,223		
5.		15. Stepup at Generating Plants	1,879,000	<b>SECTION D. OUTAGES</b>				
6.		16. Transmission	3,540,000	1. TOTAL		423,039.50		
7.				2. Avg. No. Dist. Cons. Served		111,694.00		
8.		17. Distribution		3. Avg. No. Hours Out Per Cons.		3.80		
9.								
10.								
11.		18. <b>TOTAL</b> (15 thru 17)	5,419,000					
12. <b>TOTAL (1 thru 11)</b>	1,261.81							



According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
<b>OPERATING REPORT - FINANCIAL</b>	PERIOD ENDED November, 2008
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically. For detailed instructions, see RUS Bulletin 1717B-3	BORROWER NAME Big Rivers Electric Corporation
<i>This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.</i>	

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**  
(check one of the following)

- All of the obligations under the RUS loan documents have been fulfilled in all material respects.
- There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. Bailey

12/22/08  
DATE



UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE	BORROWER DESIGNATION KY0062
	PERIOD ENDED November, 2008
<b>OPERATING REPORT - FINANCIAL</b>	
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**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	240,635,879	187,286,581	172,296,351	15,758,231
2. Income From Leased Property (Net)	27,002,389	26,922,161	26,959,596	2,396,737
3. Other Operating Revenue and Income	8,905,197	9,348,954	8,780,632	888,919
<b>4. TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	<b>276,543,265</b>	<b>223,557,696</b>	<b>207,036,579</b>	<b>19,043,887</b>
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	154,845,829	103,029,745	98,122,910	8,966,831
8. Operating Expense - Transmission	8,491,485	6,576,154	6,390,149	516,808
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	566,539	627,035	691,354	55,062
12. Operating Expense - Sales	508,777	515,089	753,562	62,129
13. Operating Expense - Administrative & General	12,158,717	15,621,346	13,128,818	1,116,610
<b>14. TOTAL OPERATION EXPENSE (5 thru 13)</b>	<b>176,571,347</b>	<b>126,369,379</b>	<b>119,086,793</b>	<b>10,717,440</b>
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	3,262,916	3,350,340	3,678,551	139,069
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	379,064	195,445	373,285	5,164
<b>19. TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	<b>3,661,980</b>	<b>3,545,785</b>	<b>4,051,836</b>	<b>144,233</b>
20. Depreciation and Amortization Expense	4,642,051	4,702,394	4,932,797	439,806
21. Taxes	989,648	1,023,897	1,020,547	92,777
22. Interest on Long-Term Debt	67,945,519	69,181,973	67,669,607	5,983,223
23. Interest Charged to Construction - Credit	(333,410)	(480,111)	(760,470)	(31,017)
24. Other Interest Expense	25,840	7,457	15,510	330
25. Asset Retirement Obligations				
26. Other Deductions	(2,559,827)	(1,401,620)	(2,425,999)	343,344
<b>27. TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	<b>250,943,148</b>	<b>202,949,154</b>	<b>193,590,621</b>	<b>17,690,136</b>
<b>28. OPERATING MARGINS (4 less 27)</b>	<b>25,600,117</b>	<b>20,608,542</b>	<b>13,445,958</b>	<b>1,353,751</b>
29. Interest Income	17,646,955	11,927,610	17,634,894	67,776
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	786,062	791,430	778,506	1,771
35. Extraordinary Items				
<b>36. NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	<b>44,033,134</b>	<b>33,327,582</b>	<b>31,859,358</b>	<b>1,423,298</b>

