

**Frost  
Brown Todd** LLC  
ATTORNEYS

KENTUCKY · OHIO · INDIANA · TENNESSEE · WEST VIRGINIA

Roger R. Cowden  
(859) 244-3236  
[RCOWDEN@FBTLAW.COM](mailto:RCOWDEN@FBTLAW.COM)

February 17, 2010

RECEIVED

FEB 17 2010

PUBLIC SERVICE  
COMMISSION

*Via Hand-Delivery*

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

RECEIVED

FEB 17 2010

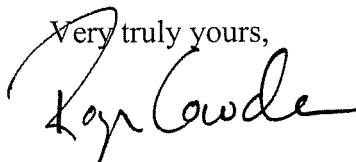
PUBLIC SERVICE  
COMMISSION

Re: PSC Case No. 2009-00506

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten redacted copies of the responses of East Kentucky Power Cooperative, Inc. ("EKPC"), to the information requests contained in the Appendix to the Commission's Order dated January 27, 2010, and EKPC's Petition for Confidential Treatment of Information. One copy of the designated confidential portions of the responses is enclosed in a sealed envelope.

Very truly yours,



Roger Cowden

Enclosures

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>AN EXAMINATION OF THE</b>	)	
<b>APPLICATION OF THE FUEL</b>	)	
<b>ADJUSTMENT CLAUSE OF EAST</b>	)	
<b>KENTUCKY POWER COOPERATIVE,</b>	)	<b>CASE NO. 2009-00506</b>
<b>INC. FROM MAY 1, 2009 THROUGH</b>	)	
<b>OCTOBER 31, 2009</b>	)	

**PETITION FOR CONFIDENTIAL  
TREATMENT OF INFORMATION**

Comes now the petitioner, East Kentucky Power Cooperative, Inc. (“EKPC”) and, as grounds for this Petition for Confidential Treatment of Information (the “Petition”), states as follows:

1. This Petition is filed in conjunction with the filing of EKPC’s responses to Requests 14, 19, and 20 contained in the Appendix to the order in this case dated January 27, 2010, and relates to confidential information contained in those responses that is entitled to protection pursuant to 807 KAR 5:001 Section 7 and KRS §61.878 (1) (c) 1 and related sections.

2. The information designated as confidential in the subject responses includes the identification of coal vendors, and ranking of proposals under EKPC’s evaluation process, for all bids submitted to EKPC’s written and oral coal solicitations during the Fuel Adjustment Clause (“FAC”) period under review in this case. The tabulation sheets requested disclose critical information relating to EKPC’s current coal pricing and volume of usage, its proposal evaluation procedures, and its coal acquisition strategies.

The information designated as confidential in the subject responses also includes the details of certain coal contracts. Allowing potential coal suppliers to access this information could provide them an unfair competitive advantage which could raise EKPC's cost of power production and place it at an unfair competitive disadvantage in the market for surplus bulk power. Disclosure of this information to utilities, independent power producers and power marketers that compete with EKPC for sales in the bulk power market, would allow such competitors to determine EKPC's power production costs for specific periods of time, or under various operating conditions, and to use such information to potentially underbid EKPC in transactions for the sale of surplus bulk power, which would constitute an unfair competitive disadvantage to EKPC.

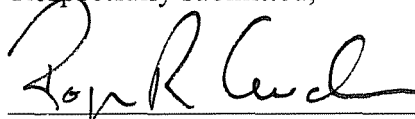
3. Confidential protection has been given by the Commission to the responses to data requests 19 and 20 in past cases by other jurisdictional utilities, based on the same grounds stated herein, and was originally granted to EKPC in PSC Case No. 2007-00523.

4. Along with this Petition, EKPC has enclosed one copy of its responses to Requests 14, 19, and 20, with the confidential information identified by highlighting or other designation, and 10 copies of the complete responses, with the confidential information redacted. The identified confidential information is not known outside of EKPC and is distributed within EKPC only to persons with a need to use it for business purposes. It is entitled to confidential treatment pursuant to 807 KAR 5:001 Section 7 and KRS §61.878(1)(c) 1, for the reasons stated hereinabove, as information which would permit an unfair commercial advantage to competitors of EKPC if disclosed. The subject information is also entitled to protection pursuant to KRS §61.878(1)(c) 2 c, as

records generally recognized as confidential or proprietary which are confidentially disclosed to an agency in conjunction with the regulation of a commercial enterprise.

WHEREFORE, EKPC respectfully requests the Public Service Commission to grant confidential treatment to the identified information and deny public disclosure of said information.

Respectfully submitted,

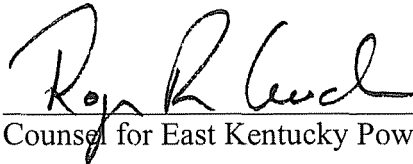


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Roger R. Cowden  
Frost Brown Todd LLC  
250 West Main Street, Suite 2800  
Lexington, KY 40507-1749  
(859) 231-0000 – Telephone  
(859) 231-0011 – Facsimile  
Counsel for East Kentucky Power Cooperative, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that an original and 10 copies of the foregoing Petition for Confidential Treatment of Information in the above-styled case were hand-delivered to the Office of Jeffrey Derouen, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601 on February 17, 2010.



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Counsel for East Kentucky Power Cooperative, Inc.



COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

AN EXAMINATION OF THE	)	
APPLICATION OF THE FUEL	)	
ADJUSTMENT CLAUSE OF EAST	)	
KENTUCKY POWER COOPERATIVE,	)	CASE NO. 2009-00506
INC. FROM MAY 1, 2009 THROUGH	)	
OCTOBER 31, 2009	)	

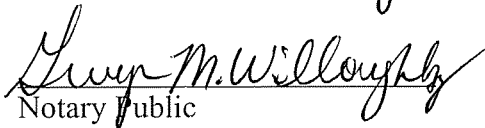
CERTIFICATE

STATE OF KENTUCKY )  
 )  
 COUNTY OF CLARK )

Ernest W. Huff, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff Data Requests contained in the Appendix in the above-referenced case dated January 27, 2010, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.

  
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Subscribed and sworn before me on this 11<sup>th</sup> day of February 2010.

  
 Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 2013  
 NOTARY ID #409352

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

AN EXAMINATION OF THE )  
 APPLICATION OF THE FUEL )  
 ADJUSTMENT CLAUSE OF EAST )  
 KENTUCKY POWER COOPERATIVE, ) CASE NO. 2009-00506  
 INC. FROM MAY 1, 2009 THROUGH )  
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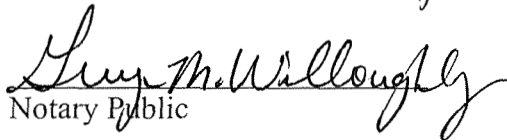
CERTIFICATE

STATE OF KENTUCKY )  
 )  
 COUNTY OF CLARK )

Craig A. Johnson, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff Data Requests contained in the Appendix in the above-referenced case dated January 27, 2010, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 12<sup>th</sup> day of February 2010.



Notary Public

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

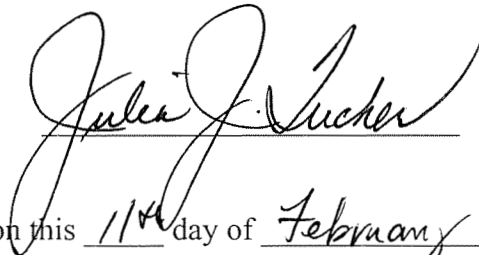
IN THE MATTER OF:

AN EXAMINATION OF THE	)	
APPLICATION OF THE FUEL	)	
ADJUSTMENT CLAUSE OF EAST	)	
KENTUCKY POWER COOPERATIVE,	)	CASE NO. 2009-00506
INC. FROM MAY 1, 2009 THROUGH	)	
OCTOBER 31, 2009	)	

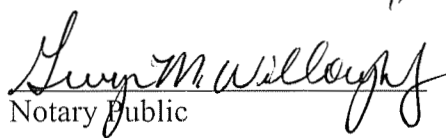
CERTIFICATE

STATE OF KENTUCKY )  
 )  
 COUNTY OF CLARK )

Julia J. Tucker, being duly sworn, states that she has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff Data Requests contained in the Appendix in the above-referenced case dated January 27, 2010, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.

  
 \_\_\_\_\_

Subscribed and sworn before me on this 11<sup>th</sup> day of February 2010.

  
 Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 2013  
 NOTARY ID #409352

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF:**

**AN EXAMINATION OF THE )**  
**APPLICATION OF THE FUEL )**  
**ADJUSTMENT CLAUSE OF EAST )**  
**KENTUCKY POWER COOPERATIVE, ) CASE NO. 2009-00506**  
**INC. FROM MAY 1, 2009 THROUGH )**  
**OCTOBER 31, 2009 )**

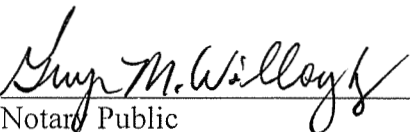
**CERTIFICATE**

**STATE OF KENTUCKY )**  
**)**  
**COUNTY OF CLARK )**

Ann F. Wood, being duly sworn, states that she has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff Data Requests contained in the Appendix in the above-referenced case dated January 27, 2010, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.

  
\_\_\_\_\_

Subscribed and sworn before me on this 16<sup>th</sup> day of February 2010.

  
Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 2013  
NOTARY ID #409352

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**AN EXAMINATION OF THE )  
APPLICATION OF THE FUEL )  
ADJUSTMENT CLAUSE OF EAST )  
KENTUCKY POWER COOPERATIVE, ) CASE NO. 2009-00506  
INC. FROM MAY 1, 2009 THROUGH )  
OCTOBER 31, 2009 )**

**RESPONSES TO COMMISSION STAFF'S INFORMATION REQUEST  
TO EAST KENTUCKY POWER COOPERATIVE, INC.  
DATED JANUARY 27, 2010**

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2009-00506**

**PUBLIC SERVICE COMMISSION REQUEST DATED 01/27/10**

East Kentucky Power Cooperative, Inc. ("EKPC") hereby submits responses to the information requests contained in the Appendix to the Order of the Public Service Commission ("PSC") in this case dated January 27, 2010. Each response with its associated supportive reference materials is individually tabbed.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 1**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 1.** For the period from May 1, 2009 through October 31, 2009, list each vendor from whom coal was purchased and the quantities and nature of each purchase (e.g., spot or contract).

**Response 1.** Please see pages 2 through 8 of this response.



<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b><u>May 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	16,922.75
TRINITY COAL MARKETING LLC	L T Contract	0000000124	5,746.60
TRINITY COAL MARKETING LLC	Spot Market	0000151331	1,884.56
		<b>May 2009</b>	<b>24,553.91</b>
<b><u>June 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	17,248.13
TRINITY COAL MARKETING LLC	L T Contract	0000000124	7,059.16
TRINITY COAL MARKETING LLC	Spot Market	0000151331	6,687.94
		<b>June 2009</b>	<b>30,995.23</b>
<b><u>July 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	17,497.35
TRINITY COAL MARKETING LLC	L T Contract	0000000124	11,500.56
TRINITY COAL MARKETING LLC	Spot Market	0000151331	3,721.94
TRINITY COAL MARKETING LLC	Spot Market	0000151332	4,477.21
		<b>July 2009</b>	<b>37,197.06</b>
<b><u>August 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	17,139.90
TRINITY COAL MARKETING LLC	L T Contract	0000000124	10,167.76
TRINITY COAL MARKETING LLC	Spot Market	0000151331	5,077.40
TRINITY COAL MARKETING LLC	Spot Market	0000151332	5,211.99
		<b>August 2009</b>	<b>37,597.05</b>
<b><u>September 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	17,428.96
TRINITY COAL MARKETING LLC	L T Contract	0000000124	5,245.52
TRINITY COAL MARKETING LLC	Spot Market	0000151331	948.63
TRINITY COAL MARKETING LLC	Spot Market	0000151332	5,350.57
		<b>September 2009</b>	<b>28,973.68</b>
<b><u>October 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000120	17,045.75
TRINITY COAL MARKETING LLC	L T Contract	0000000124	10,470.71
TRINITY COAL MARKETING LLC	Spot Market	0000151331	2,119.22
TRINITY COAL MARKETING LLC	Spot Market	0000151332	5,013.13
		<b>October 2009</b>	<b>34,648.81</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b><u>Cooper</u></b>			
<b><u>May 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	000000220	19,746.95
NATIONAL COAL CORPORATION	L T Contract	000000224	3,537.09
TRINITY COAL MARKETING LLC	L T Contract	000000230	11,888.57
MOUNTAINSIDE COAL CO INC	L T Contract	000000232	9,386.14
TRINITY COAL MARKETING LLC	L T Contract	000000234	10,027.68
TRINITY COAL MARKETING LLC	Spot Market	0000251293	5,199.81
IKERD TERMINAL COMPANY LLC	Spot Market	0000251350	1,577.30
		<b>May 2009</b>	<b>61,363.54</b>
<b><u>June 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	000000220	19,738.76
NATIONAL COAL CORPORATION	L T Contract	000000224	2,178.37
TRINITY COAL MARKETING LLC	L T Contract	000000230	12,573.29
MOUNTAINSIDE COAL CO INC	L T Contract	000000232	11,023.30
TRINITY COAL MARKETING LLC	L T Contract	000000234	8,672.33
TRINITY COAL MARKETING LLC	Spot Market	0000251293	3,864.46
		<b>June 2009</b>	<b>58,050.51</b>
<b><u>July 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	000000220	20,161.44
NATIONAL COAL CORPORATION	L T Contract	000000224	5,323.06
TRINITY COAL MARKETING LLC	L T Contract	000000230	12,108.37
MOUNTAINSIDE COAL CO INC	L T Contract	000000232	7,825.35
TRINITY COAL MARKETING LLC	L T Contract	000000234	9,864.79
TRINITY COAL MARKETING LLC	Spot Market	0000251293	9,794.98
		<b>July 2009</b>	<b>65,077.99</b>
<b><u>August 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	000000220	12,555.90
NATIONAL COAL CORPORATION	L T Contract	000000224	2,467.13
TRINITY COAL MARKETING LLC	L T Contract	000000230	7,566.12
MOUNTAINSIDE COAL CO INC	L T Contract	000000232	8,826.68
TRINITY COAL MARKETING LLC	L T Contract	000000234	6,354.27
TRINITY COAL MARKETING LLC	Spot Market	0000251293	3,328.15
		<b>August 2009</b>	<b>41,098.25</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b><u>September 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000220	12,867.47
NATIONAL COAL CORPORATION	L T Contract	0000000224	2,622.80
TRINITY COAL MARKETING LLC	L T Contract	0000000230	7,281.27
MOUNTAINSIDE COAL CO INC	L T Contract	0000000232	6,633.10
TRINITY COAL MARKETING LLC	L T Contract	0000000234	5,884.64
TRINITY COAL MARKETING LLC	Spot Market	0000251293	3,376.86
		<b>September 2009</b>	<b>38,666.14</b>
<b><u>October 2009</u></b>			
GATLIFF COAL COMPANY	L T Contract	0000000220	6,772.33
NATIONAL COAL CORPORATION	L T Contract	0000000224	2,617.60
TRINITY COAL MARKETING LLC	L T Contract	0000000230	7,429.25
MOUNTAINSIDE COAL CO INC	L T Contract	0000000232	8,020.26
TRINITY COAL MARKETING LLC	L T Contract	0000000234	6,471.23
TRINITY COAL MARKETING LLC	Spot Market	0000251293	5,413.34
		<b>October 2009</b>	<b>36,724.01</b>
<b><u>Spurlock#1</u></b>			
<b><u>May 2009</u></b>			
KOCH CARBON LLC	Spot Market	0000351334	3,396.00
		<b>May 2009</b>	<b>3,396.00</b>
<b><u>Scrubber Coal</u></b>			
<b><u>May 2009</u></b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	27,607.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	31,509.00
OXFORD MINING COMPANY	L T Contract	0000000504	12,978.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	6,370.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	10,873.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	7,866.00
PATRIOT COAL SALES LLC	Spot Market	0000551299	4,830.00
COAL NETWORK INC	Spot Market	0000551371	11,359.00
		<b>May 2009</b>	<b>113,392.00</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b>June 2009</b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	56,359.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	26,839.00
OXFORD MINING COMPANY	L T Contract	0000000504	26,395.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	6,367.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	10,824.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	22,091.00
PATRIOT COAL SALES LLC	Spot Market	0000551299	27,312.00
COAL NETWORK INC	Spot Market	0000551371	20,901.00
		<b>June 2009</b>	<b>197,088.00</b>
<b>July 2009</b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	51,677.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	41,037.00
OXFORD MINING COMPANY	L T Contract	0000000504	34,999.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	19,361.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	12,783.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	17,064.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	26,997.00
PATRIOT COAL SALES LLC	Spot Market	0000551299	16,011.00
COAL NETWORK INC	Spot Market	0000551371	26,522.00
		<b>July 2009</b>	<b>246,451.00</b>
<b>August 2009</b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	40,218.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	31,389.00
OXFORD MINING COMPANY	L T Contract	0000000504	33,069.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	1,610.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	26,391.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	14,286.00
PATRIOT COAL SALES LLC	Spot Market	0000551299	16,025.00
COAL NETWORK INC	Spot Market	0000551371	21,362.00
OXFORD MINING COMPANY	Spot Market	0000551376	7,925.00
		<b>August 2009</b>	<b>192,275.00</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b><u>September 2009</u></b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	38,604.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	25,213.00
OXFORD MINING COMPANY	L T Contract	0000000504	26,661.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	6,410.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	22,421.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	21,709.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	27,372.00
WILLIAMSON ENERGY LLC	Spot Market	0000551368	1,506.00
WILLIAMSON ENERGY LLC	Spot Market	0000551368	6,012.00
COAL NETWORK INC	Spot Market	0000551371	4,832.00
OXFORD MINING COMPANY	Spot Market	0000551378	7,881.00
		<b>September 2009</b>	<b>188,621.00</b>
<b><u>October 2009</u></b>			
ARMSTRONG COAL COMPANY INC	L T Contract	0000000500	43,520.00
AMERICAN ENERGY CORPORATION	L T Contract	0000000502	7,994.00
OXFORD MINING COMPANY	L T Contract	0000000504	18,494.00
WILLIAMSON ENERGY LLC	L T Contract	0000000506	9,592.00
WHITE COUNTY COAL LLC	L T Contract	0000000508	26,241.00
JAMES RIVER COAL SALES INC	Spot Market	0000551291	19,036.00
PATRIOT COAL SALES LLC	Spot Market	0000551299	15,860.00
		<b>October 2009</b>	<b>140,737.00</b>
<b><u>CFB</u></b>			
<b><u>May 2009</u></b>			
OXFORD MINING COMPANY	L T Contract	0000000800	29,837.00
MASSEY COAL SALES COMPANY INC	L T Contract	0000000810	3,168.00
B & N COAL INC	L T Contract	0000000812	26,132.00
MASSEY COAL SALES COMPANY INC	L T Contract	0000000814	3,189.00
MARIETTA COAL COMPANY	Spot Market	0000851362	11,348.00
PRODUCERS DOCK INC	Spot Market	0000851373	1,595.00
MAPLE COAL COMPANY	Spot Market	0000851374	19,090.00
		<b>May 2009</b>	<b>94,359.00</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b>June 2009</b>			
OXFORD MINING COMPANY	L T Contract	000000800	58,379.00
B & N COAL INC	L T Contract	000000812	26,236.00
MASSEY COAL SALES COMPANY INC	L T Contract	000000814	7,981.00
MARIETTA COAL COMPANY	Spot Market	0000851362	8,254.00
PRODUCERS DOCK INC	Spot Market	0000851373	4,881.00
MAPLE COAL COMPANY	Spot Market	0000851374	31,912.00
OXFORD MINING COMPANY	Spot Market	0000851375	3,176.00
		<b>June 2009</b>	<b>140,819.00</b>
<b>July 2009</b>			
OXFORD MINING COMPANY	L T Contract	000000800	58,012.00
B & N COAL INC	L T Contract	000000812	32,853.00
MASSEY COAL SALES COMPANY INC	L T Contract	000000814	11,513.00
ARCH ENERGY RESOURCES LLC	Spot Market	0000851359	19,246.00
MARIETTA COAL COMPANY	Spot Market	0000851362	8,082.00
MAPLE COAL COMPANY	Spot Market	0000851374	11,763.00
OXFORD MINING COMPANY	Spot Market	0000851375	4,678.00
		<b>July 2009</b>	<b>146,147.00</b>
<b>August 2009</b>			
OXFORD MINING COMPANY	L T Contract	000000800	74,904.00
B & N COAL INC	L T Contract	000000812	32,645.00
MASSEY COAL SALES COMPANY INC	L T Contract	000000814	14,271.00
ARCH ENERGY RESOURCES LLC	Spot Market	0000851359	9,206.00
PIONEER FUEL CORPORATION	Spot Market	0000851360	20,295.53
MARIETTA COAL COMPANY	Spot Market	0000851362	6,365.00
OXFORD MINING COMPANY	Spot Market	0000851377	11,255.00
		<b>August 2009</b>	<b>168,941.53</b>
<b>September 2009</b>			
OXFORD MINING COMPANY	L T Contract	000000800	66,675.00
B & N COAL INC	L T Contract	000000812	26,172.00
MASSEY COAL SALES COMPANY INC	L T Contract	000000814	8,046.00
ARCH ENERGY RESOURCES LLC	Spot Market	0000851359	19,707.00
PIONEER FUEL CORPORATION	Spot Market	0000851360	10,323.05
MARIETTA COAL COMPANY	Spot Market	0000851362	1,602.00
OXFORD MINING COMPANY	Spot Market	0000851377	3,030.00
		<b>September 2009</b>	<b>135,555.05</b>

<u>Supplier</u>	<u>Spot/Contract</u>	<u>Order Number</u>	<u>Quantity (Tons)</u>
<b>October 2009</b>			
OXFORD MINING COMPANY	L T Contract	000000800	61,716.00
B & N COAL INC	L T Contract	000000812	34,437.00
MASSEY COAL SALES COMPANY INC	L T Contract	000000814	14,472.00
ARCH ENERGY RESOURCES LLC	Spot Market	0000851359	25,616.00
MARIETTA COAL COMPANY	Spot Market	0000851362	9,951.00
		<b>October 2009</b>	<hr/> <b>146,192.00</b>





**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 2**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 2.** For the period from May 1, 2009 through October 31, 2009, list each vendor from whom natural gas was purchased for generation and the quantities and nature of each purchase (e.g., spot or contract).

**Response 2.**

<b>Date</b>	<b>Quantity</b>	<b>Vendor</b>	<b>Type of Purchase</b>
May-09	18,112	Constellation	Contract
Jun-09	115,697	Constellation	Contract
Jul-09	40,161	Constellation	Contract
Aug-09	304,673	Constellation	Contract
Sep-09	562,376	Constellation	Contract
Oct-09	242,868	Constellation	Contract



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 3**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 3.** State whether East Kentucky engages in hedging activities for its natural gas purchases used for generation. If yes, describe the hedging activities in detail.

**Response 3.** East Kentucky hedges its natural gas price via the use of NYMEX futures contracts. Its hedge plan works in the following manner: Beginning 18 months prior to the usage month, East Kentucky's gas supplier acquires each month an equal amount of NYMEX futures, such that the total hedges in place are equal to 30% of East Kentucky's historical usage. During the usage month, as East Kentucky purchases spot natural gas for its combustion turbines, East Kentucky's gas supplier sells the acquired NYMEX futures. The net effect of the hedge, either positive or negative, is combined with the spot price paid in order to obtain the total monthly cost of natural gas.

East Kentucky's goal with its natural gas hedging plan is to minimize, as much as practical, the fuel adjustment clause volatility to all member systems, and ultimately the retail customer.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 4**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 4.** For each generating station or unit for which a separate coal pile is maintained, state, for the period from May 1, 2009 through October 31, 2009, the actual amount of coal burned in tons, the actual amount of coal deliveries in tons, the total kWh generated, and the actual capacity factor at which the plant operated.