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062	
OPERATING REPORT - FINANCIAL		PERIOD ENDED November, 2008	
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3.		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.	
SECTION B. BALANCE SHEET			
ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS	
1. Total Utility Plant in Service	1,763,852,827	32. Memberships	75
2. Construction Work in Progress	24,939,129	33. Patronage Capital	
3. TOTAL UTILITY PLANT (1 + 2)	1,788,791,956	a Assigned and Assignable	
4. Accum. Provision for Depreciation and Amort.	877,406,098	b Retired This year	
5. NET UTILITY PLANT (3 - 4)	911,385,858	c Retired Prior years	
6. Non-Utility Property (Net)		d Net Patronage Capital	
7. Investments in Subsidiary Companies		34. Operating Margins - Prior Years	(264,435,083)
8. Invest. in Assoc. Org. - Patronage Capital	3,384,781	35. Operating Margin - Current Year	21,399,972
9. Invest. in Assoc. Org. - Other - General Funds	684,993	36. Non-Operating Margins	97,781,594
10. Invest. in Assoc. Org. - Other - Nongeneral Funds		37. Other Margins and Equities	4,444,502
11. Investments in Economic Development Projects	10,000	38. TOTAL MARGINS & EQUITIES (32 + 33d thru 37)	(140,806,940)
12. Other Investments	5,334	39. Long-Term Debt - RUS (Net)	828,691,308
13. Special Funds	497,103	40. Long-Term Debt - FFB - RUS Guaranteed	
14. TOTAL OTHER PROPERTY AND INVESTMENTS (6 thru 13)	4,582,211	41. Long-Term Debt - Other - RUS Guaranteed	
15. Cash - General Funds	52,229	42. Long-Term Debt - Other (Net)	169,598,014
16. Cash - Construction Funds - Trustee		43. Long-Term Debt - RUS - Econ. Devel. (Net)	
17. Special Deposits	569,779	44. Payments - Unapplied	
18. Temporary Investments	34,939,746	45. TOTAL LONG-TERM DEBT (39 thru 43 - 44)	998,289,322
19. Notes Receivable (Net)		46. Obligations Under Capital Leases - Noncurrent	
20. Accounts Receivable - Sales of Energy (Net)	16,525,975	47. Accumulated Operating Provisions and Asset Retirement Obligations	3,498,828
21. Accounts Receivable - Other (Net)	2,557,736	48. TOTAL OTHER NONCURRENT LIABILITIES (46 + 47)	3,498,828
22. Fuel Stock		49. Notes Payable	
23. Materials and Supplies - Other	685,331	50. Accounts Payable	12,699,394
24. Prepayments	3,931,415	51. Current Maturities Long-Term Debt	39,387,229
25. Other Current and Accrued Assets	551,014	52. Current Maturities Long-Term Debt - Rural Development	
26. TOTAL CURRENT AND ACCRUED ASSETS (15 thru 25)	59,813,225	53. Current Maturities Capital Leases	
27. Unamortized Debt Discount & Extraor. Prop. Losses	739,786	54. Taxes Accrued	805,592
28. Regulatory Assets		55. Interest Accrued	7,872,071
29. Other Deferred Debits	94,253,483	56. Other Current and Accrued Liabilities	1,765,587
30. Accumulated Deferred Income Taxes	6,332,491	57. TOTAL CURRENT & ACCRUED LIABILITIES (49 thru 56)	62,529,873
31. TOTAL ASSETS AND OTHER DEBITS (5 + 14 + 26 thru 30)	1,077,107,054	58. Deferred Credits	153,597,971
		59. Accumulated Deferred Income Taxes	
		60. TOTAL LIABILITIES AND OTHER CREDITS (38 + 45 + 48 + 57 thru 59)	1,077,107,054

<p style="text-align: center;">USDA-RUS</p> <p style="text-align: center;"><b>FINANCIAL AND STATISTICAL REPORT</b></p> <p style="text-align: center;"><i>INSTRUCTIONS - See RUS Bulletin 1717B-3</i></p>	<p>BORROWER DESIGNATION KY0062</p> <p>PERIOD ENDED November, 2008</p>
<b>SECTION C. Notes to Financial Statements</b>	
<p><b>Footnote to RUS Form 12b</b></p> <p>Kenergy "LF" Contract termination date is March 31, 2011.</p>	

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

11/30/08  
 Page 1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	130	142	124
3	Meade County Rural ECC	RQ	KY0018	88	93	86
4	Kenergy Corporation	RQ	KY0065	351	364	352
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
11						
12	Cargill-Alliant	OS				
13	Constellation Power Source	OS				
14	Eagle Energy Partners	OS				
15	LG&E Energy Marketing	OS				
16	Louisville Gas & Electric	OS				
17	Midwest Independent Trans.	OS				
18	Morgan Stanley	OS				
19	PJM Interconnection	OS				
20	Southern Company Services	OS				
21	Tenaska Power Services	OS				
22	Tennessee Valley Authority	OS				
23	The Energy Authority	OS				

Total for Ultimate Consumer(s)			0	0	0
Total for Distribution Borrowers			569	599	562
Total for G&T Borrowers			0	0	0
Total for Others			0	0	0
Grand Total			569	599	562

**RUS Form 12b SE  
Operating Report  
Sales of Electricity**

**11/30/08  
Page 2**

Sale No.	Electricity Sold (g)	Revenue Demand (h)	Revenue Energy (i)	Revenue Other (j)	Revenue (h+i+j+k)	Total
1						
2	642,439	10,177,111	12,983,125			23,160,236
3	424,515	6,769,479	8,660,175			15,429,654
4	1,928,792	30,970,945	33,781,153			64,752,098
5	17,513		907,273			907,273
6	969,150		46,403,210			46,403,210
7						
8	2,394		153,135			153,135
9	5,790		372,612			372,612
10	19,746		1,068,080			1,068,080
11	3,765		141,950			141,950
11						
12	86,827		4,305,631			4,305,631
13	74,942		3,786,694			3,786,694
14	94,990		4,862,944			4,862,944
15	93,123		5,146,499			5,146,499
16	166		14,668			14,668
17	109,269		5,676,354			5,676,354
18	7,050		287,325			287,325
19	73,070		3,267,006			3,267,006
20	104,483		4,763,185			4,763,185
21	227		9,905			9,905
22	33,586		1,998,610			1,998,610
23	16,210		779,512			779,512

	-	-	-	-	-
	3,982,409	47,917,535	102,734,936	-	150,652,471
	31,695	-	1,735,777	-	1,735,777
	693,943	-	34,898,333	-	34,898,333
	4,708,047	47,917,535	139,369,046	-	187,286,581

RUS Form 12b PP  
 Operating Report  
 Purchased Power

11/30/08  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Cargill-Alliant	OS				
4	Constellation Energy Commodities	OS				
5	Eagle Energy Partners	OS				
6	Fortis	OS				
7	LG&E Energy Marketing	RQ				
8	Midwest Independent Trans.	OS				
9	Reliant Energy Services, Inc	SF				
10	Southeastern Power Admin	LF		178		
11	Southern Company Services	OS				
12	Southern Illinois Power Coop	OS				
13	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				178	0	0
Grand Total				178	0	0

**RUS Form 12c  
Operating Report  
Sources and Distribution of Energy**

11/30/08

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
<b>PURCHASED POWER</b>				
8 Total Purchased Power			4,758,404	99,739,695
<b>INTERCHANGED POWER</b>				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			4,758,404	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			4,708,047	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			4,708,047	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			50,357	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.06	