**Response 4.** Please see page 2 of this response.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506

RESPONSE TO PSC ORDER DATED 01/27/10

Station	May	June	July	August	September	October
<u>Dale</u>						
Tons Burned	18,810.30	29,210.20	38,034.30	42,176.00	25,705.70	28,534.70
Tons Delivered	24,553.91	30,995.23	37,197.06	37,597.05	28,973.68	34,648.81
Generation—Net kWh	40,018,000.00	63,853,000.00	82,312,000.00	86,959,000.00	53,984,000.00	59,513,000.00
Actual Capacity Factor (net)	27.44	45.25	56.45	59.63	38.25	40.81
<u>Cooper</u>						
Tons Burned	58,478.50	63,493.40	40,944.80	46,503.70	49,464.00	50,859.90
Tons Delivered	61,363.54	58,050.51	65,077.99	41,098.25	38,666.14	36,724.01
Generation—Net kWh	137,750,000.00	144,953,000.00	90,962,000.00	108,820,000.00	119,745,000.00	115,158,000.00
Actual Capacity Factor (net)	54.30	59.04	35.85	42.89	48.77	45.39
<u>Spurlock 1 &amp; 2 (Scrubber)</u>						
Tons Burned (Scrubber)	148,008.00	217,224.00	204,338.00	200,014.00	88,626.00	195,416.00
Tons Burned (CFB)	0.00	0.00	0.00	0.00	0.00	804.00
Total Tons Burned	148,008.00	217,224.00	204,338.00	200,014.00	88,626.00	196,220.00
Tons Delivered	116,788.00	197,088.00	246,451.00	192,275.00	188,621.00	140,737.00
Generation—Net kWh	340,860,461.00	491,268,429.00	464,106,160.00	447,107,977.00	188,925,641.00	425,175,511.00
Actual Capacity Factor (net)	56.35	83.93	76.73	73.92	32.28	70.29
<u>Gilbert/Spurlock 4 (CFB)</u>						
Tons Burned	150,230.00	116,756.00	140,696.00	147,888.00	158,459.00	98,614.00
Tons Delivered	94,359.00	140,819.00	146,147.00	168,941.53	135,555.05	146,192.00
Generation—Net kWh	321,910,000.00	250,736,000.00	305,110,000.00	327,563,000.00	358,548,000.00	218,698,000.00
Actual Capacity Factor (net)	80.72	64.97	76.51	82.14	92.91	54.84



EAST KENTUCKY POWER COOPERATIVE, INC

PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10

REQUEST 5

RESPONSIBLE PARTY: Julia J. Tucker

**Request 5.** List all firm power commitments for East Kentucky from May 1, 2009 through October 31, 2009 for (a) purchases and (b) sales. This list shall identify the electric utility, the amount of commitment in MW, and the purpose of the commitment (e.g., peaking, emergency).

**Response 5.** (a) Purchases

<u>Company</u>	<u>MW</u>	<u>Purpose</u>	<u>Contract Date</u>
Duke Energy Ohio	Up to 70	Energy	Jan 07 - Dec 10
KY Municipals	Up to 62	Energy	Jun 07 - Dec 09
SEPA	Up to 170	Energy	Jun 98 - Jun 17

(b) There were no firm power sales from May 1, 2009 through October 31, 2009.





**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 6**

**RESPONSIBLE PARTY:            Ann F. Wood**

**Request 6.**            Provide a monthly billing summary for sales to all electric utilities for the period May 1, 2009 through October 31, 2009.

**Response 6.**            Please see member cooperative sales on pages 2 through 25 of this response. Please see other sales on pages 26 through 31 of this response.



EAST KENTUCKY POWER COOPERATIVE INC.  
Wholesale Power Accounting  
CO-OP Totals Billing Summary - CP Tariff

2009

May

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharges	Revenue
Burnside	Month	20	18,305	46.76	36	48.73	87	979
	YTD	494	217,400	51.90	1,667	59.56	1,139	14,088
East Ky Office	Month	870	540,329	50.70	1,075	52.69	2,790	31,261
	YTD	5,770	3,107,637	49.50	21,489	56.42	15,661	190,980
Smith Construction	Month	69	46,455	49.75	92	51.73	235	2,638
	YTD	801	363,515	51.58	2,682	58.96	1,900	23,332
<b>EKPC Subtotals</b>	Month	959	605,089	50.51	1,203	52.50	3,112	34,878
	YTD	7,065	3,688,552	49.85	25,838	56.85	18,700	228,400
<b>Totals</b>	Month	1,750,329	852,555,336	53.16	1,639,832	55.08	4,573,353	51,531,274
	YTD	12,722,170	5,227,898,082	51.90	35,472,154	58.69	27,199,816	334,013,502

**EAST KENTUCKY RIVER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**Green Power Billing Summary**

**May 2009**

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	2,400	57
	YTD	12,000	285
BLUE GRASS ENERGY	Month	22,400	532
	YTD	113,600	2,698
CLARK ENERGY COOP	Month	3,000	71
	YTD	13,800	327
CUMBERLAND VALLEY ELECTRIC	Month	3,500	83
	YTD	17,500	415
FARMERS RECC	Month	2,500	59
	YTD	12,500	295
FLEMING MASON RECC	Month	700	17
	YTD	3,500	85
GRAYSON RECC	Month	7,700	183
	YTD	38,500	915
INTER-COUNTY ECC	Month	6,100	145
	YTD	28,600	681
JACKSON ENERGY COOP	Month	16,600	394
	YTD	84,600	2,008
LICKING VALLEY RECC	Month	3,700	88
	YTD	18,500	440
NOLIN RECC	Month	29,000	689
	YTD	143,700	3,414
OWEN EC	Month	220,700	5,242
	YTD	1,093,900	25,981
SALT RIVER RECC	Month	51,500	1,223
	YTD	258,300	6,135
SHELBY ENERGY COOP	Month	11,900	283
	YTD	57,900	1,375

EAST KENTUCKY RIVER COOPERATIVE INC.  
Wholesale Power Accounting  
Green Power Billing Summary

May 2009

CO-OP Name/EKPC		KWH	KWH Charge	Revenue
SOUTH KENTUCKY RECC	Month	18,600	0.02375	442
	YTD	93,000		2,210
EKPC Subtotals	Month	400,300	0.02375	9,508
	YTD	1,989,900		47,264
<b>Totals</b>		Month	0.02375	9,508
		YTD		47,264

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**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

2009

June

CO-OP Name/EKPC	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
BIG SANDY RECC	Month	46,492	57.70	-3,027	57.55	109,267	62.96	1,270,443
	YTD	347,854	54.56	850,520	60.66	759,064	66.10	9,220,445
BLUE GRASS ENERGY	Month	223,113	56.23	-15,174	56.08	533,895	61.36	6,207,583
	YTD	1,587,505	54.41	3,714,541	60.32	3,408,510	65.74	41,336,658
CLARK ENERGY COOP	Month	80,522	58.15	-5,271	58.00	191,885	63.46	2,231,042
	YTD	581,424	55.51	1,365,158	61.51	1,256,628	67.03	15,254,143
CUMBERLAND VALLEY ELECTRIC	Month	87,702	57.35	-5,948	57.20	213,435	62.58	2,481,592
	YTD	658,743	54.28	1,667,957	60.34	1,491,382	65.75	18,097,078
FARMERS RECC	Month	87,599	56.14	-6,233	55.99	218,937	61.26	2,545,570
	YTD	595,054	53.92	1,445,952	59.73	1,335,880	65.10	16,189,805
FLEMING MASON RECC	Month	152,871	51.95	-9,776	51.82	348,996	56.50	4,215,066
	YTD	1,016,778	50.47	2,466,692	55.52	2,346,687	60.32	29,474,971
GRAYSON RECC	Month	48,509	58.47	-3,073	58.32	112,659	63.81	1,309,876
	YTD	347,629	54.78	859,968	60.87	771,497	66.33	9,369,882
INTER-COUNTY ECC	Month	81,349	57.21	-5,292	57.06	190,048	62.42	2,209,724
	YTD	599,152	54.96	1,374,872	60.93	1,257,736	66.40	15,276,849
JACKSON ENERGY COOP	Month	159,174	56.89	-10,853	56.74	386,688	62.08	4,495,992
	YTD	1,279,739	54.68	3,085,231	60.80	2,747,797	66.24	33,411,744
LICKING VALLEY RECC	Month	48,385	58.06	-3,128	57.91	113,592	63.36	1,320,729
	YTD	348,066	54.67	854,648	60.71	770,877	66.16	9,357,673
NOLIN RECC	Month	134,168	56.14	-9,021	55.99	316,819	61.25	3,683,651
	YTD	932,747	53.97	2,065,167	59.65	1,950,526	65.02	23,623,645
OWEN EC	Month	360,270	48.15	-24,695	48.01	756,261	52.52	8,796,689
	YTD	2,149,534	45.15	5,075,013	50.28	4,455,862	54.78	54,231,337
SALT RIVER RECC	Month	200,954	56.31	-13,804	56.16	486,319	61.44	5,654,474
	YTD	1,231,708	53.92	2,958,153	59.61	2,793,527	64.98	33,788,321
SHELBY ENERGY COOP	Month	79,762	54.48	-5,646	54.33	193,217	59.44	2,246,806
	YTD	521,384	52.36	1,304,183	58.11	1,188,186	63.34	14,381,422
SOUTH KENTUCKY RECC	Month	220,309	56.46	-15,173	56.31	535,927	61.60	6,231,237
	YTD	1,750,363	54.99	4,033,767	61.02	3,656,202	66.49	44,432,827
TAYLOR COUNTY RECC	Month	96,764	55.67	-5,740	55.53	220,599	60.57	2,655,936
	YTD	679,209	54.30	1,423,601	59.41	1,429,779	64.55	17,971,273
<b>CO-OP Subtotals</b>	Month	2,107,943	54.74	-141,854	54.59	4,928,544	59.71	57,556,410
	YTD	14,626,889	52.57	34,545,423	58.26	31,620,140	63.47	385,418,073
Inland Steam	Month	35,528	42.27	-3,178	42.13	85,176	46.09	990,345
	YTD	231,687	40.73	755,861	46.24	574,696	50.44	6,913,784
<b>Totals</b>	Month	2,143,471	54.47	-145,032	54.32	5,013,720	59.41	58,546,755
	YTD	14,858,576	52.31	35,301,284	58.00	32,194,836	63.18	392,331,857

EAST KENTUCKY POWER COOPERATIVE INC.  
Wholesale Power Accounting  
CO-OP Totals Billing Summary - CP Tariff

2009

June

CO-OP Name/EKPC	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
Burnside	Month	17	47.44	-2	47.31	64	51.74	747
	YTD	511	51.62	1,665	58.80	1,203	63.99	14,835
East Ky Office	Month	630	47.24	-82	47.09	2,422	51.52	28,163
	YTD	6,400	49.16	21,407	55.02	18,083	59.97	219,143
Smith Construction	Month	60	50.95	-5	50.82	175	55.60	2,032
	YTD	861	51.52	2,677	58.21	2,075	63.40	25,364
<b>EKPC Subtotals</b>	Month	707	47.47	-89	47.32	2,661	51.77	30,942
	YTD	7,772	49.52	25,749	55.52	21,361	60.51	259,342
<b>Totals</b>	Month	2,144,178	54.47	-145,121	54.32	5,016,381	59.41	58,577,697
	YTD	14,866,348	52.31	35,327,033	57.99	32,216,197	63.18	392,591,199



EAST KENTUCKY RIVER COOPERATIVE INC.  
Wholesale Power Accounting  
Green Power Billing Summary

June 2009

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	0.02375	57
	YTD		342
BLUE GRASS ENERGY	Month	0.02375	532
	YTD		3,230
CLARK ENERGY COOP	Month	0.02375	71
	YTD		398
CUMBERLAND VALLEY ELECTRIC	Month	0.02375	83
	YTD		498
FARMERS RECC	Month	0.02375	59
	YTD		354
FLEMING MASON RECC	Month	0.02375	17
	YTD		102
GRAYSON RECC	Month	0.02375	183
	YTD		1,098
INTER-COUNTY ECC	Month	0.02375	145
	YTD		826
JACKSON ENERGY COOP	Month	0.02375	394
	YTD		2,402
LICKING VALLEY RECC	Month	0.02375	88
	YTD		528
NOLIN RECC	Month	0.02375	665
	YTD		4,079
OWEN EC	Month	0.02375	5,225
	YTD		31,206
SALT RIVER RECC	Month	0.02375	1,228
	YTD		7,363
SHELBY ENERGY COOP	Month	0.02375	283
	YTD		1,658

EAST KENTUCKY RIVER COOPERATIVE INC.  
Wholesale Power Accounting  
Green Power Billing Summary

June 2009

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
SOUTH KENTUCKY RECC	Month	18,600	442
	YTD	111,600	2,652
EKPC Subtotals	Month	398,800	9,472
	YTD	2,388,700	56,736
<b>Totals</b>	Month	398,800	9,472
	YTD	2,388,700	56,736

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

**2009**

**July**

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surchage	Surchage Mills/KWH	Revenue
BIG SANDY RECC	Month	40,839	20,254,422	56.02	32,003	57.60	115,377	63.29	1,281,988
	YTD	388,693	159,739,278	54.75	882,523	60.27	874,441	65.75	10,502,433
BLUE GRASS ENERGY	Month	205,262	97,620,088	55.65	154,241	57.23	552,516	62.89	6,139,159
	YTD	1,792,767	726,397,888	54.58	3,868,782	59.90	3,961,026	65.36	47,475,817
CLARK ENERGY COOP	Month	72,796	34,225,437	57.24	54,077	58.82	199,082	64.63	2,212,052
	YTD	654,220	261,801,559	55.73	1,419,235	61.16	1,455,710	66.72	17,466,195
CUMBERLAND VALLEY ELECTRIC	Month	77,754	39,452,151	55.99	62,336	57.57	224,622	63.26	2,495,810
	YTD	736,497	314,674,987	54.49	1,730,293	59.99	1,716,004	65.44	20,592,888
FARMERS RECC	Month	79,127	40,779,837	55.14	64,433	56.72	228,748	62.33	2,541,663
	YTD	674,181	289,456,592	54.09	1,510,385	59.31	1,564,628	64.71	18,731,468
FLEMING MASON RECC	Month	145,855	72,989,044	51.12	105,156	52.56	368,936	57.62	4,205,494
	YTD	1,162,633	561,633,992	50.55	2,571,848	55.13	2,715,623	59.97	33,680,465
GRAYSON RECC	Month	43,286	20,937,329	56.54	33,081	58.12	120,354	63.87	1,337,281
	YTD	390,915	162,200,396	55.01	893,049	60.51	891,851	66.01	10,707,163
INTER-COUNTY ECC	Month	77,435	34,737,954	56.79	54,702	58.36	200,520	64.14	2,227,990
	YTD	676,587	264,809,868	55.20	1,429,574	60.60	1,458,256	66.10	17,504,839
JACKSON ENERGY COOP	Month	144,164	72,338,929	55.67	114,186	57.25	409,581	62.91	4,550,950
	YTD	1,423,903	576,708,794	54.80	3,199,417	60.35	3,157,378	65.83	37,962,694
LICKING VALLEY RECC	Month	42,080	20,474,021	56.53	32,348	58.11	117,660	63.85	1,307,344
	YTD	390,146	161,915,245	54.90	886,996	60.38	888,537	65.87	10,665,017
NOLIN RECC	Month	119,257	58,316,826	54.97	92,138	56.55	326,141	62.14	3,623,827
	YTD	1,052,004	421,656,550	54.10	2,157,305	59.22	2,276,667	64.62	27,247,472
OWEN EC	Month	333,988	172,483,162	47.02	272,523	48.60	830,963	53.41	9,212,988
	YTD	2,483,522	1,162,544,901	45.43	5,347,536	50.03	5,286,825	54.57	63,444,325
SALT RIVER RECC	Month	189,286	89,490,076	55.91	141,395	57.49	508,780	63.17	5,653,164
	YTD	1,420,994	609,463,291	54.21	3,099,548	59.30	3,302,307	64.72	39,441,485
SHELBY ENERGY COOP	Month	73,603	36,807,342	53.81	57,994	55.38	201,539	60.86	2,239,961
	YTD	594,987	263,857,622	52.56	1,362,177	57.73	1,389,725	62.99	16,621,383
SOUTH KENTUCKY RECC	Month	198,219	99,871,935	55.34	157,780	56.92	562,242	62.55	6,247,210
	YTD	1,948,582	768,097,681	55.03	4,191,547	60.49	4,218,444	65.98	50,680,037
TAYLOR COUNTY RECC	Month	89,449	45,121,869	54.36	59,499	55.68	237,832	60.95	2,750,251
	YTD	768,658	323,528,259	54.31	1,483,100	58.89	1,667,611	64.05	20,721,524
<b>CO-OP Subtotals</b>	Month	1,932,400	955,900,422	53.70	1,487,892	55.26	5,204,893	60.70	58,027,132
	YTD	16,559,289	7,028,486,903	52.73	36,033,315	57.85	36,825,033	63.09	443,445,205
Inland Steam	Month	34,167	21,297,283	41.95	33,145	43.51	91,644	47.81	1,018,282
	YTD	265,854	158,376,790	40.89	789,006	45.88	666,340	50.08	7,932,066
<b>Totals</b>	Month	1,966,567	977,197,705	53.45	1,521,037	55.00	5,296,537	60.42	59,045,414
	YTD	16,825,143	7,186,863,693	52.47	36,822,321	57.59	37,491,373	62.81	451,377,271

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

CPRN330

**2009**

**July**

CO-OP Name/EKPC	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Fuel Charge	Surcharges	Revenue
Burnside	Month	20	13,841	49.42	22	51.01	70	776
	YTD	531	245,679	51.49	1,687	58.36	1,273	15,611
East Ky Office	Month	838	575,753	49.53	910	51.11	2,909	32,336
	YTD	7,238	4,230,066	49.21	22,317	54.49	20,992	251,479
Smith Contruction	Month	60	31,913	52.74	50	54.30	171	1,904
	YTD	921	431,972	51.61	2,727	57.93	2,246	27,268
<b>EKPC Subtotals</b>								
Month	918	621,507	49.69	982	51.27	56.34	3,150	35,016
YTD	8,690	4,907,717	49.54	26,731	54.98	59.98	24,511	294,358
<b>Totals</b>								
Month	1,967,485	977,819,212	53.44	1,522,019	55.00	60.42	5,299,687	59,080,430
YTD	16,833,833	7,191,771,410	52.46	36,849,052	57.59	62.80	37,515,884	451,671,629

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**Green Power Billing Summary**

**July 2009**

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	2,400	57
	YTD	16,800	399
BLUE GRASS ENERGY	Month	24,900	591
	YTD	160,900	3,821
CLARK ENERGY COOP	Month	3,000	71
	YTD	19,800	469
CUMBERLAND VALLEY ELECTRIC	Month	2,100	50
	YTD	23,100	548
FARMERS RECC	Month	2,900	69
	YTD	17,900	423
FLEMING MASON RECC	Month	700	17
	YTD	4,900	119
GRAYSON RECC	Month	7,700	183
	YTD	53,900	1,281
INTER-COUNTY ECC	Month	6,600	157
	YTD	41,300	983
JACKSON ENERGY COOP	Month	16,600	394
	YTD	117,800	2,796
LICKING VALLEY RECC	Month	3,600	86
	YTD	25,800	614
NOLIN RECC	Month	29,800	708
	YTD	201,500	4,787
OWEN EC	Month	222,200	5,277
	YTD	1,536,100	36,483
SALT RIVER RECC	Month	51,700	1,228
	YTD	361,700	8,591
SHELBY ENERGY COOP	Month	11,900	283
	YTD	81,700	1,941

EAST KENTUCKY POWER COOPERATIVE INC.  
 Wholesale Power Accounting  
 Green Power Billing Summary

July 2009

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
SOUTH KENTUCKY RECC	Month		442
	YTD	0.02375	3,094
EKPC Subtotals	Month	0.02375	9,613
	YTD		66,349
<b>Totals</b>	Month	0.02375	9,613
	YTD		66,349

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**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

2009

August

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
BIG SANDY RECC	Month	48,308	21,537,425	67.42	-217,097	57.34	123,865	63.09	1,358,811
	YTD	437,001	181,276,703	56.25	665,426	59.92	998,306	65.43	11,861,244
BLUE GRASS ENERGY	Month	231,039	106,534,631	66.12	-1,073,870	56.04	598,860	61.67	6,569,554
	YTD	2,023,806	832,932,519	56.06	2,794,912	59.41	4,559,886	64.89	54,045,371
CLARK ENERGY COOP	Month	83,108	37,311,938	67.87	-376,106	57.79	216,272	63.59	2,372,516
	YTD	737,328	299,113,497	57.25	1,043,129	60.74	1,671,982	66.33	19,838,711
CUMBERLAND VALLEY ELECTRIC	Month	91,036	42,175,126	67.15	-425,125	57.07	241,404	62.79	2,648,227
	YTD	827,533	356,850,113	55.99	1,305,168	59.64	1,957,408	65.13	23,241,115
FARMERS RECC	Month	89,182	43,693,483	65.78	-440,430	55.70	244,093	61.28	2,677,732
	YTD	763,363	333,150,075	55.62	1,069,955	58.83	1,808,721	64.26	21,409,200
FLEMING MASON RECC	Month	155,365	76,238,125	61.00	-704,757	51.76	386,252	56.82	4,332,138
	YTD	1,317,998	637,872,117	51.80	1,867,091	54.73	3,101,875	59.59	38,012,603
GRAYSON RECC	Month	46,974	22,860,914	66.54	-230,439	56.46	129,453	62.12	1,420,122
	YTD	437,889	185,061,310	56.43	662,610	60.01	1,021,304	65.53	12,127,285
INTER-COUNTY ECC	Month	85,227	37,042,962	67.26	-371,113	57.24	212,683	62.98	2,333,139
	YTD	761,814	301,852,830	56.68	1,058,461	60.19	1,670,939	65.72	19,837,978
JACKSON ENERGY COOP	Month	166,892	78,061,011	66.58	-786,358	56.51	442,410	62.17	4,853,284
	YTD	1,590,795	654,769,805	56.21	2,413,059	59.89	3,599,788	65.39	42,815,978
LICKING VALLEY RECC	Month	50,572	22,423,064	67.74	-226,025	57.66	129,679	63.44	1,422,585
	YTD	440,718	184,338,309	56.46	660,971	60.05	1,018,216	65.57	12,087,602
NOLIN RECC	Month	139,679	64,650,580	65.67	-651,679	55.59	360,499	61.17	3,954,702
	YTD	1,191,683	486,307,130	55.64	1,505,626	58.74	2,637,166	64.16	31,202,174
OWEN EC	Month	347,726	191,569,825	56.97	-1,931,025	46.89	902,947	51.60	9,885,435
	YTD	2,831,248	1,354,114,726	47.06	3,416,511	49.58	6,189,772	54.15	73,329,760
SALT RIVER RECC	Month	214,854	96,519,613	66.68	-972,917	56.60	547,945	62.28	6,011,005
	YTD	1,635,848	705,982,904	55.92	2,126,631	58.93	3,850,252	64.38	45,452,490
SHELBY ENERGY COOP	Month	81,161	39,880,336	64.14	-401,656	54.07	216,251	59.49	2,372,638
	YTD	676,148	303,737,958	54.08	960,521	57.25	1,605,976	62.53	18,994,021
SOUTH KENTUCKY RECC	Month	232,593	106,218,690	66.63	-1,070,463	56.56	602,525	62.23	6,609,769
	YTD	2,181,175	874,316,371	56.44	3,121,084	60.01	4,820,969	65.53	57,289,806
TAYLOR COUNTY RECC	Month	100,416	45,978,039	64.53	-403,344	55.76	248,273	61.16	2,812,052
	YTD	869,074	369,506,298	55.58	1,079,756	58.50	1,915,884	63.69	23,533,576
<b>CO-OP Subtotals</b>	Month	2,164,132	1,032,695,762	64.21	-10,282,404	54.26	5,603,411	59.68	61,633,709
	YTD	18,723,421	8,061,182,665	54.20	25,750,911	57.39	42,428,444	62.66	505,078,914
Inland Steam	Month	33,628	20,292,012	51.29	-201,884	41.34	84,147	45.49	923,097
	YTD	299,482	178,668,802	42.08	587,122	45.36	750,487	49.56	8,855,163
<b>Totals</b>	Month	2,197,760	1,052,987,774	63.96	-10,484,288	54.01	5,687,558	59.41	62,556,806
	YTD	19,022,903	8,239,851,467	53.94	26,338,033	57.13	43,178,931	62.37	513,934,077

**EAST KENTUCKY POWER COOPERATIVE INC.**  
 Wholesale Power Accounting  
 CO-OP Totals Billing Summary - CP Tariff

2009

**August**

CO-OP Name/EKPC	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
Burnside	Month	26	62.04	-148	51.95	76	57.13	838
	YTD	557	52.09	1,539	58.00	1,349	63.18	16,449
East Ky Office	Month	885	60.01	-5,952	49.93	2,956	54.93	32,436
	YTD	8,123	50.53	16,365	53.93	23,948	58.90	283,915
Smith Construction	Month	58	62.01	-332	51.94	172	57.15	1,884
	YTD	979	52.35	2,395	57.50	2,418	62.70	29,152
<b>EKPC Subtotals</b>	Month	969	60.16	-6,432	50.08	3,204	55.10	35,158
	YTD	9,659	50.76	20,299	54.42	27,715	59.42	329,516
<b>Totals</b>	Month	2,198,729	63.96	-10,490,720	54.01	5,690,762	59.41	62,591,964
	YTD	19,032,562	53.93	26,358,332	57.13	43,206,646	62.37	514,263,593



**EAST KENTUCKY POWER COOPERATIVE INC.**  
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**Green Power Billing Summary**

**August 2009**

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	2,400	57
	YTD	19,200	456
BLUE GRASS ENERGY	Month	24,900	591
	YTD	185,800	4,412
CLARK ENERGY COOP	Month	3,000	71
	YTD	22,800	540
CUMBERLAND VALLEY ELECTRIC	Month	2,100	50
	YTD	25,200	598
FARMERS RECC	Month	2,900	69
	YTD	20,800	492
FLEMING MASON RECC	Month	700	17
	YTD	5,600	136
GRAYSON RECC	Month	7,700	183
	YTD	61,600	1,464
INTER-COUNTY ECC	Month	6,600	157
	YTD	47,900	1,140
JACKSON ENERGY COOP	Month	22,200	527
	YTD	140,000	3,323
LICKING VALLEY RECC	Month	3,600	86
	YTD	29,400	700
NOLIN RECC	Month	29,400	698
	YTD	230,900	5,485
OWEN EC	Month	223,800	5,315
	YTD	1,759,900	41,798
SALT RIVER RECC	Month	51,500	1,223
	YTD	413,200	9,814

August 2009

CO-OP Name/EKPC	Month YTD	KWH	KWH Charge	Revenue
SHELBY ENERGY COOP	Month YTD	14,300 96,000	0.02375	340 2,281
SOUTH KENTUCKY RECC	Month YTD	18,600 148,800	0.02375	442 3,536
<b>EKPC Subtotals</b>	Month YTD	413,700 3,207,100	0.02375	9,826 76,175
<b>Totals</b>	Month YTD	413,700 3,207,100	0.02375	9,826 76,175

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

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2009

September

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
BIG SANDY RECC	Month	36,785	17,373,849	66.81	-129,783	59.34	110,103	65.67	1,141,022
	YTD	473,786	198,650,552	57.18	535,643	59.87	1,108,409	65.45	13,002,266
BLUE GRASS ENERGY	Month	186,787	88,343,048	65.80	-659,922	58.33	550,367	64.56	5,703,636
	YTD	2,210,593	921,275,567	56.99	2,134,990	59.31	5,110,253	64.85	59,749,007
CLARK ENERGY COOP	Month	63,758	29,941,025	67.54	-223,659	60.07	192,076	66.48	1,990,506
	YTD	801,086	329,054,522	58.18	819,470	60.67	1,864,058	66.34	21,829,217
CUMBERLAND VALLEY ELECTRIC	Month	72,131	36,203,806	66.26	-270,444	58.79	227,330	65.07	2,355,895
	YTD	899,664	393,053,919	56.93	1,034,724	59.57	2,184,738	65.12	25,597,010
FARMERS RECC	Month	66,287	36,758,329	64.38	-274,584	56.91	223,412	62.99	2,315,298
	YTD	829,650	369,908,404	56.49	795,371	58.64	2,032,133	64.14	23,724,498
FLEMING MASON RECC	Month	140,289	65,100,403	61.38	-486,184	53.91	374,809	59.67	3,884,479
	YTD	1,458,287	702,972,520	52.69	1,380,907	54.65	3,476,684	59.60	41,897,082
GRAYSON RECC	Month	39,530	18,501,493	67.13	-138,208	59.66	117,879	66.03	1,221,612
	YTD	477,419	203,562,803	57.40	524,402	59.98	1,139,183	65.58	13,348,897
INTER-COUNTY ECC	Month	67,287	30,609,459	66.63	-227,310	59.21	193,556	65.53	2,005,866
	YTD	829,101	332,462,289	57.60	831,151	60.10	1,864,495	65.70	21,843,844
JACKSON ENERGY COOP	Month	131,911	65,303,931	65.98	-487,282	58.52	408,129	64.77	4,229,587
	YTD	1,722,706	720,073,736	57.09	1,925,777	59.77	4,007,917	65.33	47,045,565
LICKING VALLEY RECC	Month	38,600	18,313,916	66.99	-136,806	59.52	116,423	65.88	1,206,520
	YTD	479,318	202,652,225	57.42	524,165	60.00	1,134,639	65.60	13,294,122
NOLIN RECC	Month	107,805	55,138,398	64.34	-411,884	56.87	334,888	62.94	3,470,510
	YTD	1,299,488	541,445,528	56.53	1,093,742	58.55	2,972,054	64.04	34,672,684
OWEN EC	Month	350,358	169,628,994	57.07	-1,267,100	49.60	900,746	54.91	9,314,692
	YTD	3,181,606	1,523,743,720	48.17	2,149,411	49.58	7,090,518	54.24	82,644,452
SALT RIVER RECC	Month	162,397	79,113,039	65.79	-590,974	58.32	492,731	64.54	5,106,314
	YTD	1,798,245	785,095,943	56.91	1,535,657	58.87	4,342,983	64.40	50,558,804
SHELBY ENERGY COOP	Month	67,497	33,532,826	63.99	-250,295	56.52	202,361	62.56	2,097,734
	YTD	743,645	337,270,784	55.07	710,226	57.17	1,808,337	62.54	21,091,755
SOUTH KENTUCKY RECC	Month	172,472	89,120,242	65.20	-665,717	57.73	549,447	63.89	5,694,101
	YTD	2,353,647	963,436,613	57.25	2,455,367	59.80	5,370,416	65.37	62,983,907
TAYLOR COUNTY RECC	Month	75,664	35,225,503	64.75	-247,387	57.73	214,487	63.82	2,248,013
	YTD	944,738	404,731,801	56.38	832,369	58.44	2,130,371	63.70	25,781,589
<b>CO-OP Subtotals</b>	Month	1,779,558	868,208,261	63.63	-6,467,539	56.18	5,208,744	62.18	53,985,785
	YTD	20,502,979	8,929,390,926	55.12	19,283,372	57.27	47,637,188	62.61	559,064,699
Inland Steam	Month	35,298	21,217,012	50.53	-155,163	43.21	97,918	47.83	1,014,750
	YTD	334,780	199,885,814	42.97	431,959	45.13	848,405	49.38	9,869,913
<b>Totals</b>	Month	1,814,856	889,425,273	63.32	-6,622,702	55.87	5,306,662	61.84	55,000,535
	YTD	20,837,759	9,129,276,740	54.85	19,715,331	57.01	48,485,593	62.32	568,934,612

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

2009

**September**

CO-OP Name/EKPC	Month	YTD	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surchage	Surchage Mills/KWH	Revenue
Burnside	Month		17	14,949	57.19	-112	49.70	79	54.99	822
	YTD		574	275,296	52.37	1,427	57.55	1,428	62.74	17,271
East Ky Office	Month		837	559,104	60.00	-4,175	52.53	3,138	58.14	32,508
	YTD		8,960	5,379,639	51.52	12,190	53.78	27,086	58.82	316,423
Smith Contruction	Month		46	31,746	59.63	-237	52.16	177	57.74	1,833
	YTD		1,025	496,682	52.81	2,158	57.16	2,595	62.38	30,985
<b>EKPC Subtotals</b>	Month		900	605,799	59.91	-4,524	52.44	3,394	58.04	35,163
	YTD		10,559	6,151,617	51.66	15,775	54.22	31,109	59.28	364,679
<b>Totals</b>	Month		1,815,756	890,031,072	63.32	-6,627,226	55.87	5,310,056	61.84	55,035,698
	YTD		20,848,318	9,135,428,357	54.85	19,731,106	57.01	48,516,702	62.32	569,299,291

EAST KENTUCKY RIVER COOPERATIVE INC.  
Wholesale Power Accounting  
Green Power Billing Summary

September 2009

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	0.02375	57
	YTD		513
BLUE GRASS ENERGY	Month	0.02375	591
	YTD		5,003
CLARK ENERGY COOP	Month	0.02375	71
	YTD		611
CUMBERLAND VALLEY ELECTRIC	Month	0.02375	50
	YTD		648
FARMERS RECC	Month	0.02375	69
	YTD		561
FLEMING MASON RECC	Month	0.02375	19
	YTD		155
GRAYSON RECC	Month	0.02375	183
	YTD		1,647
INTER-COUNTY ECC	Month	0.02375	157
	YTD		1,297
JACKSON ENERGY COOP	Month	0.02375	461
	YTD		3,784
LICKING VALLEY RECC	Month	0.02375	74
	YTD		774
NOLIN RECC	Month	0.02375	691
	YTD		6,176
OWEN EC	Month	0.02375	5,315
	YTD		47,113
SALT RIVER RECC	Month	0.02375	1,221
	YTD		11,035

EAST KENTUCKY POWER COOPERATIVE INC.  
 Wholesale Power Accounting  
 Green Power Billing Summary

September 2009

CO-OP Name/EKPC		KWH	KWH Charge	Revenue
SHELBY ENERGY COOP	Month	13,100	0.02375	311
	YTD	109,100		2,592
SOUTH KENTUCKY RECC	Month	18,600	0.02375	442
	YTD	167,400		3,978
EKPC Subtotals	Month	408,900	0.02375	9,712
	YTD	3,616,000		85,887
Totals	Month	408,900	0.02375	9,712
	YTD	3,616,000		85,887

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

2009

October

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
BIG SANDY RECC	Month	41,644	18,479,576	66.31	-203,830	55.28	107,676	61.11	1,129,266
	YTD	515,430	217,130,128	57.95	331,813	59.48	1,216,085	65.08	14,131,532
BLUE GRASS ENERGY	Month	179,895	86,752,338	64.66	-956,876	53.63	490,352	59.28	5,142,620
	YTD	2,390,488	1,008,027,905	57.65	1,178,114	58.82	5,600,605	64.37	64,891,627
CLARK ENERGY COOP	Month	70,937	30,816,531	67.31	-339,905	56.28	182,789	62.21	1,917,042
	YTD	872,023	359,871,053	58.97	479,565	60.30	2,046,847	65.99	23,746,259
CUMBERLAND VALLEY ELECTRIC	Month	87,628	37,570,730	67.03	-414,406	56.00	221,736	61.90	2,325,510
	YTD	987,292	430,624,649	57.81	620,318	59.25	2,406,474	64.84	27,922,520
FARMERS RECC	Month	72,635	35,820,163	64.68	-395,095	53.65	202,544	59.30	2,124,222
	YTD	902,285	405,728,567	57.22	400,276	58.20	2,234,677	63.71	25,848,720
FLEMING MASON RECC	Month	147,455	71,977,267	60.28	-751,560	49.84	371,477	55.00	3,958,765
	YTD	1,605,742	774,949,787	53.39	629,347	54.21	3,848,161	59.17	45,855,847
GRAYSON RECC	Month	44,557	19,810,629	66.59	-218,511	55.56	116,014	61.42	1,216,715
	YTD	521,976	223,373,432	58.22	305,891	59.59	1,255,197	65.21	14,565,612
INTER-COUNTY ECC	Month	70,329	31,095,878	66.13	-342,526	55.12	180,654	60.93	1,894,631
	YTD	899,430	363,558,167	58.33	488,625	59.67	2,045,149	65.29	23,738,475
JACKSON ENERGY COOP	Month	156,133	68,375,600	66.33	-753,589	55.31	398,573	61.13	4,180,112
	YTD	1,878,839	788,449,336	57.89	1,172,188	59.38	4,406,490	64.97	51,225,677
LICKING VALLEY RECC	Month	45,493	19,875,604	66.75	-219,227	55.72	116,722	61.59	1,224,143
	YTD	524,811	222,527,829	58.25	304,938	59.62	1,251,361	65.24	14,518,265
NOLIN RECC	Month	105,012	53,077,201	63.45	-585,442	52.42	293,258	57.95	3,075,591
	YTD	1,404,500	594,522,729	57.15	508,300	58.00	3,265,312	63.49	37,748,275
OWEN EC	Month	312,272	167,442,948	55.69	-1,846,896	44.66	790,369	49.38	8,269,148
	YTD	3,493,878	1,691,186,668	48.92	302,515	49.10	7,880,887	53.76	90,913,600
SALT RIVER RECC	Month	140,010	72,124,791	64.20	-795,537	53.17	404,173	58.77	4,238,828
	YTD	1,938,255	857,220,734	57.52	740,120	58.39	4,747,156	63.92	54,797,632
SHELBY ENERGY COOP	Month	62,165	32,725,393	62.83	-360,689	51.80	178,539	57.26	1,873,857
	YTD	805,810	369,996,177	55.76	349,537	56.70	1,986,876	62.07	22,965,612
SOUTH KENTUCKY RECC	Month	219,611	89,934,574	67.10	-991,581	56.07	531,528	61.98	5,574,464
	YTD	2,573,258	1,053,371,187	58.09	1,463,786	59.48	5,901,944	65.08	68,558,371
TAYLOR COUNTY RECC	Month	87,816	37,386,047	64.74	-360,384	55.10	209,583	60.71	2,269,617
	YTD	1,032,554	442,117,848	57.09	471,985	58.15	2,339,954	63.45	28,051,206
<b>CO-OP Subtotals</b>	Month	1,843,592	873,265,270	63.16	-9,536,054	52.24	4,795,987	57.73	50,414,551
	YTD	22,346,571	9,802,656,196	55.83	9,747,318	56.83	52,433,175	62.17	609,479,230
Inland Steam	Month	35,995	22,456,147	50.23	-242,490	39.43	93,324	43.58	978,750
	YTD	370,775	222,341,961	43.71	189,469	44.56	941,729	48.79	10,848,663
<b>Totals</b>	Month	1,879,587	895,721,417	62.83	-9,778,544	51.92	4,889,311	57.38	51,393,281
	YTD	22,717,346	10,024,998,157	55.56	9,936,787	56.55	53,374,904	61.88	620,327,893

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**CO-OP Totals Billing Summary - CP Tariff**

2009

**October**

CO-OP Name/EKPC	Month	KW	KWH	Base Mills/KWH	Fuel Charge	Fuel Mills/KWH	Surcharge	Surcharge Mills/KWH	Revenue
Burnside	Month	71	26,214	69.09	-289	58.06	160	64.16	1,882
	YTD	645	301,510	53.82	1,138	57.59	1,588	62.86	18,953
East Ky Office	Month	943	549,939	61.60	-6,065	50.57	2,931	55.90	30,741
	YTD	9,903	5,929,578	52.45	6,125	53.49	30,017	58.55	347,164
Smith Construction	Month	104	44,666	66.22	-493	55.19	260	61.01	2,725
	YTD	1,129	541,348	53.92	1,665	57.00	2,855	62.27	33,710
<b>EKPC Subtotals</b>									
	Month	1,118	620,819	62.25	-6,847	51.22	3,351	56.62	35,148
	YTD	11,677	6,772,436	52.63	8,928	53.95	34,460	59.04	399,827
<b>Totals</b>									
	Month	1,880,705	896,342,236	62.83	-9,785,391	51.92	4,892,662	57.38	51,428,429
	YTD	22,729,023	10,031,770,593	55.56	9,945,715	56.55	53,409,364	61.88	620,727,720



**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**Green Power Billing Summary**

**October 2009**

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
BIG SANDY RECC	Month	0.02375	57
	YTD		570
BLUE GRASS ENERGY	Month	0.02375	591
	YTD		5,594
CLARK ENERGY COOP	Month	0.02375	71
	YTD		682
CUMBERLAND VALLEY ELECTRIC	Month	0.02375	50
	YTD		698
FARMERS RECC	Month	0.02375	69
	YTD		630
FLEMING MASON RECC	Month	0.02375	26
	YTD		181
GRAYSON RECC	Month	0.02375	183
	YTD		1,830
INTER-COUNTY ECC	Month	0.02375	140
	YTD		1,437
JACKSON ENERGY COOP	Month	0.02375	461
	YTD		4,245
LICKING VALLEY RECC	Month	0.02375	74
	YTD		848
NOLIN RECC	Month	0.02375	684
	YTD		6,860
OWEN EC	Month	0.02375	5,308
	YTD		52,421

**EAST KENTUCKY POWER COOPERATIVE INC.**  
**Wholesale Power Accounting**  
**Green Power Billing Summary**

CPRN331

**October 2009**

CO-OP Name/EKPC	KWH	KWH Charge	Revenue
SALT RIVER RECC	Month	0.02375	1,221
	YTD		12,256
SHELBY ENERGY COOP	Month	0.02375	311
	YTD		2,903
SOUTH KENTUCKY RECC	Month	0.02375	442
	YTD		4,420
<b>EKPC Subtotals</b>	Month	0.02375	9,688
	YTD		95,575
<b>Totals</b>	Month	0.02375	9,688
	YTD		95,575

Company EAST KENTUCKY POWER COOPERATIVE, INC.  
POWER TRANSACTION SCHEDULE



Month Ended MAY 2009

Billing Components

<u>Company Sales</u>	<u>Type of Transaction</u>	<u>KWH</u>	<u>Demand (\$)</u>	<u>Fuel Charges (\$)</u>	<u>Margin(+)</u> or <u>Loss (-)</u>	<u>Total Charges (\$)</u>
Cargill	Non-Displacement	61,350,000		1,821,198	(98,398)	1,722,800
Miso	Emergency	635,000		33,792	29,708	63,500
Miso	Non-Displacement	75,000		2,471	(593)	1,878
Miso (prior mo adj)	Non-Displacement	174,000		12,635	8,641	21,276
PJM	Non-Displacement	28,739,000		800,182	94,195	894,377
Southern Company	Non-Displacement	50,000		1,624	(24)	1,600
The Energy Authority	Non-Displacement	171,000		4,358	(256)	4,102
TVA	Non-Displacement	525,000		15,796	754	16,550
<b>TOTAL</b>		<b>91,719,000</b>	<b>0</b>	<b>2,692,056</b>	<b>34,027</b>	<b>2,726,083</b>

Company EAST KENTUCKY POWER COOPERATIVE, INC.  
POWER TRANSACTION SCHEDULE

Month Ended JUNE 2009



Billing Components

<u>Company</u> <u>Sales</u>	<u>Type of Transaction</u>	<u>KWH</u>	<u>Demand (\$)</u>	<u>Fuel Charges (\$)</u>	<u>Margin(+) or</u> <u>Loss (-)</u>	<u>Total Charges (\$)</u>
Ameren Energy	Non-Displacement	360,000		14,554	(6,994)	7,560
Cargill	Non-Displacement	27,603,000		945,172	(347,632)	597,540
Miso	Emergency	1,821,000		101,091	81,009	182,100
Miso	Non-Displacement	5,096,000		158,120	(1,539)	156,581
Miso (prior mo adj)	Non-Displacement			(2,977)		(2,977)
Oglethorpe	Non-Displacement	600,000		12,784	5,516	18,300
PJM	Non-Displacement	7,365,000		213,642	(16,850)	196,792
Power Suouth	Non-Displacement	4,434,000		126,215	(15,863)	110,352
Southern Company	Non-Displacement	71,000		2,836	(935)	1,901
The Energy Authority	Non-Displacement	50,000		1,055	695	1,750
TVA	Non-Displacement	2,675,000		93,282	(25,907)	67,375
<b>TOTAL</b>		<b>50,075,000</b>	<b>0</b>	<b>1,665,774</b>	<b>(328,500)</b>	<b>1,337,274</b>

Company EAST KENTUCKY POWER COOPERATIVE, INC.  
POWER TRANSACTION SCHEDULE



Month Ended JULY 2009

Billing Components

Company Sales	Type of Transaction	KWH	Demand (\$)	Fuel Charges (\$)	Margin(+) or Loss (-)	Total Charges (\$)
Cargill	Non-Displacement	1,392,000		34,962	(9,048)	25,914
LG&E	Non-Displacement	1,050,000		27,103	(11,353)	15,750
Miso	Emergency	329,000		19,124	13,776	32,900
Miso	Non-Displacement	5,828,000		277,958	(113,682)	164,276
PJM	Non-Displacement	11,306,000		339,837	(66,418)	273,419
Power Suouth	Non-Displacement	11,592,000		373,267	(59,594)	313,673
Southern Company	Non-Displacement	1,020,000		31,869	5,518	37,387
The Energy Authority	Non-Displacement	452,000		12,686	(1,342)	11,344
TVA	Non-Displacement	400,000		10,214	(3,014)	7,200
TOTAL		33,369,000	0	1,127,020	(245,157)	881,863

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**POWER TRANSACTION SCHEDULE**  
 Month Ended **AUGUST 2009**



<u>Company</u> <u>Sales</u>	<u>Type of Transaction</u>	<u>KWH</u>	<u>Demand (\$)</u>	<u>Fuel Charges (\$)</u>	<u>Margin(+) or Loss (-)</u>	<u>Total Charges (\$)</u>
				<u>Billing Components</u>		
Cargill	Non-Displacement	150,000		3,994	(1,294)	2,700
Miso	Emergency	130,000		7,406	5,594	13,000
Miso	Non-Displacement	15,558,000		476,162	(201,315)	274,847
PJM	Non-Displacement	4,232,000		121,571	(22,366)	99,205
<b>TOTAL</b>		<u>20,070,000</u>	<u>0</u>	<u>609,133</u>	<u>(219,381)</u>	<u>389,752</u>

Company EAST KENTUCKY POWER COOPERATIVE, INC.  
POWER TRANSACTION SCHEDULE



Month Ended SEPTEMBER 2009

Billing Components

<u>Company Sales</u>	<u>Type of Transaction</u>	<u>KWH</u>	<u>Demand (\$)</u>	<u>Fuel Charges (\$)</u>	<u>Margin(+) or Loss (-)</u>	<u>Total Charges (\$)</u>
Cargill	Non-Displacement	6,000		109	(1)	108
Hoosier Energy	Non-Displacement	1,612,000		81,857	(30,273)	51,584
Miso	Emergency	360,000		19,255	16,745	36,000
Miso (Aug Adj)	Non-Displacement			256	-	256
Miso	Non-Displacement	2,229,000		86,443	(51,678)	34,765
Oglethorpe	Non-Displacement	141,000		5,559	(2,034)	3,525
PJM	Non-Displacement	850,000		33,195	(18,003)	15,192
<b>TOTAL</b>		<b>5,198,000</b>	<b>0</b>	<b>226,674</b>	<b>(85,244)</b>	<b>141,430</b>

Company EAST KENTUCKY POWER COOPERATIVE, INC.  
POWER TRANSACTION SCHEDULE



Month Ended OCTOBER 2009

Billing Components

Company Sales	Type of Transaction	KWH	Demand (\$)	Fuel Charges (\$)	Margin(+) or Loss (-)	Total Charges (\$)
Big Rivers Electric	Non-Displacement	1,313,000		69,332	(208)	69,124
Cargill	Non-Displacement	500,000		21,539	(4,339)	17,200
EDF Trading	Non-Displacement	3,743,000		118,751	(5,613)	113,138
Miso	Emergency	80,000		4,479	3,521	8,000
Miso	Non-Displacement	4,975,000		159,708	(57,974)	101,734
Miso (prior mo adj)	Non-Displacement			(17,271)	-	(17,271)
PJM	Non-Displacement	12,147,000		477,994	(100,376)	377,618
PowerSouth Energy	Non-Displacement	1,599,000		53,588	5,575	59,163
Southern Company	Non-Displacement	2,226,000		88,348	(1,013)	87,335
TVA	Non-Displacement	8,940,000		363,724	(84,744)	278,980
TOTAL		<u>35,523,000</u>	<u>0</u>	<u>1,340,192</u>	<u>(245,171)</u>	<u>1,095,021</u>





**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 7**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 7.** List East Kentucky's scheduled, actual, and forced outages between May 1, 2009 and October 31, 2009.