RUS Form 12i  
OPERATING REPORT - LINES AND STATIONS

11/30/08

SECTION A. EXPENSE AND COSTS						
ITEM		Account Number	LINES (a)	STATIONS (b)		
<b>TRANSMISSION OPERATION</b>						
1	Supervision and Engineering	560	362,124	314,701		
2	Load Dispatching	561	1,201,847			
3	Station Expenses	562		868,312		
4	Overhead Line Expenses	563	930,147			
5	Underground Line Expenses	564				
6	Miscellaneous Expenses	566	185,604	218,397		
7	<b>SUBTOTAL (1 thru 6)</b>		2,679,722	1,401,410		
8	Transmission of Electricity by Others	565	2,472,389			
9	Rents	567		22,643		
10	<b>TOTAL TRANSMISSION OPERATION (7 THRU 9)</b>		5,152,111	1,424,053		
<b>TRANSMISSION MAINTENANCE</b>						
11	Supervision and Engineering	568	231,140	267,355		
12	Structures	569		35,760		
13	Station Equipment	570		1,440,718		
14	Overhead Lines	571	1,291,713			
15	Underground Lines	572				
16	Miscellaneous Transmission Plant	573	32,217	51,437		
17	<b>TOTAL TRANSMISSION MAINTENANCE (11 THRU 16)</b>		1,555,070	1,795,270		
18	<b>TOTAL TRANSMISSION EXPENSE (10 + 17)</b>		6,707,181	3,219,323		
19	Distribution Expense - Operation	580-589				
20	Distribution Expense - Maintenance	590-598				
21	<b>TOTAL DISTRIBUTION EXPENSE (19 + 20)</b>					
22	<b>TOTAL OPERATION AND MAINTENANCE (18 + 21)</b>		6,707,181	3,219,323		
<b>FIXED COSTS</b>						
23	Depreciation - Transmission	403.5	2,142,379	2,299,545		
24	Depreciation - Distribution	403.6				
25	Interest - Transmission	427	3,414,562	4,125,544		
26	Interest - Distribution	427				
27	<b>TOTAL TRANSMISSION (18 + 23 + 25)</b>		12,264,122	9,644,412		
28	<b>TOTAL DISTRIBUTION (21 + 24 + 26)</b>		-	-		
29	<b>TOTAL LINES AND STATIONS (27 + 28)</b>		12,264,122	9,644,412		
<b>SECTION B. FACILITIES IN SERVICE</b>			<b>SECTION C. LABOR AND MATERIAL SUMMARY</b>			
<b>TRANSMISSION LINES</b>		<b>SUBSTATIONS</b>		1. NUMBER OR EMPLOYEES	48	
VOLTAGE (KV)	MILES	TYPE	CAPACITY (KVA)	ITEM	LINES	STATIONS
1	69 KV	825.41	13. Distr. Lines			
2	345 KV	67.40		2. Oper. Labor	1,597,548	765,944
3	138 KV	14.40	14. Total (12 + 13)	3. Maint Labor	844,184	1,234,077
4	161 KV	335.40				
5			15. Stepup at Generating Plants	4. Oper. Material	3,554,563	658,109
6						
7			16. Transmission	5. Maint. Material	710,886	561,193
8						
9			17. Distribution	<b>SECTION D. OUTAGES</b>		
10				1. TOTAL		417,963.00
11			18. Total	2. Avg. No. Dist. Cons. Served		110,585.00
12	TOTAL ( 1 thru 11)	1,242.61	(15 thru 17)	3. Avg No. Hours Out Per Cons.		3.78
			5,419,800			





According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0032. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

BORROWER DESIGNATION KY0062

**OPERATING REPORT - FINANCIAL**

PERIOD ENDED  
October, 2008

INSTRUCTIONS - Submit an original and two copies to RUS or file electronically  
For detailed instructions, see RUS Bulletin 1717B-3.

BORROWER NAME

*This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.*

Big Rivers Electric Corporation

**CERTIFICATION**

We recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Section 1001.

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1718 OF 7 CFR CHAPTER XVII**

*(check one of the following)*

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in Form 12a Section C of this report.