**Response 7.** See attached pages 2 through 33 of this response.

**Production Management Reporting System****Appendix B****From: May 1, 2009 thru Oct. 31, 2009****ITEM NO. 7  
Page 2 of 33****Dale Power Station****Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Scheduled	Maintenance	744	0	Spring maintenance outage.
06/01/2009	0000	0.0	Scheduled	Maintenance	297	18	Spring maintenance outage.
06/22/2009	0052	0.0	Scheduled	Maintenance	30	43	Remove fine screen on main stop valve.
07/03/2009	1243	0.0	Forced	Maintenance	0	28	Oil pressure dipped when the pumps were switched.
08/12/2009	1705	0.0	Forced	Maintenance	0	16	High back pressure due to low vacuum.

**Production Management Reporting System****Appendix B****From: May 1, 2009 thru Oct. 31, 2009****ITEM NO. 7  
Page 3 of 33****Dale Power Station****Unit Two**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Scheduled	Maintenance	744	0	Spring maintenance outage.
06/01/2009	0000	0.0	Scheduled	Maintenance	417	11	Spring maintenance outage.
06/18/2009	0945	0.0	Forced	Maintenance	0	6	Turbine control speed reference & speed setpoint had a mismatch.
06/18/2009	1005	0.0	Forced	Maintenance	0	21	Boiler pressure was high causing unit to trip during startup.
06/28/2009	2358	0.0	Scheduled	Maintenance	31	53	Remove fine screen on main stop valve.
08/12/2009	1555	0.0	Forced	Maintenance	41	56	Waterwall tube leak.
10/07/2009	1559	0.0	Scheduled	Maintenance	42	4	Water wall tube leak.



**Production Management Reporting System**

**Appendix B**

**From: May 1, 2009 thru Oct. 31, 2009**

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**Dale Power Station**

**Unit Three**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/16/2009	1319	0.0	Forced	Maintenance	143	11	Waterwall tube leak.
08/09/2009	1441	0.0	Forced	Maintenance	0	44	Manual push button was inadvertently hit.
08/14/2009	2336	0.0	Scheduled	Maintenance	47	13	Waterwall tube leak.
09/06/2009	1724	0.0	Forced	Maintenance	19	21	Waterwall tube leak.
09/11/2009	2304	0.0	Scheduled	Maintenance	456	56	Fall outage--acid clean.
10/01/2009	0000	0.0	Scheduled	Maintenance	108	0	Fall outage.
10/06/2009	0753	0.0	Forced	Maintenance	9	7	Condenser tube leak.



Production Management Reporting System

Appendix B

From: May 1, 2009 thru Oct. 31, 2009

Dale Power Station

Unit Four

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/27/2009	0010	0.0	Forced	Maintenance	59	5	Waterwall tube leak.
06/15/2009	1150	0.0	Forced	Maintenance	71	23	Waterwall tube leak.
06/25/2009	0617	0.0	Forced	Maintenance	0	28	Bad card in processor.
06/26/2009	1218	0.0	Forced	Maintenance	63	34	Waterwall tube leak.
06/29/2009	1046	0.0	Forced	Maintenance	2	57	Bad card in processor.
09/07/2009	2001	0.0	Scheduled	Maintenance	44	29	Water wall tube leak.
09/15/2009	0005	0.0	Forced	Maintenance	68	20	Water wall tube leak.
10/03/2009	0028	0.0	Scheduled	Maintenance	495	32	Water tube assessment.



Production Management Reporting System

**Appendix B**

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**Cooper Power Station**

**Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
07/22/2009	1359	0.0	Forced	Maintenance	226	1	Generator grounding shorted out.
08/01/2009	0000	0.0	Forced	Maintenance	744	0	Major turbine outage and generator rewind.
09/01/2009	0000	0.0	Forced	Maintenance	720	0	Major turbine outage and generator rewind.
10/01/2009	0000	0.0	Forced	Maintenance	535	5	Major turbine outage and generator rewind.
10/30/2009	1001	0.0	Scheduled	Maintenance	37	59	Scheduled outage to remove screens to enable use of lakewater.



Production Management Reporting System

Appendix B

From: May 1, 2009 thru Oct. 31, 2009

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Cooper Power Station

Unit Two

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Scheduled	Maintenance	49	24	Spring maintenance outage.
08/22/2009	1329	0.0	Forced	Maintenance	4	29	Bearing on turbine caused vibration alarm to go off. No problem detected.
08/25/2009	2205	0.0	Scheduled	Maintenance	15	48	Repaired transport tube.
10/17/2009	0137	0.0	Scheduled	Maintenance	44	59	Scheduled outage to switch to lakewater.





Production Management Reporting System

**Appendix B**

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**Spurlock Power Station**

**Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Scheduled	Maintenance	520	0	Spring maintenance outage for tie-in of new scrubber.
07/25/2009	0010	0.0	Scheduled	Maintenance	58	54	Repaired hot primary air expansion joint.
08/21/2009	2300	0.0	Scheduled	Maintenance	84	46	Wash air heater and clean ammonia grid.



Production Management Reporting System

**Appendix B**

**From: May 1, 2009 thru Oct. 31, 2009**

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**Spurlock Power Station**

**Unit Two**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
06/02/2009	1349	0.0	Forced	Maintenance	13	42	Generator electric tripped on T-5 auxiliary transformer differential.
06/25/2009	2338	0.0	Forced	Maintenance	2	13	Boiler tripped on flame failure, tripping turbine off
08/28/2009	2327	0.0	Scheduled	Maintenance	72	33	Slagging due to bad coal.
09/01/2009	0000	0.0	Scheduled	Maintenance	41	0	Scheduled maintenance outage
09/24/2009	1200	0.0	Scheduled	Maintenance	156	0	Maintenance outage to repair air heater.
10/01/2009	0000	0.0	Scheduled	Maintenance	213	2	Repaired air heater.
10/14/2009	2314	0.0	Scheduled	Maintenance	2	20	Checked and adjusted generator disconnect 2140.



Production Management Reporting System

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**Spurlock Power Station**

**Gilbert 3**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
08/04/2009	0746	0.0	Forced	Maintenance	7	21	Lightning strike caused loss of transmitter, draft fan & boiler tripped.
08/19/2009	2331	0.0	Scheduled	Maintenance	0	58	Repair a turbine hydraulic fluid leak.
10/07/2009	2344	0.0	Scheduled	Maintenance	104	27	Work performed on baghouse.
10/12/2009	1353	0.0	Forced	Maintenance	41	35	Boiler tripped low drum level, all fans tripped, bypass did not disable.

Production Management Reporting System



East Kentucky Power

**Appendix B**

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**Spurlock Power Station**

**Unit Four**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/02/2009	0318	0.0	Forced	Maintenance	197	18	Work performed on baghouse.
07/16/2009	0458	0.0	Forced	Maintenance	35	32	Superheater safety valve cracked and was leaking through.
07/23/2009	0524	0.0	Forced	Maintenance	6	22	Bed thermocouple failed, causing loss of solid fuel
07/28/2009	2214	0.0	Scheduled	Maintenance	73	46	Repair safety valve.
08/01/2009	0000	0.0	Scheduled	Maintenance	156	4	Repair safety valve.
09/02/2009	0933	0.0	Forced	Maintenance	8	10	Boiler tripped on loss of fans due to digital control system processor.
09/05/2009	1500	0.0	Forced	Maintenance	3	25	Boiler tripped on loss of bed temperature.
09/08/2009	1351	0.0	Forced	Maintenance	3	51	Replace three failed upper bed thermocouples.
10/13/2009	0240	0.0	Scheduled	Maintenance	453	20	Fall maintenance outage.



**Production Management Reporting System**

**Appendix B**

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**J.K. Smith**

**Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
10/26/2009	0600	0.0	Scheduled	Maintenance	104	14	Hot gas path inspection.



**Production Management Reporting System**

**Appendix B**

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**J.K. Smith**

**Unit Three**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
07/13/2009	0700	0.0	Scheduled	Maintenance	54	30	New insulation in turbine casing.



**Production Management Reporting System**

**Appendix B**

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**J.K. Smith**

**Unit Seven**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
09/28/2009	0600	0.0	Scheduled	Maintenance	66	0	Combustion inspection.
10/01/2009	0000	0.0	Scheduled	Maintenance	202	48	Combustion inspection.

Production Management Reporting System

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## Green Valley Landfill

## Unit One

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/02/2009	0151	0.0	Forced	Maintenance	2	36	Utility breaker open, shut down unit.
05/19/2009	0000	0.0	Forced	Fuel Outage	1	58	Reserved shutdown state due to fuel supply.
05/19/2009	1315	0.0	Scheduled	Maintenance	0	25	Perform plug, valve, and oil service.
05/25/2009	1330	0.0	Forced	Maintenance	5	8	Utility breaker open, shut down unit.
05/28/2009	0449	0.0	Forced	Maintenance	5	47	Unit trip due to detonation caused by shift in gas quality.
05/29/2009	1721	0.0	Forced	Maintenance	24	17	Fuel compressor malfunction.
06/02/2009	1820	0.0	Forced	Fuel Outage	3	5	Reserved shutdown state due to fuel supply.
06/03/2009	0725	0.0	Scheduled	Maintenance	4	20	Unit offline for transmission line maintenance
06/03/2009	2245	0.0	Forced	Maintenance	1	25	Utility breaker open, shutdown unit.
06/05/2009	0146	0.0	Forced	Maintenance	1	18	Utility breaker open, shutdown unit.
06/06/2009	0001	0.0	Forced	Maintenance	1	17	Utility breaker open, shutdown unit.
06/06/2009	0208	0.0	Forced	Maintenance	0	4	Utility breaker open, shutdown unit.
06/10/2009	0953	0.0	Forced	Maintenance	0	21	Utility breaker open, shutdown unit.
06/11/2009	0601	0.0	Forced	Maintenance	1	19	Utility breaker open, shutdown unit.
06/11/2009	1230	0.0	Scheduled	Maintenance	1	25	Transmission line maintenance.
06/24/2009	1220	0.0	Forced	Maintenance	21	25	Utility breaker open, shutdown unit.
07/06/2009	1324	0.0	Forced	Fuel Outage	2	33	Reserved shutdown state due to fuel supply.
07/06/2009	1822	0.0	Forced	Fuel Outage	0	11	Reserved shutdown state due to fuel supply.
07/14/2009	1600	0.0	Forced	Maintenance	17	0	Troubleshoot and repair cold cylinders.
07/16/2009	0925	0.0	Scheduled	Maintenance	1	20	Stabilize fuel system for unit tuning.
07/21/2009	0950	0.0	Scheduled	Maintenance	1	25	Landfill scheduled maintenance on flare.
07/29/2009	1125	0.0	Scheduled	Maintenance	0	15	Oil service.
08/01/2009	0110	0.0	Forced	Maintenance	1	50	Unit breaker open, shutdown unit.
08/01/2009	1100	0.0	Forced	Fuel Outage	1	50	Reserved shutdown state due to fuel supply.
08/25/2009	1555	0.0	Forced	Maintenance	0	30	Unit offline for transmission line maintenance
09/07/2009	0747	0.0	Forced	Maintenance	3	53	Breaker failure caused by storms.
09/09/2009	0235	0.0	Forced	Maintenance	4	12	Fuel compressor malfunction.
09/09/2009	1459	0.0	Forced	Maintenance	3	11	Flare malfunction.
09/14/2009	0750	0.0	Forced	Maintenance	6	0	Cylinder head failure.
09/14/2009	1805	0.0	Forced	Fuel Outage	213	55	Reserved shutdown state due to fuel supply.
10/07/2009	2159	0.0	Forced	Maintenance	10	1	Excessive water in fuel system.
10/08/2009	0800	0.0	Scheduled	Maintenance	6	25	Overhaul.



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## Green Valley Landfill

## Unit Two

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/02/2009	0151	0.0	Forced	Maintenance	2	36	Utility breaker open, shut down unit.
05/19/2009	0000	0.0	Forced	Fuel Outage	2	42	Reserved shutdown state due to fuel supply.
05/25/2009	1330	0.0	Forced	Maintenance	19	30	Utility breaker open, shut down unit.
05/26/2009	0900	0.0	Forced	Fuel Outage	104	52	Reserved shutdown state due to fuel supply.
06/02/2009	1820	0.0	Forced	Fuel Outage	3	5	Reserved shutdown state due to fuel supply.
06/03/2009	0725	0.0	Scheduled	Maintenance	4	20	Transmission line maintenance.
06/03/2009	2245	0.0	Forced	Maintenance	1	25	Utility breaker open, shutdown unit.
06/05/2009	0146	0.0	Forced	Maintenance	1	18	Utility breaker open, shutdown unit.
06/06/2009	0001	0.0	Forced	Maintenance	1	17	Utility breaker open, shutdown unit.
06/06/2009	0208	0.0	Forced	Maintenance	0	4	Utility breaker open, shutdown unit.
06/10/2009	0953	0.0	Forced	Maintenance	0	21	Utility breaker open, shutdown unit.
06/11/2009	0601	0.0	Forced	Maintenance	1	19	Utility breaker open, shutdown unit.
06/11/2009	1230	0.0	Scheduled	Maintenance	1	25	Transmission line maintenance.
06/24/2009	1220	0.0	Forced	Maintenance	21	25	Utility breaker open, shutdown unit.
06/26/2009	1140	0.0	Scheduled	Maintenance	1	25	Perform plug, valve, and oil service.
07/05/2009	1725	0.0	Forced	Fuel Outage	2	21	Reserved shutdown state due to fuel supply.
07/06/2009	1325	0.0	Forced	Fuel Outage	3	23	Reserved shutdown state due to fuel supply.
07/06/2009	1822	0.0	Forced	Fuel Outage	0	11	Reserved shutdown state due to fuel supply.
07/14/2009	0420	0.0	Forced	Fuel Outage	1	45	Reserved shutdown state due to fuel supply.
07/14/2009	1615	0.0	Forced	Maintenance	19	15	Troubleshoot and repair cold cylinders.
07/15/2009	1330	0.0	Forced	Maintenance	0	20	Replace spark transformer.
07/16/2009	0900	0.0	Scheduled	Maintenance	1	45	Stabilize fuel system for unit tuning.
07/21/2009	0950	0.0	Scheduled	Maintenance	1	25	Landfill scheduled maintenance on flare.
07/22/2009	0820	0.0	Forced	Fuel Outage	231	40	Reserved shutdown state due to fuel supply.
08/01/2009	0000	0.0	Forced	Fuel Outage	563	30	Reserved shutdown state due to fuel supply.
08/25/2009	1555	0.0	Forced	Maintenance	0	30	Transmission line maintenance.
09/07/2009	0747	0.0	Forced	Maintenance	3	53	Utility breaker open, shutdown unit, caused by storms.
09/09/2009	0235	0.0	Forced	Maintenance	4	12	Fuel compressor malfunction.
09/09/2009	1459	0.0	Forced	Maintenance	3	11	Flare malfunction.
09/14/2009	0750	0.0	Forced	Maintenance	9	45	Cylinder head failure.
09/23/2009	1630	0.0	Forced	Fuel Outage	175	30	Reserved shutdown state due to fuel supply.
10/01/2009	0000	0.0	Forced	Fuel Outage	744	0	Reserved shutdown state due to fuel supply.

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## Green Valley Landfill

## Unit Three

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/02/2009	0151	0.0	Forced	Maintenance	2	36	Utility breaker open, shutdown unit.
05/19/2009	0000	0.0	Forced	Fuel Outage	2	54	Reserved shutdown state due to fuel supply.
05/25/2009	1330	0.0	Forced	Maintenance	5	35	Utility breaker open, shutdown unit.
05/28/2009	0442	0.0	Forced	Maintenance	5	39	Detonation caused by shift in gas quality.
05/29/2009	1721	0.0	Forced	Maintenance	0	1	Fuel compressor malfunction.
05/29/2009	1722	0.0	Forced	Maintenance	24	16	Fuel compressor malfunction.
06/02/2009	1820	0.0	Forced	Fuel Outage	3	5	Reserved shutdown state due to fuel supply.
06/03/2009	0725	0.0	Scheduled	Maintenance	4	20	Transmission line maintenance.
06/03/2009	2245	0.0	Forced	Maintenance	1	25	Utility breaker open, shutdown unit.
06/05/2009	0146	0.0	Forced	Maintenance	1	18	Utility breaker open, shutdown unit.
06/06/2009	0001	0.0	Forced	Maintenance	1	17	Utility breaker open, shutdown unit.
06/06/2009	0208	0.0	Forced	Maintenance	0	4	Utility breaker open, shutdown unit.
06/09/2009	2302	0.0	Forced	Fuel Outage	7	55	Reserved shutdown state due to fuel supply.
06/10/2009	0953	0.0	Forced	Maintenance	0	21	Utility breaker open, shutdown unit.
06/11/2009	0601	0.0	Forced	Maintenance	1	19	Utility breaker open, shutdown unit.
06/11/2009	1230	0.0	Scheduled	Maintenance	1	25	Transmission line maintenance.
06/24/2009	1220	0.0	Forced	Maintenance	21	25	Utility breaker open, unit shutdown.
06/26/2009	0955	0.0	Scheduled	Maintenance	1	40	Perform plug, valve, and oil service.
07/05/2009	0442	0.0	Forced	Fuel Outage	1	43	Reserved shutdown state due to fuel supply.
07/05/2009	1727	0.0	Forced	Fuel Outage	15	37	Reserved shutdown state due to fuel supply.
07/14/2009	1615	0.0	Forced	Maintenance	7	45	Troubleshoot and repair cold cylinders.
07/15/2009	0000	0.0	Forced	Fuel Outage	153	0	Reserved shutdown state due to fuel supply.
07/22/2009	0030	0.0	Forced	Fuel Outage	7	35	Reserved shutdown state due to fuel supply.
08/01/2009	0110	0.0	Forced	Maintenance	1	50	Utility breaker open, unit shutdown.
08/01/2009	1100	0.0	Forced	Fuel Outage	1	50	Reserved shutdown state due to fuel supply.
08/24/2009	1125	0.0	Scheduled	Maintenance	1	45	Perform plug, valve, and oil service.
08/24/2009	1620	0.0	Forced	Fuel Outage	21	30	Reserved shutdown state due to fuel supply.
08/25/2009	1555	0.0	Forced	Maintenance	0	30	Transmission line maintenance.
08/26/2009	1300	0.0	Forced	Fuel Outage	131	0	Reserved shutdown state due to fuel supply.
09/01/2009	0000	0.0	Forced	Fuel Outage	319	45	Reserved shutdown state due to fuel supply.
09/27/2009	1158	0.0	Forced	Maintenance	3	27	Detonation caused by shift in gas quality.
09/27/2009	2226	0.0	Forced	Maintenance	1	34	Detonation caused by shift in gas quality.
09/30/2009	0406	0.0	Forced	Maintenance	2	41	Detonation caused by shift in gas quality.
10/07/2009	2159	0.0	Forced	Maintenance	10	1	Excessive water in fuel system.
10/08/2009	0800	0.0	Scheduled	Maintenance	6	25	Remove unit two for a major overhaul.

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**Laurel Ridge Landfill**

**Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/04/2009	0907	0.0	Forced	Maintenance	0	11	Over voltage.
05/15/2009	0553	0.0	Forced	Maintenance	4	53	Over voltage.
05/26/2009	0500	0.0	Forced	Maintenance	6	47	Detonation caused by shift in gas quality.
05/27/2009	1511	0.0	Forced	Maintenance	0	32	Adjustment on fuel skid.
06/11/2009	0622	0.0	Forced	Maintenance	2	29	Storm tripped the main breaker.
06/16/2009	1113	0.0	Forced	Maintenance	0	24	Fuel skid cooler motor tripped.
06/16/2009	1818	0.0	Forced	Maintenance	0	13	Storm tripped the main breaker.
06/25/2009	2238	0.0	Forced	Maintenance	13	2	Detonation caused by shift in gas quality.
07/08/2009	0757	0.0	Scheduled	Maintenance	1	31	Perform plug, valve, and oil service.
07/20/2009	0738	0.0	Forced	Maintenance	0	49	Detonation caused by shift in gas quality.
07/21/2009	2015	0.0	Forced	Maintenance	1	12	Detonation caused by shift in gas quality.
07/25/2009	2310	0.0	Forced	Maintenance	85	10	Storm tripped substation.
08/14/2009	0641	0.0	Forced	Maintenance	32	33	Metering transformer.
08/26/2009	1330	0.0	Forced	Maintenance	2	0	Detonation caused by shift in gas quality.
08/27/2009	0435	0.0	Forced	Maintenance	3	25	Metering transformer.
08/27/2009	0800	0.0	Forced	Maintenance	2	10	Fuel skid low oil sensor.
09/14/2009	0930	0.0	Forced	Maintenance	2	0	Detonation caused by shift in gas quality.
09/17/2009	0825	0.0	Scheduled	Maintenance	4	0	Reinstalled Unit No. 5 in plant.
09/19/2009	1839	0.0	Forced	Maintenance	1	38	Detonation caused by shift in gas quality.
09/26/2009	1532	0.0	Forced	Maintenance	0	56	Detonation caused by shift in gas quality.
10/07/2009	2155	0.0	Forced	Maintenance	0	55	Unit tripped, system show no faults.
10/12/2009	1000	0.0	Scheduled	Maintenance	4	20	Perform plug, valve, and oil service.
10/22/2009	1220	0.0	Scheduled	Maintenance	3	10	Maintenance on fuel skid.
10/27/2009	1300	0.0	Scheduled	Maintenance	2	0	Substation maintenance.
10/31/2009	1150	0.0	Forced	Maintenance	1	10	Detonation caused by shift in gas quality.
10/31/2009	1900	0.0	Forced	Maintenance	0	50	Detonation caused by shift in gas quality.

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## Unit Two

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/23/2009	0658	0.0	Forced	Maintenance	0	50	Detonation caused by shift in gas quality.
05/23/2009	0824	0.0	Forced	Maintenance	70	29	Detonation caused by shift in gas quality.
05/26/2009	0730	0.0	Scheduled	Maintenance	28	48	Valve train inspection.
05/27/2009	1235	0.0	Scheduled	Maintenance	1	52	Valve train inspection.
05/27/2009	1429	0.0	Scheduled	Maintenance	0	10	Changed detonation sensor.
07/25/2009	2310	0.0	Forced	Maintenance	3	47	Storm tripped substation.
08/01/2009	0000	0.0	Forced	Fuel Outage	632	0	Reserved shutdown state due to fuel supply.
08/27/2009	0800	0.0	Forced	Maintenance	112	0	Fuel skid low oil sensor.
09/01/2009	0000	0.0	Forced	Fuel Outage	82	0	Reserved shutdown state due to fuel supply.
09/07/2009	0340	0.0	Forced	Maintenance	2	0	Detonation caused by shift in gas quality.
09/17/2009	0825	0.0	Scheduled	Maintenance	4	0	Reinstalled Unit No. 5 in plant.
09/18/2009	1457	0.0	Forced	Maintenance	1	52	Detonation caused by shift in gas quality.
09/19/2009	1459	0.0	Forced	Maintenance	273	1	Detonation caused by shift in gas quality.
10/22/2009	1220	0.0	Scheduled	Maintenance	3	10	Maintenance on fuel skid.
10/26/2009	0800	0.0	Forced	Maintenance	28	10	Cylinder head failure.
10/27/2009	1300	0.0	Scheduled	Maintenance	2	45	Substation maintenance.

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**Unit Three**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/05/2009	0848	0.0	Scheduled	Maintenance	2	28	Perform plug, valve, and oil service.
05/07/2009	1022	0.0	Scheduled	Maintenance	0	9	Unit off-line to troubleshoot the switchgear.
05/27/2009	1511	0.0	Forced	Maintenance	0	19	Adjustment on fuel skid.
06/11/2009	0622	0.0	Forced	Maintenance	1	49	Storm tripped the main breaker.
06/15/2009	1030	0.0	Scheduled	Maintenance	1	52	Perform plug, valve, and oil service.
06/16/2009	1113	0.0	Forced	Maintenance	0	13	Fuel skid cooler motor tripped.
06/16/2009	1818	0.0	Forced	Maintenance	0	14	Storm tripped the main breaker.
07/20/2009	0738	0.0	Forced	Maintenance	1	48	Unit trip due to detonation caused by shift in gas quality.
07/25/2009	2310	0.0	Forced	Maintenance	3	45	Storm tripped substation.
07/31/2009	0130	0.0	Forced	Maintenance	22	30	Problems with the switchgear.
08/05/2009	0312	0.0	Forced	Maintenance	0	20	Metering transformer.
08/09/2009	1845	0.0	Forced	Maintenance	7	34	Problems with the switchgear.
08/12/2009	0543	0.0	Forced	Maintenance	2	17	Metering transformer.
08/15/2009	1556	0.0	Forced	Maintenance	87	4	Detonation caused by shift in gas quality.
08/19/2009	0700	0.0	Forced	Maintenance	193	40	Detonation caused by shift in gas quality.
09/17/2009	0825	0.0	Scheduled	Maintenance	4	0	Reinstalled Unit No. 5 in plant.
09/18/2009	1608	0.0	Forced	Maintenance	190	54	Detonation caused by shift in gas quality.
09/26/2009	1502	0.0	Forced	Maintenance	1	25	Detonation caused by shift in gas quality.
09/28/2009	1000	0.0	Scheduled	Maintenance	1	30	Perform plug, valve, and oil service.
10/11/2009	0525	0.0	Forced	Maintenance	1	40	Detonation due to broken head bolt.
10/22/2009	1220	0.0	Scheduled	Maintenance	3	10	Maintenance on fuel skid.
10/27/2009	1300	0.0	Scheduled	Maintenance	2	0	Substation maintenance.



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**Unit Four**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/18/2009	0812	0.0	Forced	Fuel Outage	192	16	Reserved shutdown state due to fuel supply.
05/26/2009	1218	0.0	Scheduled	Maintenance	0	20	Change sparkplug.
05/27/2009	1511	0.0	Forced	Maintenance	0	17	Adjustment on fuel skid.
06/11/2009	0622	0.0	Forced	Maintenance	1	48	Storm tripped the main breaker.
06/16/2009	1113	0.0	Forced	Maintenance	1	52	Fuel skid cooler motor tripped.
06/16/2009	1822	0.0	Forced	Maintenance	0	17	Storm tripped the main breaker.
06/17/2009	0823	0.0	Scheduled	Maintenance	0	6	Reset the governor.
06/18/2009	0841	0.0	Scheduled	Maintenance	0	3	Troubleshoot the switchgear.
06/25/2009	2132	0.0	Forced	Maintenance	14	22	Detonation caused by shift in gas quality.
07/10/2009	0745	0.0	Scheduled	Maintenance	1	26	Perform plug, valve, and oil service.
07/20/2009	0738	0.0	Forced	Maintenance	0	51	Detonation caused by shift in gas quality.
08/09/2009	1700	0.0	Forced	Maintenance	535	0	Problems with the switchgear.
09/04/2009	1000	0.0	Scheduled	Maintenance	357	45	Perform plug, valve, and oil service.
09/26/2009	1517	0.0	Forced	Maintenance	1	12	Detonation caused by shift in gas quality.
10/01/2009	2050	0.0	Forced	Maintenance	1	5	Coolant level.
10/22/2009	1220	0.0	Scheduled	Maintenance	3	10	Maintenance on fuel skid.
10/27/2009	1300	0.0	Scheduled	Maintenance	4	0	Substation maintenance.

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**Bavarian Landfill****Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/17/2009	2325	0.0	Forced	Maintenance	7	45	Detonation caused by shift in gas quality.
05/27/2009	0800	0.0	Scheduled	Maintenance	7	25	Plant shutdown for removal of Unit #2 for overhaul.
05/29/2009	1131	0.0	Forced	Maintenance	2	59	Bad mci computer.
06/15/2009	1010	0.0	Scheduled	Maintenance	4	55	Perform plug, valve, and oil service, also replaced transformer.
06/20/2009	1020	0.0	Forced	Maintenance	0	45	Relay 387 tripped due to storms in area.
06/26/2009	0405	0.0	Scheduled	Maintenance	2	40	Detonation caused by shift in gas quality.
07/01/2009	0700	0.0	Scheduled	Maintenance	7	5	Plant shutdown for removal of Unit #4 for overhaul.
07/01/2009	1805	0.0	Forced	Maintenance	0	30	Detonation caused by shift in gas quality.
07/05/2009	1325	0.0	Forced	Maintenance	1	5	Plant tripped due to substation.
07/13/2009	1715	0.0	Forced	Maintenance	0	40	Detonation caused by shift in gas quality.
07/13/2009	1815	0.0	Forced	Maintenance	2	0	Detonation caused by shift in gas quality.
07/13/2009	2125	0.0	Forced	Maintenance	0	20	Detonation caused by shift in gas quality.
07/13/2009	2310	0.0	Forced	Maintenance	8	0	Detonation caused by shift in gas quality.
07/14/2009	1645	0.0	Forced	Maintenance	350	15	Detonation caused by shift in gas quality.
07/29/2009	0700	0.0	Scheduled	Maintenance	65	0	Get unit ready to take to Wayne for overhaul.
08/20/2009	1225	0.0	Forced	Maintenance	1	10	Storm tripped Unit No. 1.
08/31/2009	0620	0.0	Forced	Maintenance	5	15	Condensate pump trouble.
09/02/2009	0745	0.0	Forced	Maintenance	0	15	Plant tripped due to substation.
09/10/2009	1440	0.0	Forced	Maintenance	1	50	52U Circuit Breaker blown.
09/11/2009	0305	0.0	Forced	Maintenance	8	9	Outside transformer b-phase line blew.
09/15/2009	0810	0.0	Scheduled	Maintenance	7	10	Engine switched out.
09/28/2009	1000	0.0	Scheduled	Maintenance	3	17	Perform plug, valve, and oil service.
10/05/2009	1315	0.0	Scheduled	Maintenance	6	0	Header repair.

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Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	2350	0.0	Forced	Maintenance	1	25	Detonation caused by shift in gas quality.
05/09/2009	0630	0.0	Forced	Maintenance	1	0	Detonation caused by shift in gas quality.
05/10/2009	2320	0.0	Forced	Maintenance	23	40	Detonation caused by shift in gas quality.
05/11/2009	2300	0.0	Forced	Maintenance	0	40	Detonation caused by shift in gas quality.
05/12/2009	0050	0.0	Forced	Maintenance	36	10	Detonation caused by shift in gas quality.
05/16/2009	1940	0.0	Forced	Maintenance	0	45	Detonation caused by shift in gas quality.
05/17/2009	1645	0.0	Forced	Maintenance	2	15	Detonation caused by shift in gas quality.
05/26/2009	0730	0.0	Scheduled	Maintenance	136	30	Get unit ready to take to Wayne for overhaul.
06/01/2009	0000	0.0	Scheduled	Maintenance	40	40	Replacing Unit No. 2 after overhaul.
06/20/2009	1020	0.0	Forced	Maintenance	0	45	Relay 387 tripped due to weather.
07/01/2009	0700	0.0	Scheduled	Maintenance	0	35	Plant shutdown for removal of Unit #4 for overhaul.
07/01/2009	0735	0.0	Scheduled	Maintenance	0	35	Cold plug on No. 5 cylinder also changed plugs on
07/05/2009	1325	0.0	Forced	Maintenance	44	35	Substation problem and oil leak.
07/27/2009	1010	0.0	Scheduled	Maintenance	2	15	Perform plug, valve, and oil service.
07/30/2009	0140	0.0	Forced	Maintenance	17	35	Plant shutdown for removal of Unit #1 for overhaul.
08/20/2009	1225	0.0	Forced	Maintenance	1	5	Storm tripped.
08/31/2009	0620	0.0	Forced	Maintenance	5	10	Condensate pump trouble.
09/02/2009	0745	0.0	Forced	Maintenance	0	15	Substation tripped.
09/10/2009	1440	0.0	Forced	Maintenance	2	15	52U Circuit Breaker blown.
09/15/2009	0605	0.0	Forced	Maintenance	12	0	Plant shutdown to exchange Unit #5 LR with Unit #1.
09/16/2009	0815	0.0	Scheduled	Maintenance	2	10	Fix oil leak on prelube pump.
10/05/2009	1315	0.0	Scheduled	Maintenance	5	15	Header repair.
10/07/2009	0900	0.0	Scheduled	Maintenance	2	30	Perform plug, valve, and oil service.



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## Bavarian Landfill

## Unit Three

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Scheduled	Maintenance	154	45	Unit No. 3 being changed out for Unit No. 5 from London.
05/07/2009	2325	0.0	Forced	Maintenance	8	0	Loss of generation field.
05/08/2009	1305	0.0	Scheduled	Maintenance	0	35	Install wiring for governor.
05/18/2009	0710	0.0	Forced	Maintenance	0	5	Loss of field.
05/27/2009	0800	0.0	Scheduled	Maintenance	7	30	Plant shutdown for removal of Unit #2 for overhaul.
06/01/2009	0910	0.0	Scheduled	Maintenance	31	40	Electric control instrument trouble.
06/20/2009	1020	0.0	Forced	Maintenance	0	45	Relay 387 tripped due to weather.
07/01/2009	0700	0.0	Scheduled	Maintenance	7	0	Plant shutdown for removal of Unit #4 overhaul.
07/05/2009	1325	0.0	Forced	Maintenance	1	0	Substation operator.
07/07/2009	1150	0.0	Scheduled	Maintenance	1	0	Checking engine control module.
07/30/2009	0700	0.0	Scheduled	Maintenance	28	20	Plant shutdown for removal of Unit #1 for overhaul.
08/10/2009	1020	0.0	Scheduled	Maintenance	1	50	Perform plug, valve, and oil service.
08/20/2009	1225	0.0	Forced	Maintenance	1	5	Storm tripped.
08/27/2009	1310	0.0	Forced	Maintenance	3	0	Changed out 4 batteries and changed out turbo charger.
08/31/2009	0620	0.0	Forced	Maintenance	5	15	Condensate pump trouble.
09/02/2009	0745	0.0	Forced	Maintenance	0	15	Substation operation.
09/10/2009	1440	0.0	Forced	Maintenance	1	55	52U Circuit Breaker blown.
09/12/2009	2330	0.0	Forced	Maintenance	0	50	Loss of field.
09/14/2009	0700	0.0	Scheduled	Maintenance	80	40	Engine switched out.
10/05/2009	1315	0.0	Scheduled	Maintenance	5	25	Header repair.

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**Bavarian Landfill****Unit Four**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	2350	0.0	Forced	Maintenance	5	40	Detonation caused by shift in gas quality.
05/27/2009	0800	0.0	Scheduled	Maintenance	7	20	Plant shutdown for removal of Unit #2 for overhaul.
06/01/2009	0700	0.0	Scheduled	Maintenance	171	5	Changed out units.
06/08/2009	1005	0.0	Scheduled	Maintenance	3	15	Perform plug, valve, and oil service.
06/20/2009	1020	0.0	Forced	Maintenance	0	40	Relay 387 tripped due to weather.
06/25/2009	1010	0.0	Scheduled	Maintenance	2	35	Perform plug, valve, and oil service.
06/30/2009	0700	0.0	Scheduled	Maintenance	17	0	Changed out Unit No. 4.
07/01/2009	0000	0.0	Scheduled	Maintenance	155	25	Get unit ready to take to Wayne for overhaul.
07/30/2009	0700	0.0	Forced	Maintenance	12	30	Replace all 16 bearings due to CAT recall.
08/19/2009	1005	0.0	Scheduled	Maintenance	2	40	Perform plug, valve, and oil service.
08/20/2009	1225	0.0	Forced	Maintenance	1	20	Storm tripped.
08/31/2009	0620	0.0	Forced	Maintenance	5	20	Condensate pump trouble.
09/01/2009	0745	0.0	Forced	Maintenance	0	20	Substation operator.
09/10/2009	1440	0.0	Forced	Maintenance	1	55	52U Breaker blown.
09/15/2009	0810	0.0	Scheduled	Maintenance	7	15	Engine switched out.
09/17/2009	1305	0.0	Scheduled	Maintenance	0	50	Check out generator wiring.
10/05/2009	1315	0.0	Scheduled	Maintenance	5	15	Header repair.
10/12/2009	1010	0.0	Scheduled	Maintenance	2	37	Perform plug, valve, oil service, and air filters.
10/20/2009	1335	0.0	Scheduled	Maintenance	0	15	Making adjustments to waste gate.

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## Hardin Co. Landfill

## Unit One

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/01/2009	0000	0.0	Forced	Fuel Outage	119	41	Reserved shutdown state due to fuel supply.
05/16/2009	1337	0.0	Forced	Maintenance	1	15	Detonation caused by shift in gas quality.
05/27/2009	1418	0.0	Scheduled	Maintenance	3	2	Perform plug and valve service.
06/03/2009	1835	0.0	Forced	Maintenance	2	55	Lightning strike caused 52U breaker to trip.
06/06/2009	1853	0.0	Forced	Maintenance	2	3	Detonation caused by shift in gas quality.
06/11/2009	1359	0.0	Scheduled	Maintenance	0	31	Oil service.
06/15/2009	1614	0.0	Forced	Maintenance	2	14	Lightning strike caused 52U breaker to trip.
06/22/2009	0532	0.0	Forced	Maintenance	2	32	Lightning strike caused 52U breaker to trip.
07/02/2009	0556	0.0	Forced	Maintenance	4	55	Detonation caused by shift in gas quality.
07/02/2009	1538	0.0	Forced	Maintenance	0	11	Generator failure.
07/02/2009	1557	0.0	Forced	Maintenance	0	28	Flare and fuel compressor fault.
07/02/2009	1632	0.0	Forced	Maintenance	0	34	Flare and fuel compressor fault.
07/02/2009	1832	0.0	Forced	Maintenance	96	32	Gas collection system failure.
07/09/2009	1648	0.0	Forced	Maintenance	1	35	Detonation caused by shift in gas quality.
07/15/2009	1256	0.0	Forced	Maintenance	3	34	Detonation caused by shift in gas quality.
07/22/2009	1323	0.0	Forced	Maintenance	0	35	Detonation caused by shift in gas quality.
07/22/2009	1358	0.0	Forced	Maintenance	226	2	Detonation caused by shift in gas quality.
08/01/2009	0000	0.0	Forced	Fuel Outage	136	23	Reserved shutdown state due to fuel supply.
08/06/2009	1628	0.0	Forced	Fuel Outage	0	17	Reserved shutdown state due to fuel supply.
08/06/2009	1650	0.0	Forced	Fuel Outage	327	39	Reserved shutdown state due to fuel supply.
08/22/2009	0731	0.0	Forced	Maintenance	4	27	Detonation caused by shift in gas quality.
08/22/2009	1158	0.0	Forced	Maintenance	1	14	Detonation caused by shift in gas quality.
08/22/2009	1323	0.0	Forced	Maintenance	0	22	Detonation caused by shift in gas quality.
08/24/2009	0731	0.0	Forced	Maintenance	0	11	Detonation caused by shift in gas quality.
08/25/2009	1358	0.0	Forced	Maintenance	0	6	Detonation caused by shift in gas quality.
08/29/2009	1529	0.0	Forced	Maintenance	0	5	Detonation caused by shift in gas quality.
08/31/2009	0843	0.0	Forced	Maintenance	0	36	Detonation caused by shift in gas quality.
09/01/2009	0354	0.0	Forced	Maintenance	1	52	Detonation caused by shift in gas quality.
09/01/2009	0828	0.0	Forced	Maintenance	0	35	Generator failure.
09/01/2009	1345	0.0	Forced	Maintenance	0	12	Generator failure.
09/03/2009	0707	0.0	Forced	Maintenance	1	25	Generator failure.
09/03/2009	0936	0.0	Forced	Maintenance	0	34	Generator failure.
09/03/2009	1039	0.0	Forced	Maintenance	0	10	Generator failure.
09/03/2009	1242	0.0	Forced	Maintenance	0	5	Detonation caused by shift in gas quality.
09/04/2009	1838	0.0	Forced	Maintenance	0	6	Generator failure.
09/11/2009	1555	0.0	Forced	Maintenance	2	4	Detonation caused by shift in gas quality.
09/23/2009	0043	0.0	Forced	Maintenance	1	47	Detonation caused by shift in gas quality.
09/24/2009	1338	0.0	Forced	Maintenance	2	39	Detonation caused by shift in gas quality.
09/25/2009	0958	0.0	Forced	Maintenance	0	43	52U utility breaker fault.
09/28/2009	0244	0.0	Forced	Maintenance	1	45	Detonation caused by shift in gas quality.
10/01/2009	1750	0.0	Forced	Maintenance	1	8	Detonation caused by shift in gas quality.
10/03/2009	0226	0.0	Forced	Maintenance	1	17	Detonation caused by shift in gas quality.
10/04/2009	2213	0.0	Forced	Maintenance	1	44	Detonation caused by shift in gas quality.



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**Hardin Co. Landfill**

**Unit One**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
10/04/2009	2357	0.0	Scheduled	Maintenance	4	3	Perform plug and valve service.
10/05/2009	0400	0.0	Forced	Maintenance	390	27	Lack of gas and high vacuum.
10/21/2009	1103	0.0	Forced	Maintenance	4	5	Detonation caused by shift in gas quality.
10/21/2009	1615	0.0	Forced	Maintenance	18	24	Lack of gas and high vacuum.
10/22/2009	1104	0.0	Forced	Maintenance	3	19	Detonation caused by shift in gas quality.
10/22/2009	1518	0.0	Forced	Maintenance	88	40	Detonation caused by shift in gas quality.
10/26/2009	1035	0.0	Forced	Maintenance	47	25	Lack of gas and high vacuum.

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**Hardin Co. Landfill****Unit Two**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
06/01/2009	1344	0.0	Scheduled	Maintenance	0	39	Oil service.
06/03/2009	1837	0.0	Forced	Maintenance	2	52	Lightning strike caused 52U breaker to trip.
06/15/2009	1616	0.0	Forced	Maintenance	2	4	Lightning strike caused 52U breaker to trip.
06/22/2009	0535	0.0	Forced	Maintenance	2	26	Lightning strike caused 52U breaker to trip.
06/28/2009	0457	0.0	Forced	Maintenance	2	7	Generator failure.
06/28/2009	0705	0.0	Forced	Maintenance	0	15	Generator failure.
07/02/2009	0634	0.0	Forced	Maintenance	4	26	Detonation caused by shift in gas quality.
07/02/2009	1100	0.0	Scheduled	Maintenance	4	38	Perform plug, valve, and oil service.
07/02/2009	1539	0.0	Forced	Maintenance	0	7	Generator failure.
07/02/2009	1557	0.0	Forced	Maintenance	0	24	Flare and fuel compressor fault.
07/02/2009	1632	0.0	Forced	Maintenance	0	29	Flare and fuel compressor fault.
07/06/2009	1345	0.0	Forced	Maintenance	3	3	Detonation caused by shift in gas quality.
07/06/2009	1704	0.0	Forced	Maintenance	0	4	Detonation caused by shift in gas quality.
07/06/2009	1825	0.0	Forced	Maintenance	15	35	Engine failure.
07/07/2009	1000	0.0	Forced	Maintenance	241	43	Gas collection system failure.
08/09/2009	1513	0.0	Forced	Maintenance	5	52	52U Circuit Breaker fault.
08/09/2009	2106	0.0	Forced	Maintenance	0	39	Generator failure.
08/18/2009	0537	0.0	Scheduled	Maintenance	50	55	Gas collection system repair.
08/20/2009	1005	0.0	Forced	Maintenance	1	9	Repair engine.
08/22/2009	1132	0.0	Forced	Maintenance	0	26	Detonation caused by shift in gas quality.
08/22/2009	1312	0.0	Forced	Maintenance	0	23	Detonation caused by shift in gas quality.
08/25/2009	1339	0.0	Forced	Maintenance	0	19	Repair engine.
08/29/2009	1338	0.0	Forced	Maintenance	1	51	Detonation caused by shift in gas quality.
08/31/2009	0817	0.0	Forced	Maintenance	0	25	Detonation caused by shift in gas quality.
08/31/2009	0843	0.0	Forced	Maintenance	0	24	Generator failure.
09/01/2009	0348	0.0	Forced	Maintenance	1	33	Detonation caused by shift in gas quality.
09/01/2009	0522	0.0	Forced	Maintenance	0	8	Generator failure.
09/01/2009	0816	0.0	Forced	Maintenance	0	11	Detonation caused by shift in gas quality.
09/01/2009	0840	0.0	Forced	Maintenance	0	9	Detonation caused by shift in gas quality.
09/01/2009	0900	0.0	Forced	Maintenance	0	11	Detonation caused by shift in gas quality.
09/01/2009	1333	0.0	Forced	Maintenance	0	11	Detonation caused by shift in gas quality.
09/03/2009	0707	0.0	Forced	Maintenance	1	41	Gas collection system failure.
09/03/2009	0927	0.0	Scheduled	Maintenance	2	45	Perform plug and valve service.
09/03/2009	1217	0.0	Scheduled	Maintenance	0	25	Repair engine.
09/04/2009	1720	0.0	Forced	Maintenance	112	40	Engine failure.
09/09/2009	1000	0.0	Forced	Maintenance	363	43	Lack of gas and high vacuum.
09/24/2009	1611	0.0	Forced	Maintenance	151	49	Lack of gas and high vacuum.
10/01/2009	0000	0.0	Forced	Fuel Outage	95	57	Reserved shutdown state due to fuel supply.
10/21/2009	1000	0.0	Scheduled	Maintenance	1	55	Oil service.
10/22/2009	1032	0.0	Forced	Maintenance	0	31	Detonation caused by shift in gas quality.
10/28/2009	1000	0.0	Forced	Maintenance	86	0	Unit off-line due to lack of gas and high vacuum.



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**Hardin Co. Landfill**

**Unit Three**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/05/2009	1759	0.0	Forced	Maintenance	630	1	Engine failure.
06/01/2009	0000	0.0	Forced	Maintenance	720	0	Lack of gas and high vacuum.
07/01/2009	0000	0.0	Forced	Fuel Outage	744	0	Reserved shutdown state due to fuel supply.
09/01/2009	0000	0.0	Forced	Maintenance	720	0	Lack of gas and high vacuum.
10/01/2009	0000	0.0	Forced	Fuel Outage	744	0	Reserved shutdown state due to fuel supply.