Mark A. T. Bailey      11/23/08  
DATE

UNITED STATES DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		BORROWER DESIGNATION KY0062		
OPERATING REPORT - FINANCIAL		PERIOD ENDED October, 2008		
INSTRUCTIONS - Submit an original and two copies to RUS or file electronically For detailed instructions, see RUS Bulletin 1717B-3.		This data will be used by RUS to review your financial situation. Your response is required (7 U.S.C. 901 et. seq.) and may be confidential.		
SECTION A. STATEMENT OF OPERATIONS				
ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	219,356,848	171,528,350	156,864,663	16,119,414
2. Income From Leased Property (Net)	24,622,954	24,525,424	24,556,748	2,401,377
3. Other Operating Revenue and Income	8,117,713	8,460,035	7,969,630	907,660
4. <b>TOTAL OPER. REVENUES &amp; PATRONAGE CAPITAL (1 thru 3)</b>	252,097,515	204,513,809	189,391,041	19,628,451
5. Operating Expense - Production - Excluding Fuel				
6. Operating Expense - Production - Fuel				
7. Operating Expense - Other Power Supply	142,031,449	94,062,914	90,372,991	8,934,991
8. Operating Expense - Transmission	7,546,217	6,059,356	5,849,991	747,736
9. Operating Expense - Distribution				
10. Operating Expense - Customer Accounts				
11. Operating Expense - Customer Service & Information	523,400	571,973	632,268	85,441
12. Operating Expense - Sales	434,762	452,960	696,144	152,682
13. Operating Expense - Administrative & General	11,026,930	14,504,737	12,214,306	1,501,765
14. <b>TOTAL OPERATION EXPENSE (5 thru 13)</b>	161,562,758	115,651,940	109,765,700	11,402,615
15. Maintenance Expense - Production				
16. Maintenance Expense - Transmission	3,044,512	3,211,271	3,413,488	306,833
17. Maintenance Expense - Distribution				
18. Maintenance Expense - General Plant	369,749	190,280	365,347	13,479
19. <b>TOTAL MAINTENANCE EXPENSE (15 thru 18)</b>	3,414,261	3,401,551	3,778,835	320,312
20. Depreciation and Amortization Expense	4,178,345	4,262,588	4,463,391	427,312
21. Taxes	899,680	931,120	927,770	92,777
22. Interest on Long-Term Debt	61,841,794	63,198,749	61,414,917	4,893,072
23. Interest Charged to Construction - Credit	(278,682)	(449,094)	(728,520)	(28,256)
24. Other Interest Expense	24,515	7,127	14,090	614
25. Asset Retirement Obligations				
26. Other Deductions	(2,329,739)	(1,744,963)	(2,209,262)	340,618
27. <b>TOTAL COST OF ELECTRIC SERVICE (14 + 19 thru 26)</b>	229,312,932	185,259,015	177,426,921	17,449,064
28. <b>OPERATING MARGINS (4 less 27)</b>	22,784,583	19,254,791	11,964,120	2,179,387
29. Interest Income	16,056,724	11,859,835	16,093,003	44,250
30. Allowance For Funds Used During Construction				
31. Income (Loss) from Equity Investments				
32. Other Non-operating Income (Net)				
33. Generation & Transmission Capital Credits				
34. Other Capital Credits and Patronage Dividends	786,063	789,659	778,506	0
35. Extraordinary Items				
36. <b>NET PATRONAGE CAPITAL OR MARGINS (28 thru 35)</b>	39,627,370	31,904,285	28,835,629	2,223,637

USDA-RUS

**FINANCIAL AND STATISTICAL REPORT**

*INSTRUCTIONS - See RUS Bulletin 1717B-3*

BORROWER DESIGNATION

KY0062

PERIOD ENDED

October, 2008

**SECTION C. Notes to Financial Statements**

**Footnote to RUS Form 12b SE**

Kenergy "LF" Contract termination date is March 31, 2011.

RUS Form 12b SE  
 Operating Report  
 Sales of Electricity

10/31/08  
 Page1

Sale No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Ultimate Consumer(s)					
2	Jackson Purchase Energy Corp	RQ	KY0020	131	143	125
3	Meade County Rural ECC	RQ	KY0018	88	93	86
4	Kenergy Corporation	RQ	KY0065	353	365	353
5	Kenergy Corporation	IF	KY0065			
6	Kenergy Corporation	LF	KY0065			
7						
8	Associated Electric Coop	OS	MO0073			
9	East Kentucky Power Coop	OS	KY0059			
10	Oglethorpe Power	OS	GA0109			
11	PowerSouth Energy Coop	OS	AL0042			
11						
12	Cargill-Alliant	OS				
13	Constellation Power Source	OS				
14	Eagle Energy Partners	OS				
15	LG&E Energy Marketing	OS				
16	Louisville Gas & Electric	OS				
17	Midwest Independent Trans.	OS				
18	Morgan Stanley	OS				
19	PJM Interconnection	OS				
20	Southern Company Services	OS				
21	Tennessee Valley Authority	OS				
22	The Energy Authority	OS				