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**Pendleton Co. Landfill**

**Unit 001**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/07/2009	1920	0.0	Forced	Maintenance	5	30	Substation operation.
05/15/2009	0859	0.0	Scheduled	Maintenance	0	30	Oil service.
05/18/2009	0805	0.0	Forced	Fuel Outage	6	47	Reserved shutdown state due to fuel supply.
05/30/2009	1141	0.0	Forced	Fuel Outage	36	19	Reserved shutdown state due to fuel supply.
06/01/2009	0000	0.0	Forced	Fuel Outage	87	21	Reserved shutdown state due to fuel supply.
06/25/2009	1546	0.0	Forced	Maintenance	1	50	Substation operation.
06/29/2009	1302	0.0	Scheduled	Maintenance	0	36	Oil service.
07/02/2009	1110	0.0	Forced	Maintenance	1	31	Substation operation.
07/05/2009	0540	0.0	Forced	Maintenance	1	26	Lack of gas and high vacuum.
07/23/2009	0818	0.0	Scheduled	Maintenance	4	37	Perform plug, valve service and valve recession.
07/31/2009	1044	0.0	Forced	Maintenance	2	58	Loose connection in terminal strip.
08/07/2009	1013	0.0	Scheduled	Maintenance	0	30	Oil service.
08/10/2009	0838	0.0	Forced	Maintenance	0	6	Detonation caused by shift in gas quality.
08/24/2009	0314	0.0	Forced	Maintenance	1	49	Lack of gas and high vacuum.
08/24/2009	0735	0.0	Forced	Maintenance	1	18	Removal of knockout pump.
08/26/2009	0923	0.0	Forced	Maintenance	2	21	Installed new knockout pump.
09/02/2009	2308	0.0	Forced	Maintenance	1	35	Substation operation.
09/05/2009	0047	0.0	Forced	Maintenance	1	34	Substation operation.
09/10/2009	2101	0.0	Forced	Maintenance	2	4	Substation operation.
09/11/2009	0211	0.0	Forced	Maintenance	3	34	Substation operation.
09/13/2009	1040	0.0	Forced	Maintenance	2	8	Substation operation.
09/15/2009	1123	0.0	Forced	Fuel Outage	53	28	Reserved shutdown state due to fuel supply.
09/21/2009	0832	0.0	Scheduled	Maintenance	5	24	Perform plug, valve service and valve recession.
09/24/2009	2034	0.0	Forced	Maintenance	1	33	Detonation caused by shift in gas quality.
10/05/2009	1045	0.0	Forced	Fuel Outage	27	4	Reserved shutdown state due to fuel supply.
10/08/2009	1307	0.0	Scheduled	Maintenance	0	35	Changed radiator fan belts.
10/18/2009	1859	0.0	Forced	Maintenance	2	9	Detonation caused by shift in gas quality.
10/21/2009	1537	0.0	Forced	Fuel Outage	248	23	Reserved shutdown state due to fuel supply.



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**Pendleton Co. Landfill**

**Unit 002**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/07/2009	1920	0.0	Forced	Maintenance	5	26	Substation operation.
05/15/2009	1151	0.0	Forced	Maintenance	0	3	Lack of gas and high vacuum.
05/18/2009	0805	0.0	Forced	Fuel Outage	2	7	Reserved shutdown state due to fuel supply.
05/18/2009	1402	0.0	Forced	Maintenance	0	51	Lack of gas and high vacuum.
05/19/2009	0858	0.0	Scheduled	Maintenance	0	29	Oil service.
06/15/2009	1228	0.0	Scheduled	Maintenance	3	11	Perform plug, valve service and valve recession.
06/25/2009	1546	0.0	Forced	Maintenance	1	56	Substation operation.
06/26/2009	1351	0.0	Scheduled	Maintenance	0	25	Oil service.
07/02/2009	1110	0.0	Forced	Maintenance	1	39	Substation operation.
07/05/2009	0540	0.0	Forced	Maintenance	1	31	Lack of gas and high vacuum.
07/20/2009	1235	0.0	Forced	Maintenance	26	30	Turbo exhaust housing leaking coolant.
08/07/2009	0921	0.0	Scheduled	Maintenance	0	25	Oil service.
08/10/2009	0832	0.0	Scheduled	Maintenance	8	19	Perform plug, valve service and valve recession.
08/24/2009	0314	0.0	Forced	Maintenance	1	54	Lack of gas and high vacuum.
08/24/2009	0735	0.0	Forced	Maintenance	2	25	Removal of knockout pump.
08/26/2009	0923	0.0	Forced	Maintenance	3	6	Installation of knockout pump.
09/02/2009	2308	0.0	Forced	Maintenance	1	34	Substation operation.
09/03/2009	0047	0.0	Forced	Maintenance	0	5	Detonation caused by shift in gas quality.
09/05/2009	0047	0.0	Forced	Maintenance	1	28	Substation operation.
09/10/2009	2101	0.0	Forced	Maintenance	2	27	Substation operation.
09/11/2009	0211	0.0	Forced	Maintenance	4	9	Substation operation.
09/13/2009	1040	0.0	Forced	Maintenance	2	15	Substation operation.
09/17/2009	1140	0.0	Forced	Fuel Outage	4	29	Reserved shutdown state due to fuel supply.
09/21/2009	1427	0.0	Scheduled	Maintenance	0	26	Oil service.
09/28/2009	1028	0.0	Forced	Fuel Outage	61	32	Reserved shutdown state due to fuel supply.
10/01/2009	0000	0.0	Forced	Fuel Outage	106	43	Reserved shutdown state due to fuel supply.
10/14/2009	1204	0.0	Forced	Fuel Outage	116	16	Reserved shutdown state due to fuel supply.



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## Pendleton Co. Landfill

## Unit 003

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/04/2009	0755	0.0	Scheduled	Maintenance	6	19	Perform plug, valve service and valve recession.
05/07/2009	1920	0.0	Forced	Maintenance	5	26	Substation operation.
05/15/2009	1147	0.0	Forced	Fuel Outage	0	7	Reserved shutdown state due to fuel supply.
05/18/2009	0805	0.0	Forced	Fuel Outage	2	4	Reserved shutdown state due to fuel supply.
05/18/2009	1402	0.0	Forced	Fuel Outage	0	47	Reserved shutdown state due to fuel supply.
05/21/2009	0657	0.0	Forced	Fuel Outage	222	20	Reserved shutdown state due to fuel supply.
05/30/2009	1414	0.0	Forced	Maintenance	0	14	Cold spark plug.
06/04/2009	1531	0.0	Scheduled	Maintenance	0	27	Oil service.
06/25/2009	1546	0.0	Forced	Maintenance	1	50	Substation operation.
07/02/2009	1110	0.0	Forced	Maintenance	1	31	Substation operation.
07/05/2009	0540	0.0	Forced	Maintenance	1	25	Lack of gas and high vacuum.
07/20/2009	0818	0.0	Scheduled	Maintenance	4	14	Perform plug, valve service and valve recession.
08/04/2009	0819	0.0	Forced	Maintenance	8	54	Water pump failure.
08/10/2009	0838	0.0	Forced	Maintenance	0	6	Detonation caused by shift in gas quality.
08/11/2009	0816	0.0	Scheduled	Maintenance	6	17	Replacement of turbos.
08/24/2009	0314	0.0	Forced	Maintenance	1	48	Lack of gas and high vacuum.
08/24/2009	0735	0.0	Forced	Maintenance	1	13	Removal of knockout pump.
08/26/2009	0837	0.0	Forced	Fuel Outage	3	38	Reserved shutdown state due to fuel supply.
08/26/2009	1348	0.0	Forced	Fuel Outage	130	12	Reserved shutdown state due to fuel supply.
09/01/2009	0000	0.0	Forced	Fuel Outage	347	21	Reserved shutdown state due to fuel supply.
09/17/2009	1140	0.0	Forced	Fuel Outage	4	23	Reserved shutdown state due to fuel supply.
09/21/2009	1455	0.0	Forced	Fuel Outage	163	31	Reserved shutdown state due to fuel supply.

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**Pendleton Co. Landfill****Unit 004**

Date	Time Off/On	Available MW	Forced or Scheduled	Status	Actual		Cause or Reason
					Hours	Minutes	
05/07/2009	1920	0.0	Forced	Maintenance	5	26	Substation operation.
05/18/2009	0806	0.0	Forced	Fuel Outage	2	5	Reserved shutdown state due to fuel supply.
05/18/2009	1403	0.0	Forced	Fuel Outage	0	46	Reserved shutdown state due to fuel supply.
05/19/2009	1016	0.0	Scheduled	Maintenance	0	28	Oil service.
06/25/2009	1021	0.0	Scheduled	Maintenance	4	35	Perform plug, valve service and valve recession and oil change.
06/25/2009	1546	0.0	Forced	Maintenance	1	50	Substation operation.
06/25/2009	1740	0.0	Forced	Maintenance	0	3	Detonation caused by shift in gas quality.
07/02/2009	1110	0.0	Forced	Maintenance	1	32	Substation operation.
07/05/2009	0540	0.0	Forced	Maintenance	1	24	Lack of gas and high vacuum.
08/07/2009	0851	0.0	Scheduled	Maintenance	0	26	Oil service.
08/10/2009	0838	0.0	Forced	Maintenance	0	6	Detonation caused by shift in gas quality.
08/17/2009	0821	0.0	Scheduled	Maintenance	7	49	Perform plug, valve service and valve recession.
08/24/2009	0314	0.0	Forced	Maintenance	1	49	Lack of gas and high vacuum.
08/24/2009	0506	0.0	Forced	Maintenance	0	10	Detonation caused by shift in gas quality.
08/24/2009	0735	0.0	Forced	Maintenance	1	13	Removal of knockout pump.
08/26/2009	0923	0.0	Forced	Maintenance	2	9	Installed knockout pump.
09/02/2009	2308	0.0	Forced	Maintenance	1	34	Substation operation.
09/03/2009	0047	0.0	Forced	Maintenance	0	6	Detonation caused by shift in gas quality.
09/05/2009	0047	0.0	Forced	Maintenance	1	26	Substation operation.
09/10/2009	2101	0.0	Forced	Maintenance	1	54	Substation operation.
09/11/2009	0211	0.0	Forced	Maintenance	3	34	Substation operation.
09/13/2009	1040	0.0	Forced	Maintenance	2	7	Substation operation.
09/15/2009	0759	0.0	Forced	Maintenance	0	4	Low oil level shut down while filling.
09/17/2009	1140	0.0	Forced	Fuel Outage	4	26	Reserved shutdown state due to fuel supply.
09/21/2009	1358	0.0	Scheduled	Maintenance	0	27	Oil service.
10/06/2009	1353	0.0	Forced	Fuel Outage	190	9	Reserved shutdown state due to fuel supply.
10/18/2009	1859	0.0	Forced	Maintenance	2	9	Unit shut down due to low oil level alarm.
10/19/2009	0824	0.0	Forced	Fuel Outage	55	10	Reserved shutdown state due to fuel supply.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 8**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 8.** List all existing fuel contracts categorized as long-term (i.e., more than one year in length). Provide the following information for each contract:

- a. Supplier's name and address.
- b. Name and location of production facility.
- c. Date contract was executed.
- d. Duration of contract.
- e. Date(s) of each contract revision, modification, or amendment.
- f. Annual tonnage requirements.
- g. Actual annual tonnage received since the contract's inception.
- h. Percentage of annual requirements received during the contract's term.
- i. Base price in dollars per ton.
- j. Total amount of price escalations to date in dollars per ton.
- k. Current price paid for coal under the contract in dollars per ton (i + j).

**Response 8.** a-k. Please see pages 2 through 8 of this response.

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506**

**RESPONSE TO PSC ORDER DATED 01/27/10**

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)
<b>Long Term:</b>										
<b>Dale Station</b> Gatiff Coal Co. 200 Allison Blvd. Corbin, KY 40701	Gatiff Coal Co. Perry, KY	09/22/03	6 Yrs. 3 Mos.	Letter 09/25/03 Amendment 1 10/08/03 Letter 01/21/04 Amendment 2 03/22/04 Letter 08/20/04 Amendment 4 10/13/04 Letter 01/14/05 Amendment 5 12/19/06 Letter 05/22/08 Letter 08/21/08 Letter 10/15/08 Letter 12/18/08 Letter 01/20/09 Letter 01/28/09 Letter 07/31/09 Letter 11/05/09	60,000—2003— 220,000—2004— 240,000—2005— 240,000—2006— 240,000—2007— 240,000—2008— 148,348—2009—	47,070.36 213,025.43 241,599.84 223,204.82 251,331.50 225,539.76 205,286.34	59% 97% 101% 93% 105% 94% 138%	\$58.0068	\$ .0246/Ton	\$58.0314/Ton
Trinity Coal Mktg., LLC 4978 Teays Valley Rd. Scott Depot, WV 25560	Little Elk Mining Perry, KY	12/20/05	7 Yrs.	Amendment 1 11/05/07 Letter 8/20/08	120,000—2006— 120,000—2007— 120,000—2008— 120,000—2009—	113,875.87 126,605.83 110,562.82 106,604.65	95% 106% 92% 89%	\$53.496	\$ .336/Ton	\$53.832/Ton

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506**

**RESPONSE TO PSC ORDER DATED 01/27/10**

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)
<b>Cooper Station</b> Gatiff Coal Co. 200 Allison Blvd. Corbin, KY 40701	Gatiff Coal Co. Bell, KY	09/22/03	6 Yrs.	Letter 09/25/03	8,557—2003—	14,950.67	150%	\$58.2036	\$ .0246/Ton	\$58.2282/Ton
				Amendment 1	140,000—2004—	156,307.96	112%			
				10/08/03	240,000—2005—	238,244.76	99%			
				Letter 01/21/04	240,000—2006—	230,249.23	96%			
				Amendment 2	240,000—2007—	252,687.15	105%			
				03/22/04	240,000—2008—	242,420.78	101%			
				Letter 08/20/04	217,800—2009—	158,554.43	73%			
				Amendment 4						
				10/13/04						
				Letter 01/14/05						
Amendment 5										
12/19/06										
Letter 05/22/08										
Letter 08/21/08										
Letter 10/15/08										
Letter 12/18/08										
Letter 01/20/09										
Letter 01/28/09										
Letter 07/31/09										
Letter 11/05/09										
Letter 11/06/09										
National Coal Corp. 8915 George Wms. Rd. Knoxville, TN 37923	National Turley Tipton Campbell, TN	10/06/04	5 Yrs. 8 Mos.	Amendment 1	30,000—2004—	18,414.07	61%	\$56.0142	---	\$56.0142/Ton
				08/25/06	120,000—2005—	132,042.94	110%			
				Letter 05/29/08	135,000—2006—	141,538.17	105%			
				Letter 08/12/08	180,000—2007—	171,119.31	95%			
				Letter 09/12/08	135,000—2008—	72,542.37	54%			
				Letter 10/03/08	0—2009—	45,261.54	100%			
				Letter 04/16/09						
				Letter 07/31/09						
				Letter 11/05/09						

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506

RESPONSE TO PSC ORDER DATED 01/27/10

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)
<b>Cooper Station (Continued)</b> Trinity Coal Mktg., LLC 4978 Teays Valley Rd. Scott Depot, WV 25560 (Contract No. 230)	Little Elk Mining Perry, KY	08/21/06	6 Yrs.	Letter 10/17/06 Letter 06/16/08 Letter 08/20/08 Amendment 1 03/26/09 Letter 07/31/09 Letter 09/01/09 Amendment 2 09/14/09	30,000—2006— 120,000—2007— 128,000—2008— 130,120—2009—	30,190.00 120,013.11 129,025.17 130,090.86	101% 100% 101% 100%	\$93.504	(\$864/Ton)	\$92.64/Ton
Mountainside Coal Co. 7692 S. Highway 25W Williamsburg, KY 40769	Mountainside Shipping & Processing Campbell, TN	09/15/08	3 Yrs.	Letter 05/12/09 Letter 07/31/09 Letter 11/05/09	30,000—2008— 90,528—2009—	10,392.30 110,779.36	35% 122%	\$93.00	(\$11,2025/Ton)	\$81,7975/Ton
Trinity Coal Mktg., LLC 4978 Teays Valley Rd. Scott Depot, WV 25560 (Contract No. 234)	Little Elk Mining Breathitt, Knott, & Perry, KY	11/15/08	1 Yr. 5 Mos.	Letter 07/14/09 Letter 10/14/09 Letter 11/05/09	20,000—2008— 88,900—2009—	5,623.63 92,921.98	28% 105%	\$82.008	(\$2,424/Ton)	\$79,584/Ton

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506

RESPONSE TO PSC ORDER DATED 01/27/10

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)		
Spurlock Station Argus Energy, LLC Route 292 Fast Lane Bldg. P. O. Box 190 Lovely, KY 41231 (Formerly Pen Coal)	Kiah Creek Wayne County, WV (Spurlock Station)	07/12/94	14 Yrs. 9 Mos.	Letter 04/14/95	45,000—1994—	46,292.00	103%	\$27,768	\$19,567/Ton	\$47,328/Ton		
				Letter 04/03/96	78,750—1995—	78,806.00	100%	(Spurlock 1)	plus \$.15/ton	plus \$.15/ton		
Beechfork Johnson County, KY (Dale Statton)				Amend. 1-11/25/96	77,200—1996—	71,855.00	93%					
				Letter 11/29/97	121,500—1997—	127,474.00	105%					
				Letter 07/03/97	330,000—1998—	317,831.00	96%					
				Amend. 2-11/15/97	395,000—1999—	403,754.00	102%					
				Letter 01/19/98	309,800—2000—	301,525.00	97%					
				Letter 08/31/98	41,900—2001—	41,900.00	100%					
				Letter 06/23/99	340,000—2002—	357,317.10	105%					
				Letter 02/28/00	240,000—2003—	213,659.93	89%					
				Letter 10/11/00	670,000—2004—	498,304.32	74%					
				Amend. 3-10/26/01	810,000—2005—	716,641.00	88%					
				Letter 04/09/02	849,400—2006—	829,721.79	98%	\$26,72017	\$21,97133/Ton	\$48,6915/Ton		
				Letter 09/20/02	600,000—2007—	557,817.00	93%	(Spurlock 2)	plus \$.15/ton	plus \$.15/ton		
				Letter 10/16/02	480,000—2008—	436,029.00	91%					
				Letter 11/13/02	60,000—2009—	64,894.00	108%					
				Letter 12/19/02								
				Amend. 4-12/30/02								
				Letter 02/20/03								
				Letter 04/30/03								
				Letter 05/09/03								
				Letter 12/01/03								
Letter 02/11/04												
Letter 03/03/04												
Letter 07/20/04												
Letter 08/13/04												
Letter 09/07/04												
Letter 12/06/04												
Letter 02/08/05												
Letter 02/22/05												
Amend. 5-07/22/05												
Amend. 6-10/13/05												
Letter 12/15/05												
Amend. 7-01/30/06												
Letter 05/30/06												
Letter 06/29/06												
Amend. 8-08/25/06												
Letter 10/17/06												
Letter 02/16/07												
Amend. 9-04/10/07												
Letter 04/11/07												
Amen. 10-10/10/07												
Letter 06/26/08												
Letter 07/22/08												
Letter 06/11/09												



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506

RESPONSE TO PSC ORDER DATED 01/27/10

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)
Spurllock Station (Continued) Appalachian Fuels, LLC 1500 N. Big Run Road Ashland, KY 41101	Bevins Branch & Bent Mountain Pike, KY	12/04/01	8 Yrs.	Letter 01/28/02	345,900—2002—256,877.00	345,900—2002—256,877.00	74%	\$39.00	(\$2.736/Ton)	\$36.264/Ton
				Amendment 1	467,000—2003—200,305.00	467,000—2003—200,305.00	43%	(Spurllock 2)		
				03/01/02	580,000—2004—231,978.00	580,000—2004—231,978.00	40%			
				Letter 01/06/03	575,000—2005—427,890.89	575,000—2005—427,890.89	74%			
				Letter 01/22/03	254,200—2006—254,437.00	254,200—2006—254,437.00	100%			
				Letter 02/03/03	432,000—2007—128,531.95	432,000—2007—128,531.95	30%			
				Letter 03/11/03	180,000—2008—	180,000—2008—	0%			
				Letter 05/09/03	343,895—2009—	343,895—2009—	0%			
				Letter 06/03/03						
				Letter 02/26/04						
				Letter 03/29/04						
				Letter 07/09/04						
				Letter 08/11/04						
				Letter 08/30/04						
Letter 11/04/04										
Amendment 2										
Letter 06/14/05										
Letter 07/15/05										
Assignment										
08/08/05										
Letter 12/06/05										
Letter 12/16/06										
Letter 02/6/06										
Letter 02/13/06										
Letter 04/05/06										
Letter 04/07/06										
Amendment 3										
05/09/06										
Letter 08/09/06										
Letter 12/05/06										
Letter 12/22/06										
Letter 08/17/07										

**EAST KENTUCKY POWER COOPERATIVE, INC.  
PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506**

**RESPONSE TO PSC ORDER DATED 01/27/10**

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception of Contract Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (i&j)
<b>Spurlock Station (Continued)</b>										
Oxford Mining Co. 544 Chestnut Street P. O. Box 427 Coshocton, OH 43812 (Gilbert Contract 800)	Daron-Liggett Harrison, OH Barnesville Belmont, OH	11/09/04	10 Yrs.	Letter 01/03/05 Letter 08/29/05 Letter 02/16/07 Letter 03/28/07 Amendment 1 10/02/07 Amendment 2 08/27/08 Letter 01/08/09 Letter 05/11/09 Letter 06/01/09 Letter 11/23/09	160,000—2005— 240,000—2006— 240,000—2007— 261,000—2008— 595,000—2009—	115,625.00 276,719.00 279,440.00 193,067.00 653,474.00	72% 116% 116% 74% 110%	\$25.002	\$15.7206/Ton	\$40.7208/Ton
Massey Coal Sales Co. 4 North 4th Street Richmond, VA 23219 (Contract No. 814)	Nicholas Energy Uneeda, WV Black Castle Mining Boone, WV	12/18/08	2 Yrs.	Letter 05/11/09 Letter 06/01/09	105,000—2009—	106,074.00	101%	\$44.928	---	\$44.9928/Ton
Armstrong Coal Co., Inc. Suite 1000 7701 Forsyth Blvd. St. Louis, MO 63105	Armstrong Coal Ohio, KY	10/02/07	3 Yrs.	Letter 12/03/07 Letter 06/30/08 Letter 09/15/08 Letter 12/02/08 Letter 01/22/09 Letter 02/27/09 Letter 05/11/09 Letter 05/22/09 Letter 05/29/09 Letter 06/01/09 Letter 07/21/09 Letter 12/17/09	135,000—2008— 378,000—2009—	0.00 456,602.00	0% 121%	\$27.8208	\$ .73696/Ton	\$28.55776/Ton

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506**

**RESPONSE TO PSC ORDER DATED 01/27/10**

(a) Supplier	(b) Production Facility	(c) Contract Date	(d) Duration of Contract	(e) Revisions or Amendments	(f) Annual Tonnage Required Through 12/09	(g) Actual Annual Tonnage Rec'd Since Inception Through 12/09	(h) % of Annual Requirements Received	(i) Base Price \$/Ton	(j) Total Amt. of Price Escalations to Date	(k) Current Price Paid for Coal (&j)
<b>Spurlock Station (Continued)</b> American Energy Corp. 43521 Mayhugh Hill Rd. Beallsville, OH 43716	American Energy Belmont, OH	11/26/07	2 Yrs. 3 Mos.	Letter 07/11/08 Letter 09/08/08 Letter 11/12/08 Letter 12/23/08 Letter 05/11/09 Letter 06/01/09 Letter 12/17/09	90,000—2008— 360,000—2009—	86,389.00 —343,848.00	96% 96%	\$37.1625	\$1.0875/Ton	\$38.25/Ton
B & N Coal, Inc. P. O. Box 100 Dexter City, OH 45727	Whigville, West Fork, & Ullman Noble, OH	07/03/08	6 Yrs.	Letter 05/11/09 Letter 06/01/09	206,500—2008— 354,000—2009—	191,701.00 —345,322.00	93% 98%	\$39.0054	(\$5.91186/Ton)	\$33.09354/Ton
Oxford Mining Co. 544 Chestnut Street P. O. Box 427 Coshocton, OH 43812 (Scrubber Contract 504)	Daron-Liggett Harrison, OH Barnesville, Wheeling Valley Mine-Beitmont, OH	08/27/08	4 Yrs.	Letter 10/21/08 Letter 05/11/09 Letter 06/01/09	75,000—2008— 360,000—2009—	60,232.00 —379,854.00	80% 106%	\$51.502	(\$10.5732/Ton)	\$40.9288/Ton
Williamson Energy, LLC 3801 PGA Blvd., Ste. 903 Palm Beach Gardens, FL 33410	Pond Creek Mach Mining Williamson, IL	08/19/08	9 Yrs.	—	219,600—2009—	215,372.00	98%	\$48.001	—	\$48.001/Ton
White County Coal, LLC 1717 S. Boulder Avenue Tulsa, OK 74119	Pattiki White, IL	09/11/08	6 Yrs.	Letter 05/11/09 Letter 05/22/09 Letter 06/01/09	240,000—2009—	234,705.00	98%	\$71.99	—	\$71.99/Ton



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 9**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 9.** a. State whether East Kentucky regularly compares the price of its coal purchases with those paid by other electric utilities?  
b. If yes, state:  
(1) How East Kentucky's prices compare with those of other utilities for the review period; and  
(2) The utilities that are included in this comparison and their locations.

**Response 9.** a. Each month East Kentucky compares the price of its coal purchases on a delivered basis against the price that 20 other utilities within the region are paying for coal.  
b. (1-2) The most recent data available for comparison is for September 2009. East Kentucky ranked 7<sup>th</sup> on a delivered basis for September 2009. Please see the table on page 2 of this response.

<b>Year/Month</b>	<b>Name</b>	<b>Delivered Fuel Price Cents/MMBtu</b>	<b>Quantity (000s tons)</b>
2009-09	Hoosier Energy REC	150.57	372
2009-09	Louisville Gas & Electric	172.01	706
2009-09	Duke Energy Ohio	204.73	775
2009-09	Tennessee Valley Authority	221.44	2,674
2009-09	Allegheny Energy Supply	225.20	339
2009-09	Dayton Power & Light	225.27	870
2009-09	East Kentucky Power Coop	228.84	392
2009-09	Kentucky Utilities	230.91	663
2009-09	Consumers Energy	255.35	835
2009-09	Columbus Southern Power	256.72	247
2009-09	Kentucky Power	268.15	185
2009-09	Appalachian Power	271.83	1,250
2009-09	Virginia Electric & Power	283.39	1,156
2009-09	Southern Indiana Gas & Elec	287.94	178
2009-09	S. Mississippi Electric Power	333.47	84
2009-09	Duke Energy Carolinas	346.74	1,313
2009-09	Georgia Power	371.55	2,981
2009-09	Progress Energy Carolinas	396.95	860
2009-09	South Carolina Generating	444.36	92
2009-09	S. Carolina Electric & Gas	452.05	339



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 10**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 10.** State the percentage of East Kentucky's coal, as of the date of this Order, that is delivered by:

- a. Rail;
- b. Truck; or
- c. Barge.

**Response 10.**

- a. Rail = 1%;
- b. Truck = 21%;
- c. Barge = 78%





**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 11**

**RESPONSIBLE PARTY: Ernest W. Huff**

- Request 11.**
- a. State East Kentucky's coal inventory level in tons and in number of days' supply as of October 31, 2009. Provide this information by generating station and in the aggregate.
  - b. Describe the criteria used to determine number of days' supply.
  - c. Compare East Kentucky's coal inventory as of October 31, 2009 to its inventory target for that date.
  - d. If actual coal inventory exceeds inventory target by 10 days' supply, state the reasons for the excessive inventory.
  - e. (1) State whether East Kentucky expects any significant changes in its current coal inventory target within the next 12 months?  
(2) If yes, state the expected change and the reasons for this change.

- Response 11.**
- a. East Kentucky's coal inventory level as of October 31, 2009, was 1,043,246 tons—47 days' supply.
  - b. Number of days' supply is calculated as follows: Actual tons in inventory divided by the total maximum daily usage for East Kentucky's generating units.

c. East Kentucky's coal inventory as of October 31, 2009, was seven days above its target of 40 days' supply.

d. East Kentucky's inventory did not exceed its target by more than ten days.

e. (1-2) East Kentucky does not expect significant changes in its current coal inventory target over the next 12 months.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**  
**FUEL ADJUSTMENT CLAUSE**  
**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 12**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 12.**

- a. State whether East Kentucky has audited any of its coal contracts during the period from May 1, 2009 through October 31, 2009.
- b. If yes, for each audited contract:
  - (1) Identify the contract;
  - (2) Identify the auditor;
  - (3) State the results of the audit; and
  - (4) Describe the actions that East Kentucky took as a result of the audit.

**Response 12.**

a-b. East Kentucky has not audited any of its coal contracts during the period under review.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 13**

**RESPONSIBLE PARTY: Ann F. Wood**

**Request 13.** a. State whether East Kentucky has received any customer complaints regarding its FAC during the period from May 1, 2009 through October 31, 2009.

- b. If yes, for each complaint, state:
- (1) The nature of the complaint; and
  - (2) East Kentucky's response.

**Response 13.** a-b. East Kentucky has received no customer complaints regarding its FAC during the period from May 1, 2009 through October 31, 2009.





**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 14**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 14.**

- a. State whether East Kentucky is currently involved in any litigation with its current or former coal suppliers.
- b. If yes, for each litigation:
  - (1) Identify the coal supplier;
  - (2) Identify the coal contract involved;
  - (3) State the potential liability or recovery to East Kentucky;
  - (4) List the issues presented; and
  - (5) Provide a copy of the complaint or other legal pleading that initiated the litigation and any answers or counterclaims. If a copy has previously been filed with the Commission, provide the date on which it was filed and the case in which it was filed.
- c. State the current status of all litigation with coal suppliers.

**Response 14.**

- a. Yes, East Kentucky is currently involved in litigation with three coal suppliers.
- b. (1) Appalachian Fuels, LLC ("Appalachian"), Armstrong Coal Company, Inc. ("Armstrong"), and Argus Energy, LLC ("Argus").
  - (2) The coal contract involved between East Kentucky and Appalachian

is dated December 4, 2001, and subsequent amendments thereto for coal to be delivered to Spurlock Power Station Unit Nos. 1 and 2. The coal contract involved between East Kentucky and Armstrong is dated October 2, 2007, for coal to be delivered to Spurlock Power Station Unit Nos. 1 and 2. Also, the coal contract involved between East Kentucky and Argus is dated July 12, 1994, and subsequent amendments thereto for coal to be delivered to Spurlock Power Station Unit Nos. 1 and 2.

(3) The potential liability of Appalachian to East Kentucky is \$24,400,015 plus pre-judgment and pre-petition interest and continuing. The potential liability of Armstrong to East Kentucky is the tonnage owed to East Kentucky by Armstrong as “option” tons under the contract, or 585,000 tons of coal over the life of the contract. The potential liability of Argus to East Kentucky is \$10,205,850 plus interest and costs, including attorneys’ fees.

(4) The issues presented regarding Appalachian are (a) whether Appalachian breached its agreement to deliver coal to East Kentucky’s Spurlock Power Station and (b) whether Appalachian breached its agreement to provide a performance bond to provide further security to East Kentucky in the event of default or failure to deliver.

The issue presented by the Armstrong lawsuit is for a declaration by the Court that Armstrong is contractually obligated to deliver these additional option tons.

The issue regarding Argus is whether Argus is contractually obligated to cover East Kentucky’s cost to replace coal that Argus failed to deliver.

(5) The Complaint with Appalachian was previously filed on September 12, 2008, in Case No. 2008-00284, and the Corrected Answer was previously filed on February 11, 2009, in Case No. 2008-00519. In addition, East Kentucky previously filed a proof of claim in Appalachian’s bankruptcy proceeding on September 10, 2009, in Case No. 2009-00286.

The original Complaint and Answer regarding Armstrong were previously filed at the Commission on September 10, 2009, in Case No. 2009-00286. Subsequently, an Amended Complaint and Amended Answer were filed by the parties in the lawsuit and are included on pages 4 through 29 of this response.

The Complaint and Answer to Complaint regarding Argus are included on pages 30 through 118 of this response.

c. East Kentucky filed a motion for partial summary judgment in March of 2008 in the Clark Circuit Court proceeding against Appalachian. While that motion was pending, Appalachian made an assignment for benefit of creditors on May 26, 2009. On June 11, 2009, certain creditors of Appalachian placed Appalachian in involuntary bankruptcy. East Kentucky filed a proof of claim in that proceeding, which is described in Item 14 (b) (5) above. The bankruptcy stayed the Clark Circuit Court proceeding and East Kentucky intends to pursue its claims against Appalachian in the bankruptcy proceeding.

East Kentucky and Armstrong have filed cross motions for summary judgment in this case, tentatively set to be heard in Clark Circuit Court on March 11, 2010. Responses and replies to said cross motions are pending.

Argus' litigation is in the early stages of discovery.

Confidential protection of certain portions of contract information has been requested in the form of a motion for confidential treatment.

FILED 12-23-09  
PAULA S. JOSLIN  
CLARK CIRCUIT/DISTRICT COURT  
BY *Paula S. Joslin* D.C.

COMMONWEALTH OF KENTUCKY  
CLARK CIRCUIT COURT  
DIVISION I  
CASE NO. 09-CI-00549

PSC Request 14  
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EAST KENTUCKY POWER COOPERATIVE, INC.

PLAINTIFF

V.

ARMSTRONG COAL COMPANY, INC.

DEFENDANT

**FIRST AMENDED COMPLAINT FOR  
DECLARATORY RELIEF**

Plaintiff, East Kentucky Power Cooperative, Inc. ("East Kentucky"), for its first amended complaint against Defendant, Armstrong Coal Company, Inc. ("Armstrong"), states as follows:

1. On October 2, 2007, East Kentucky and Armstrong, entered into a contract whereby East Kentucky agreed to purchase, and Armstrong agreed to sell coal for use by East Kentucky at its Spurlock Power Station Unit Nos. 1 and 2, Maysville, Kentucky beginning October 1, 2008 (the "Coal Contract"). A true and complete copy of the Coal Contract is attached hereto as Exhibit 1.

2. Section 17 of the Coal Contract states that "any disputes that may arise under this Contract . . . that culminates [sic] in litigation, shall be instituted and tried in Clark County, Kentucky."

3. Section 1 (a) of the Coal Contract states that "SELLER [Armstrong] does hereby agree to sell to BUYER [East Kentucky] and BUYER agrees to purchase from SELLER, One Million One Hundred Seventy Thousand (1,170,000) tons of coal (the total contract tonnage) over three (3) years at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year (the "base annual tonnage amount"), subject to Sections 6 (d) and 8 herein, and BUYER'S right

to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Section 1 (b) and (c) hereinbelow.”

4. Section 1 (c) of the Coal Contract provides that the term of the Coal Contract shall be for a period of three years and three months, stating: “Monthly deliveries shall commence on October 1, 2008, and continue through December 31, 2011, for a total contract term of three (3) years and three months.”

5. Section 1 (b) of the Coal Contract states that “BUYER [East Kentucky] shall have the one-time option to increase the annual tonnage of this contract up to an additional one hundred eighty thousand (180,000) tons. This option must be exercised by July 31, 2008.”

6. East Kentucky timely exercised its option.

7. East Kentucky asserts that the Coal Contract requires the annual tonnage to be increased by an additional 180,000 tons for the entire term of the Coal Contract (a total of 585,000 additional tons).

8. Armstrong has denied the assertions of East Kentucky and claims that that the Coal Contract requires that the annual tonnage only be increased for just the first year of the Coal Contract (a total of only 180,000 additional tons).

9. Consequently, an actual controversy exists as to whether the Coal Contract requires 585,000 additional tons or only 180,000 additional tons.

10. Pursuant to KRS 418.040, East Kentucky seeks a declaration of its rights and obligations concerning the additional tons under the Coal Contract, and, specifically, seeks a declaration that the Coal Contract requires 180,000 additional tons annually for the entire term of the Coal Contract (a total of 585,000 additional tons).

**WHEREFORE**, East Kentucky requests the following relief:

1. A declaration that Armstrong is obligated under the Coal Contract to provide 180,000 additional tons for the entire term of the Coal Contract (a total of 585,000 additional tons).
2. All other relief, legal or equitable, to which East Kentucky is or may become entitled, including attorneys fees.

Respectfully submitted,



Roger R. Cowden

Keith Moorman

Kyle M. Melloan

FROST BROWN TODD LLC

250 W. Main Street, Suite 2800

Lexington, Kentucky 40507

(859) 231-0000

COUNSEL FOR PLAINTIFF

**COAL CONTRACT**

THIS CONTRACT made and entered into this 2<sup>nd</sup> day of October, 2007, by and between Armstrong Coal Company, Inc., a Delaware corporation with its principal office at Suite 1000, 7701 Forsyth Blvd., St. Louis, Missouri 63105, hereinafter called "SELLER" and East Kentucky Power Cooperative, Incorporated, a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Clark County, Kentucky 40392-0707, hereinafter called "BUYER."

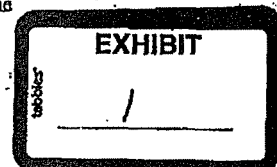
**WITNESSETH**

THAT for and in consideration of the mutual covenants contained herein, SELLER agrees to sell to BUYER and BUYER agrees to purchase from SELLER, coal for BUYER'S Spurlock Power Station Unit Nos. 1 and 2, Maysville, Kentucky, under the following terms and conditions:

**1. Quantity and Term**

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, One Million One Hundred Seventy Thousand (1,170,000) tons of coal (the total contract tonnage) over three (3) years at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year (the "base annual tonnage amount"), subject to Sections 6 (d) and 8 herein, and BUYER'S right to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Section 1 (b) and (c) hereinbelow.

(b) The base monthly delivery rate, beginning October 1, 2008, shall be Thirty Thousand (30,000) Tons. BUYER shall have the right, upon at least sixty (60) days notice to SELLER, to increase the actual delivery rate by twenty percent (20%) or any amount up to thirty-six thousand (36,000) tons for any given month or decrease the actual delivery rate by ten percent (10%) or any amount down to twenty-seven thousand (27,000) tons for any given month under this Contract. BUYER shall have the one-time option to increase the annual tonnage of this contract up to an additional one hundred eighty thousand (180,000) tons. This option must be exercised by July 31, 2008. The actual annual tonnage amount and the total contract tonnage amount, as provided in Section 1 (a) above, shall automatically be amended to conform to the actual monthly delivery rates scheduled by BUYER from time to time pursuant to this Section, so that the total contract tonnage amount at the end of the term of this Contract will reflect the



cumulative changes in scheduled deliveries made by BUYER pursuant to this Section 1 (b).

(c) Monthly deliveries shall commence on October 1, 2008, and continue through December 31, 2011, for a total contract term of three (3) years and three months. SELLER acknowledges that during the process of BUYER activating and testing the Flue Gas Desulfurization ("FGD") system, situations could occur that would cause temporary suspensions of coal consumption. SELLER agrees to allow BUYER, during the first ninety (90) days of this Contract, to temporarily suspend deliveries of coal hereunder during such occurrences. Any deliveries suspended by BUYER in this situation shall be made up at SELLER'S option, but on a schedule mutually agreed upon by BUYER and SELLER, but in any event no later than two hundred seventy (270) days after the date of such suspension. The actual annual tonnage amount and the total contract tonnage amount, as provided in Section 1 (a), shall automatically be amended so that the total contract tonnage amount at the end of the term of this Contract will reflect the cumulative changes in scheduled deliveries made by BUYER and SELLER pursuant to this Section 1 (c).

(d) Notwithstanding any other provisions of this Contract, and in order to accommodate BUYER'S annually scheduled plant and/or coal handling maintenance outages, BUYER may, at its sole option one or two times each calendar year, reschedule up to one month's deliveries provided thirty (30) days' notice is given and any such rescheduled deliveries are made within six months.

(e) The parties acknowledge that a new FGD system will be added to BUYER'S Sprick Power Station Unit Nos. 1 and 2, and it is critical that the Steam Generating Units and Associated Systems ("Systems") operate satisfactorily with the coal supplied under this Contract. If, at any time during the first six (6) month(s) of the Contract deliveries (the "Test Period"), BUYER shall determine and notify SELLER that utilizing coal meeting the quality specification provided herein will not be compatible with satisfactory operation of the Systems, for any reason, then the Parties shall immediately attempt to resolve such coal quality issues. If a revised coal quality specification compatible with satisfactory Systems operation can be determined within thirty (30) days of such notice by BUYER, SELLER shall have the option to supply BUYER with coal meeting such revised coal quality specifications at the applicable Contract price. If a solution to such Systems operational problems cannot be determined during that period, or if SELLER is unable or declines to supply suitable substitute coal to resolve such problems within thirty (30) days of the determination of the solution, then either Party may terminate the Contract upon thirty (30) days written notice, and the Parties shall have



no further obligations for the sale or purchase of coal hereunder, except in regard to coal deliveries made prior to such termination.

2. Coal Price

The base price for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Section 5 (g) and f.o.b. barge, Smallhaus Dock, Green River MP 76.6 shall be [REDACTED] per million Btu.

EXAMPLE: The base price of coal with a heat content of 11,200 Btu/lb. would be [REDACTED] per ton. For coal with a heat content of 11,600 Btu/lb., it would be [REDACTED] per ton.

3. Coal Price Adjustments

[REDACTED] percent ([REDACTED]%) of the base price or [REDACTED] per million Btu shall remain fixed for the term of this Contract.

The escalatable portion of the base price, hereinafter referred to as the "escalatable base," is [REDACTED] percent ([REDACTED]%) of the base price, or [REDACTED] per million Btu, and shall be increased or decreased by the aggregate of the adjustments as set forth below:

(a) Effective July 1, 2007, and every twelve (12) months thereafter during the term of this Contract, [REDACTED] percent ([REDACTED]%) of the base price or [REDACTED] per million Btu shall escalate at a rate of three percent (3%). Therefore, the price of coal, f.o.b. barge, at the beginning date of this Contract, which is October 1, 2008, shall reflect this escalation.

(b) [REDACTED] percent ([REDACTED]%) of the base price or (\$[REDACTED]) shall change in direct proportion to changes in the monthly posted price of diesel fuel (on highway—all types) as reported in the Energy Information Administration Department of Energy's Weekly Retail Gasoline and Diesel Prices for the Midwest. The No. 2 diesel fuel base price for this escalation of the base truck haul rate shall be the posted monthly price of diesel fuel as reported in the Energy Information Administration ("EIA") Department of Energy's Weekly Retail Gasoline and Diesel Prices, On-Highway Diesel (All Types) Prices for the Midwest for May 2007. This diesel fuel base price is 276.3. Effective October 1, 2008, and each succeeding three (3) months thereafter, twenty-five percent (25%) of the base price shall change in accordance with changes in the average of No. 2 diesel fuel prices reported in the EIA Department of Energy's Weekly Retail On-Highway Diesel Prices for

the Midwest the first two months of the prior calendar quarter, and the month that precedes these two months, compared to the No. 2 diesel fuel base price.

Example—The following is a hypothetical example, for illustration purposes only, of a fuel price adjustment for the three (3) month period of October, November, and December 2008. Numbers used were randomly chosen.

Base diesel fuel price—May 2007 .....276.3

Price for last week of each month—June 2008 through August 2008:

June 2008 .....	290.0
July 2008 .....	313.0
August 2008 .....	315.0
Total.....	918.0

Average posted diesel fuel price .....306.0

Percentage Change:

Total average posted diesel fuel price/base diesel fuel price = 306.0/276.3 = 1.1075 or 10.75%

Adjustment (on █% of base price = \$█ x 10.75% = █/MMBtu (rounded)

Therefore \$█/MMBtu would be added to the base coal price

4. Governmental Imposition

The parties hereto agree that the price quoted herein for coal, in Sections 2, 3, 5 (c), and 5 (d) include the cost of complying with all existing federal, state, or local laws or regulations as of July 1, 2007. When used herein, the term "Governmental Imposition" means all costs of compliance with all applicable federal, state, and local laws and regulations as they are interpreted and enforced with respect to coal produced at the mine or source mines, including, without limitation, all federal, state, or local statutes, rules, regulations, or interpretations, the rate of any excise, stamp, reclamation, severance, use, sales, license, or other tax assessment, and any charged rates of assessment (other than taxes measured on or by income not levied directly on the production of coal), business and occupation taxes, and license fees, or other assessments payable on account of or for the production, mining, removal, preparation, delivery, shipment, sale, consignment, or billing of coal or on instruments or documents evidencing the same or on the proceeds thereof, and any law, governmental order, rule, ordinance, regulation, stipulation, decree, or other governmental requirements of any kind, or interpretation thereof, which pertains

to coal mining practices, health and safety of miners, surface subsidence, land and water reclamation, coal waste disposal, and air and water quality standards. Notwithstanding any other provision of this Section 4, there shall be no proposal for price adjustment under this Section 4 as a result of any noncompliance with any Governmental Imposition, or any civil or criminal fines or penalties imposed for failure to comply with any Governmental Imposition currently existing or hereafter enacted. The parties agree to utilize the following procedures to adjust the price of coal to reflect changes in Governmental Impositions.

If and when any change in a Governmental Imposition occurring after July 1, 2007, increases the costs of supplying coal from the mine and/or source mines, SELLER shall provide written notice of such change in a Governmental Imposition to BUYER, and a description thereof, along with an explanation of the effect of such change on the costs of supplying coal from the mine, accurate and detailed computations, and data reasonably necessary to substantiate the resulting increase to the base price. BUYER shall have the right to inspect all books and records of SELLER pertaining to such adjustment. This adjustment procedure shall not apply to changes in SELLER'S costs of complying with various federal, state, or local laws or regulations specifying health and safety, environmental or reclamation compliance standards, or similar requirements, unless such changes in costs result directly from changes in such laws or regulations. SELLER must provide a detailed explanation of any such changes in compliance costs resulting from changes in such laws or regulations as part of any request for a price adjustment for increased compliance costs, and subsequent price adjustments based upon the same changes in such laws or regulations shall not be permissible hereunder.

SELLER shall submit any requests for price adjustment under this Section 4 to BUYER prior to the time SELLER desires such price adjustment to become effective, to allow BUYER a reasonable time in which to review such requests. In the event that SELLER is unable, using reasonable business care, to calculate the exact cost increase claimed as a price adjustment hereunder prior to the desired effective date, SELLER shall submit its best reasonable estimate of such cost increase to BUYER for review and information purposes, subject to the submission of a final cost increase schedule. Failure of SELLER to submit a cost increase schedule or estimate to BUYER within a reasonable time prior to the desired effective date for a requested price adjustment hereunder shall constitute a waiver of SELLER'S right to request such price adjustment for any shipments made prior to SELLER'S submission of a cost increase schedule or estimate to BUYER. Any price adjustment hereunder shall be based only on a final schedule of cost increases and not an estimate submitted as provided hereinabove.

SELLER shall use its best efforts and reasonable business care to submit a final detailed breakdown of cost increases claimed as a basis for price adjustment hereunder to BUYER as soon as the information is available. Upon the receipt of said information, BUYER shall accept or reject the requested price adjustment.