Total for Ultimate Consumer(s)				0	0	0
Total for Distribution Borrowers				572	601	564
Total for G&T Borrowers				0	0	0
Total for Others				0	0	0
Grand Total				572	601	564

RUS Form 12b PP  
 Operating Report  
 Purchased Power

10/31/08  
 Page1

Purch. No.	(a)	Statistical (b)	RUS Borrower (c)	Average Monthly Billing (d)	Actual Demand Average Monthly NCP (e)	Actual Demand Average Monthly CP (f)
1	Kenergy Corporation	SF	KY0065			
2						
3	Cargill-Alliant	OS				
4	Constellation Energy Commodities	OS				
5	Eagle Energy Partners	OS				
6	Fortis	OS				
7	LG&E Energy Marketing	RQ				
8	Midwest Independent Trans.	OS				
9	Reliant Energy Services, Inc	SF				
10	Southeastern Power Admin	LF		178		
11	Southern Illinois Power Coop	OS				
12	The Energy Authority	OS				

Total for Distribution Borrowers				0	0	0
Total for G&T Borrowers						
Total for Others				178	0	0
Grand Total				178	0	0

**RUS Form 12b PP  
Operating Report  
Purchased Power**

**10/31/08  
Page 2**

Purch No.	Electricity	Power Exchanges	Power Exchanges	Revenue	Revenue	Revenue	Revenue	Total
	Purchased	Electricity	Electricity	Demand	Energy	Other		
	(g)	(h)	(l)	(i)	(k)	(l)	(j+k+l)	
1	7,320				402,600		402,600	
2								
3	2,437				170,880		170,880	
4	225				20,025		20,025	
5	85				4,755		4,755	
6	(25)				(946)		(946)	
7	4,107,609				82,997,071		82,997,071	
8	571				41,325		41,325	
9	7,441				1,489,281		1,489,281	
10	201,403			2,531,447	2,450,924		4,982,371	
11	20,401				999,649		999,649	
12	41				2,740		2,740	

	7,320	-	-	-	402,600	-	402,600
	4,340,188	-	-	2,531,447	88,175,704	-	90,707,151
	4,347,508	-	-	2,531,447	88,578,304	-	91,109,751

**RUS Form 12c  
Operating Report  
Sources and Distribution of Energy**

10/31/08

Sources of Energy (a)	No. of Plants (b)	Nameplate Capacity (kW) (c)	Net Energy Received by System (MWh) (d)	Cost (\$) (e)
<b>GENERATED IN OWN PLANT (Details on Form 12d, e, f and g)</b>				
1 Fossil Steam				
2 Nuclear				
3 Hydro				
4 Combined Cycle				
5 Internal Combustion				
6 Other				
7 TOTAL In Own Plant (Sum of lines 1 thru 6)				
<b>PURCHASED POWER</b>				
8 Total Purchased Power			4,347,508	91,109,751
<b>INTERCHANGED POWER</b>				
9 Received into System				
10 Delivered Out of System				
11 Net Interchange				
<b>TRANSMISSION FOR OR BY OTHERS - (WHEELING)</b>				
12 Received into System				
13 Delivered Out of System				
14 Net Energy Wheeled				
15 TOTAL Energy Available for Sale (Sum of lines 7 + 8 + 11 + 14)			4,347,508	
<b>DISTRIBUTION OF ENERGY</b>				
16 TOTAL Sales			4,301,463	
17 Energy Furnished to Others Without Charge				
18 Energy Used by Borrower				
19 TOTAL Energy Accounted For (Sum of lines 16 thru 18)			4,301,463	
<b>LOSSES</b>				
20 Energy Losses - MWh (Line 15 minus 19)			46,045	
21 Energy Losses - Percentage ((Line 20 divided by line 15)*100)			1.06	