Notwithstanding the forgoing provisions of this Section if (i) a price adjustment requested by SELLER under this Section would result in a base price increase ■ percent higher than the current billing price or (ii) a combination of price adjustments under this Section during the term of this Contract would result in a base price increase exceeding ■ percent higher than the current billing price, then BUYER may, at its sole discretion, terminate this Contract upon sixty (60) days' written notice given after such an adjustment(s) is requested by SELLER. However, in lieu of termination, SELLER may elect to absorb the cost in excess of the aforementioned limit, in which case this Contract shall remain in full force and effect. SELLER'S election must be set forth in writing within thirty (30) days of BUYER'S notice of termination. Such election by SELLER shall be irrevocable and binding for that increase and shall be effective as of the effective date of the Governmental Imposition cost increase.

In the event that any said taxes, fees, special assessments or similar levies, whether included in the base price of coal or added to the price of coal by escalation hereunder, are reduced and such reduction results in a cost decrease for SELLER, BUYER will submit to SELLER an estimate of the decreased costs, and the decreased cost per ton of coal, at which time SELLER, at its sole option, will accept or reject the estimate of the decreased cost. In the event that SELLER rejects the estimate submitted by BUYER, SELLER will submit its schedule of such decreased costs to BUYER, which BUYER, at its sole option, will accept or reject.

In the event that a request for price adjustment under this Section 4 would not raise the price of coal sufficiently to give BUYER the right to terminate this Contract, as provided hereinabove, and BUYER and SELLER do not agree on the amount of the adjustment, the parties do hereby agree to first attempt to compromise said changes in costs and failing to do so, they will select a third and impartial representative within ten (10) days thereafter, and the three (3) of them will then attempt to agree upon said changes in costs, and their decision will be final and binding on the parties to this Contract. If the two (2) parties cannot agree on a third and impartial representative, then it is agreed that the Federal District Court in Louisville, Kentucky, shall select said third person, and his decision, and the decision of the three (3) ultimate representatives, shall be binding upon the parties to this Contract. Time being of the essence, a final decision shall be made within three (3) months after the parties originally submit their alleged

changes in cost. Each party will bear the cost of its representative and they shall equally share the cost of a third representative if needed.

5. Quality, Sampling, and Analysis

(a) Coal sold hereunder for the Spurlock Power Station Unit Nos. 1 and 2 shall meet the following specifications on an "as received" basis:

<u>Quality Specifications</u> Btu/lb.	<u>Guaranteed Monthly Weighted Average</u> Minimum	<u>Rejection Limits (per shipment)</u>
Ash	Maximum	(subject to Section 5 (c) hereinafter)
Moisture	Maximum	
Sulfur	Maximum lbs.	(subject to Section 5 (c) hereinafter)

Other Qualities

Chlorine "as received" (dry basis)	Maximum
Nitrogen "as received" (dry basis)	Maximum
Grindability (HGI)	Minimum

Size (2" x 0")

Top size (inches) maximum	Rejection Limit
Fines (% by wgt.) passing screen maximum	Rejection Limit

Ash Fusion Temperature (°F) (ASTM D1897)

Reducing Atmosphere

Initial Deformation	Minimum
Softening (H=W)	Minimum
Fluid	Minimum

(b) BUYER shall have the right, at its sole option, to reject any coal shipment, or any portion on a barge or railcar load basis, if upon visual inspection of such shipment, the coal is not run-of-mine having a maximum top size of [redacted] or is not free of impurities or has an excessive amount of fines or is "hot coal" or if BUYER believes that unloading the coal would involve an unusually hazardous condition. When any barge or railcar has been rejected by BUYER upon visual inspection before unloading, SELLER shall remove such shipment immediately from BUYER'S premises at SELLER'S expense.

It is further understood and agreed that BUYER does not waive its rights under this Contract by receiving any shipments of coal, and acceptance thereof shall not be implied unless BUYER fails to give SELLER written notice of any breaches or defaults

within a reasonable time after each monthly sampling period has ended and the coal analysis has been completed. If BUYER fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the specifications set forth herein or because such shipment contained extraneous materials, then such non-conforming coal shall be deemed accepted by BUYER.

(c) BUYER agrees to accept deliveries of coal with an ash content of up to [redacted] percent, subject to the following price adjustments. The parties agree that these adjustments shall help defray BUYER'S costs for blending and burning such lower quality coal. Such coal deliveries, subject to the price adjustments provided in this Section 5 (c), shall be considered to conform to the contract specifications for heat and ash content.

I. Price Adjustment for ash content above [redacted] percent, but not more than [redacted] percent on an "as received" basis:

For each one percent (1%) that the ash content exceeds [redacted] percent, but does not exceed [redacted] percent, [redacted] cents (\$[redacted]) per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [redacted] percent (1%) excess in ash content.

EXAMPLE:

Ash:

[redacted]  
Therefore, \$[redacted] per ton would be deducted from the billing price.

(d) BUYER reserves the right to reject any shipments of coal by SELLER which do not meet the minimum heat content requirement of [redacted] Btu/lb., maximum ash content requirement of [redacted] percent ([redacted]%), or other contract specifications contained in Section 5 (a) hereinabove. In the event that BUYER elects to accept occasional shipments of non-conforming coal, the following price adjustments shall apply to such shipments, as appropriate, in addition to the price adjustment provided in Section 5 (c), hereinabove, and in addition to any other remedies available to BUYER:

I. Price Adjustment for heat content below [redacted] Btu/lb., on an "as received" basis:

For each [redacted] Btu/lb. that the heat content falls below [redacted] Btu/lb., [redacted] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [redacted] Btu/lb. deficiency in heat content.

# REDACTED

II. Price Adjustment for ash content over [REDACTED] percent on an "as received" basis:

For each [REDACTED] percent (1%) that the ash content exceeds [REDACTED] percent, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] percent (1%) excess in ash content.

III. Price Adjustment for sulfur content in excess of Section 5 (a) specification on an "as received" basis:

For each [REDACTED] of one percent (1%) the sulfur content exceeds the Section 5 (a) specification, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in sulfur content.

ASSUME:	Contract Specification	Monthly Average Analysis
Btu	[REDACTED]	[REDACTED]
Ash	[REDACTED]	[REDACTED]
Sulfur	[REDACTED]	[REDACTED]

(1) Based on [REDACTED] Btu/lb. "as received" in this example.

### COMPUTATION:

#### Btu:

[REDACTED]  
Therefore, [REDACTED] per ton would be deducted from the billing price.

#### Ash:

[REDACTED]  
Therefore, [REDACTED] per ton would be deducted from the billing price.

#### Sulfur:

[REDACTED]  
Therefore, [REDACTED] per ton would be deducted from the billing price.

For the purpose of computing payment for coal subject to price adjustment under Sections 5 (c) or 5 (d), the heat, ash, and sulfur contents of the coal "as received" shall be deemed to be the monthly weighted composite average value of the heat, ash, and sulfur contents as defined and computed in Subsection (g) of this Section 5. BUYER and SELLER agree that the application of the price reductions provided in Section 5 (d) shall

# REDACTED

PSC Request 14

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not be considered liquidated damages but is intended to partially defray BUYER'S additional costs for blending and burning said lower quality coal; shall not constitute a waiver by BUYER of any of the terms of this Contract; shall not excuse noncompliance with the contract specifications by any shipment by SELLER; and shall not affect BUYER'S right to exercise any of its remedies provided hereunder or at law for unsatisfactory performance of the Contract by SELLER or to reject any coal received which fails to meet the requirements of Section 5 (a) herein or which BUYER has a right to reject pursuant to other provisions of this Contract.

(e) If the coal shipped to BUYER fails to meet a minimum heat content requirement of [REDACTED] Btu per pound, a maximum ash content of [REDACTED], or any of the other requirements set forth in Subsection (a) of this Section 5, for two (2) consecutive weeks based on the analyses made during such time, except for the sulfur requirements which are discussed further hereinbelow, or if SELLER fails to deliver coal for two (2) consecutive weeks without adequate excuse under Section 8, and notice thereof, BUYER shall have the right, upon giving SELLER written notice, to refuse to accept further deliveries until SELLER has provided assurance, in the opinion of BUYER, that all shipments of coal delivered thereafter will conform to each and every requirement set forth in Section 5 (a). If SELLER fails to furnish BUYER with such assurance within thirty (30) days after written notice is sent to SELLER, BUYER may, at its sole option, treat this Contract as materially breached by SELLER. It being understood and agreed, of course, that the aforesaid assurance procedure is not an exclusive remedy afforded BUYER, but it is optional and cumulative and in addition to other rights and remedies of BUYER provided herein and by law.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN TO THE CONTRARY, OR OTHERWISE, it is understood and agreed that BUYER faces severe penalties by the Environmental Protection Agency, and others, in the event of its use of coal with a sulfur content of more than the percentages noted in Section 5 (a) hereinabove; and therefore, BUYER constantly monitors and tests its coal to assure itself of sulfur compliance, and it cannot tolerate the receipt of any substantial amount of coal that does not meet such specifications. Therefore, in the event that BUYER'S testing procedures reveal that any coal delivered under this Contract fails to meet the above stated sulfur requirements, then BUYER may suspend shipments until and unless within thirty (30) days, SELLER assures BUYER of future and continuous compliance with said sulfur requirements. If SELLER provides assurance of future compliance within this thirty (30) day period that is satisfactory to BUYER, then deliveries may resume under the terms of this Contract. If, however, SELLER fails to provide BUYER with adequate



assurance of future compliance, BUYER shall have the right, at its sole option, to declare SELLER in material breach of this Contract, or to allow SELLER up to an additional sixty (60) days to provide adequate assurance of such future sulfur compliance. In the event that BUYER allows an additional period of time for the furnishing of such assurance, SELLER shall either make arrangements for delivery of adequate quantities of coal meeting such contract specification as provided in Section 5 (a), hereinabove, at the then-current contract price, to meet SELLER'S contract commitment; or SELLER shall reimburse BUYER for any amount that replacement coal purchased by BUYER, in amounts not to exceed scheduled quantities under this Contract, exceeds the then-current contract price, less any expenses saved as a result of the same; provided, however, any replacement coal purchased by BUYER shall be at a commercially reasonable price. Such reimbursement shall be made by SELLER to BUYER by the 20th day of the month following the receipt of such replacement coal. If SELLER does not provide adequate assurance of future compliance by the end of any such extended time period, BUYER may, at its sole option, declare SELLER in material breach of this Contract. This assurance procedure is not an exclusive remedy for such noncompliance, but is optional and cumulative and in addition to other rights and remedies of BUYER provided herein or at law.

(f) For purposes of determining the price and quality of all coal delivered under this Contract, except for the purposes of Section 5 (e) and for coal rejected by BUYER by visual inspection before unloading, including the moisture, ash, sulfur, and heat content requirements, the analysis of the coal shall be deemed to be, and is, the average monthly values of the moisture, ash, sulfur, and heat content as defined and computed in Subsection (g) of this Section 5.

(g) The average monthly values of the moisture, ash, sulfur, and heat content of the coal "as received" shall be the weighted average moisture, ash, sulfur, and heat content of all composite samples collected during the Sample Period. (As an example of this weighted average, samples will be taken from each barge or train loaded and an analysis is made of each sample taken in a given week. These weekly analyses are then weighted according to the quantities delivered in each week, and a monthly weighted average figure is computed. The collection, preparation, and analysis of coal conducted in determining the average monthly values of the moisture, ash, sulfur, and heat content of the coal shall be performed by SGS Laboratory from samples taken at SELLER'S facilities and in accordance with ASTM Sampling Procedure D-2234, and all tests shall be conducted at SELLER'S expense. BUYER, at its expense, shall have the right upon written notice to SELLER, to have a representative present when samples are taken,

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PSC Request 14

Page 18 of 118

prepared, and analyzed in SGS's laboratory. Of each composite sample prepared for analysis, a split will be prepared for BUYER and retained by SELLER for at least fourteen (14) days after the analysis results of that sample have been sent to BUYER. Anytime within this fourteen (14) day period, this split shall be made available to SELLER upon request.

(h) SELLER acknowledges that BUYER shall also perform sampling, analysis, and weighing at BUYER'S loading facility, which may be used to check the accuracy of SELLER'S sampling, analysis, and weighing, which shall govern the performance hereunder, subject to the terms provided herein. BUYER and SELLER agree to conduct their sampling, analysis, and weighing using accepted ASTM standards and procedures. Should a significant discrepancy appear between BUYER'S and SELLER'S weights or the dry Btu coal analysis only, then the parties shall investigate and shall diligently seek to remedy the cause of these discrepancies, as provided herein. A "significant discrepancy" between BUYER'S and SELLER'S analysis shall be defined as a difference of more than ■■■ Btu on a dry basis, on a monthly weighted average. A "significant difference" in barge cargo weights shall be defined as a difference of more than ■ percent, on a monthly weighted average. In the event that the cause for any "significant discrepancy" cannot be readily identified and corrected by BUYER and SELLER, the parties agree to have an independent verification of SELLER'S weighing, sampling, or analysis procedures performed by a mutually agreed upon, qualified third party. In the event that SELLER'S weights or analysis are shown to be in error, SELLER'S procedures shall be corrected.

## 6. Delivery and Weighing

(a) Coal sold and purchased hereunder shall be delivered by barge in approximately equal monthly shipments. The barges, which will be furnished by BUYER'S Contract carrier, shall be loaded at Green River, Milepost 76.6, Smallhouse Dock or other points approved by BUYER, to not less than 1,550 tons or maximum allowable capacity instructed by BUYER'S Contract carrier. Title to the coal shall pass to BUYER immediately at the point of delivery, and risk of loss shall follow passage of title. Any charges incurred by BUYER, as a result of SELLER loading barges with less than the minimum tons or taking more than forty-eight (48) hours to load a barge from the first 7:00 a.m. after barges are delivered to SELLER'S loading dock, shall be the responsibility of SELLER and, therefore, deducted from BUYER'S payment to SELLER.

(b) The weight of coal sold and purchased hereunder shall be determined by SELLER'S certified belt scale weights at its Smallhouse Dock. Such weights shall be accepted as correct and govern settlements hereunder as provided in Section 4 (h).

(c) After loading each shipment, SELLER shall give prompt notification to BUYER. Such notification shall include, specifically, the barge numbers, short proximate analysis, tonnage, and other pertinent information as mutually agreed upon. It is understood and agreed that BUYER WILL NOT unload any barges until the above information is received. Any charges, such as demurrage, incurred by BUYER as a result of SELLER'S late notification to BUYER, shall be the responsibility of the SELLER and, therefore, will be deducted from the payment made to SELLER.

(d) The monthly delivery rates applicable to any given month, as provided for in Section 1 (b) hereinabove, shall not be exceeded except on permission of BUYER. The term of this Contract shall not be extended in order to make up for deficiencies in the delivery schedule caused by SELLER, except at the sole option of the BUYER (provided BUYER provides written notice to SELLER of its intent to do so within 90 days of the date such deficiency occurred), nor shall any unexcused deficiencies in monthly deliveries caused by SELLER be made up except at the sole option of the BUYER.

#### 7. Payment and Notice

(a) BUYER shall make payment for balance due on deliveries made during a calendar month no later than the twentieth (20th) day of the month following the month in which the deliveries were received at Spurlock Power Station.

All said payments shall be made payable to Armstrong Coal Company, Inc., and shall be mailed to SELLER at 7701 Forsyth Boulevard, 10<sup>th</sup> Floor, St. Louis, Missouri 63105, unless designated otherwise by SELLER in writing to BUYER.

(b) All notices required or permitted to be given hereunder shall be in writing and shall be deemed properly given if mailed to the proper party at the following addresses:

BUYER: EAST KENTUCKY POWER COOPERATIVE, INC.  
4775 LEXINGTON ROAD  
P. O. BOX 707  
WINCHESTER, KENTUCKY 40392-0707

SELLER: ARMSTRONG COAL COMPANY, INC.  
407 BROWN ROAD  
MADISONVILLE, KENTUCKY 42431

With required copies to:

MARTIN D. WILSON, PRESIDENT  
ARMSTRONG COAL COMPANY, INC.  
7701 FORSYTH BOULEVARD, 10<sup>TH</sup> FLOOR  
ST. LOUIS, MISSOURI 63105

and:

MASON L. MILLER  
MILLER + WELLS, PLLC  
300 EAST MAIN STREET, SUITE 360  
LEXINGTON, KENTUCKY 40507

**8. Interruption of Operation—Force Majeure**

When used herein "force majeure" shall mean a cause beyond the reasonable control of and not due to the fault or negligence of BUYER or SELLER, as the case may be, that wholly or partially prevents or delays the mining, loading, or delivery of coal at or from the mine, or the receiving, transporting, or delivery of coal by the railroads, or the unloading, storing, or burning of coal at the plant. Examples (without limitation) of force majeure are the following: acts of God, war, acts of terrorism, whether actual or threatened, acts of the public enemy, insurrections, riots, strikes, lockouts or labor disputes, government action or inaction, shortage of materials, delays in the commercial operation of the plant, fires, explosions, floods, roof falls, roof and floor intrusions, geologic pressure that traps equipment, underground flooding, aquifers, build up of methane gas or any other mining conditions that cause unusual or material dangers or unsafe working conditions at the SELLER'S mines, or other material adverse mining conditions, extraordinary or unknown changes in coal seam characteristics or unexpected mining conditions which may arise, breakdowns of or damage to the plant, plants, mines, equipment or facilities, interruptions to or contingencies of transportation or loading, fuel supplies, or electrical power, including determination of force majeure under provisions of the applicable tariff; blockages, embargoes, boycotts, orders or acts of civil or military authorities, legislation, regulation or administrative orders, or any limitation or prohibition on, or inability to obtain governmental permits or approvals required by law and necessary to the mining, transporting, storing, handling, or burning of coal. Notwithstanding the foregoing, force majeure, for purposes of this Contract, shall not include (i) the development or existence of economic conditions that may adversely affect BUYER'S utilization of coal or SELLER'S delivery or sale of coal, (ii) acts or omissions of SELLER or BUYER constituting negligence, or mismanagement on the part of SELLER or BUYER, or (iii) causes or events affecting the performance of third-party

sellers of goods or services except to the extent caused by an event that otherwise is a force majeure event as described above.

If because of force majeure either BUYER or SELLER is rendered wholly or partially unable to carry out its respective obligations under this Contract, and if such party promptly gives the other party written notice of such force majeure, the obligations and liabilities of the party giving such notice and the corresponding obligation of the other party shall be suspended to the extent made necessary by and during the continuance of such force majeure provided, however, that the party claiming force majeure shall use its best efforts to eliminate the cause or effect of force majeure as soon as and to the extent possible, except that labor disputes or strikes shall be settled at the sole discretion of the party affected. Any deficiencies caused by force majeure shall be made up at the sole option of the party not declaring force majeure under a mutually agreed to schedule, and the term of this Contract shall not be extended to make up such deficiencies except upon mutual agreement. In the event the force majeure continues unabated for a period of three (3) months or more, then the unaffected party may, at its option, terminate this Contract by thirty (30) days' prior written notice to the party asserting such force majeure.

To the extent possible, BUYER and SELLER will utilize good faith efforts to minimize the adverse effects of a force majeure. Nothing in the preceding sentence shall, however, obligate BUYER to find additional markets for SELLER'S coal or obligate SELLER to find substitute coal sources for BUYER. BUYER may, at its election, procure coal from any substitute coal sources during any period of force majeure affecting SELLER'S ability to deliver coal hereunder. During any period when BUYER asserts a force majeure condition and said condition results in a reduction of coal deliveries, BUYER shall prorate deliveries of coal among its suppliers based on contractual commitments for Spurlock Power Station Unit Nos. 1 and 2. During any period when SELLER asserts a force majeure condition and said condition results in a reduction of coal deliveries, SELLER shall prorate deliveries of coal meeting the specifications contained in Section 5 (a) herein among its customers based on contractual commitments.

#### 9. Changes in Legislation

It is fully contemplated by both parties that BUYER is purchasing said coal for the primary purpose of using it as fuel for the generation and production of electrical power under present governmental standards and regulations, and it is understood and agreed that in the event any federal, state, or local law, regulation, or standard has been or is enacted that would prohibit or make commercially uneconomical BUYER'S purchase or

use in its Spurlock Power Station Unit Nos. 1 and 2 of the grade or quality of coal hereinbefore specified for such purpose, such as stricter or relaxed environmental quality standards, then all obligations under this Contract by BUYER to use and SELLER to sell the said prohibitive grade or quality of coal will be discharged and excused on the date specified in said law, regulation, or standard. However, said parties will be fully bound and legally obligated to perform under the exact terms and conditions of this Contract up and until said date. It is also understood that in the event that during the term of this Contract there is any federal, state, or local law, regulation, or standard enacted which prevents or severely penalizes SELLER from mining, removing, and delivering coal to BUYER, other than the aforesaid taxes, fees, special assessments, or similar levies for which escalation is provided for in Section 4 herein, and SELLER is unable to correct or modify such condition without unreasonable expense, then SELLER and BUYER may, upon the effective date specified in such legislation or regulation, be discharged and excused from the respective obligations under this Contract to sell and purchase coal.

#### 10. Annual Reimbursement

Except for reasons of force majeure, if BUYER fails to take delivery of all or a portion of the annual quantity during any Contract year, for any such delivery deficiency quantity that exceeds any delivery deficiencies caused by SELLER'S failure to supply scheduled quantities for reasons other than force majeure, BUYER shall reimburse SELLER, as provided hereinbelow, an amount calculated by multiplying (1) the total net tons of such delivery deficiencies times the positive difference, if any, between: (i) the price SELLER would have received for the coal under this Contract and (ii) the price at which SELLER is, or would be, able to sell comparable quantities of coal using reasonable efforts, provided such price is a commercially reasonable price; plus (2) any additional charges such as handling, loading, or additional transportation cost, SELLER must absorb as the result of selling the coal to any other party SELLER may choose.

Except for reasons of force majeure, if SELLER fails to supply all or a portion of the annual quantity scheduled for delivery during any Contract year, for any such delivery deficiency quantity that exceeds any delivery deficiencies caused by BUYER'S failure to take scheduled quantities for reasons other than force majeure, SELLER shall reimburse BUYER, as provided hereinbelow, an amount calculated by multiplying (1) the total net tons of such delivery deficiencies times the positive difference, if any, between: (i) the price at which BUYER is, or would be, able to purchase comparable quantities of coal using reasonable efforts, provided such price is a commercially reasonable price and (ii) the price BUYER would have paid for the coal under this Contract; plus (2) any additional charges such as handling, loading, or additional transportation cost, BUYER

must absorb as the result of purchasing the coal from any other party BUYER may choose.

The amount of any delivery deficiencies caused by BUYER'S failure to take delivery, and the amount of any delivery deficiencies caused by SELLER'S failure to make deliveries, shall be determined by BUYER and provided to SELLER within 30 days of the end of each Contract year, and a net delivery deficiency amount shall be calculated by subtracting the lesser from the greater amount. The party responsible for the net delivery deficiency amount shall make its reimbursement payment, as calculated hereinabove, to the other party within 30 days of the determination of the net delivery deficiency. Any deficiency reimbursement payment due from SELLER to BUYER may be deducted from amounts owed by BUYER under one or more invoices in the subsequent Contract year, if any. This procedure is intended only as a mechanism to correct minor delivery deficiencies under the Contract and does not excuse delivery deficiencies caused by either party that would constitute a material breach of the Contract.

#### 11. Breach of Contract

It is fully understood and agreed that a material breach of contract shall specifically include, but is not specifically limited to either unjustified nonpayment by BUYER; failure by SELLER to provide coal in the quantities stated in Section 1 meeting the specifications stated in Section 5 (a) of this Contract; violation by SELLER of the provisions of Section 12; failure of either party to make annual reimbursement payments pursuant to the terms of Section 10; or the insolvency, bankruptcy, or assignment for the benefit of creditors of either party.

#### 12. Security for Performance

To assure, in part, performance under this Contract, by no later than December 1, 2008, SELLER shall provide BUYER with a Performance Bond in the amount of \$1 per annual committed ton from a Surety that is approved by BUYER and in a form acceptable to BUYER. SELLER must continue to provide to BUYER a current bond through the term of this Contract and must provide a new performance bond thirty (30) days before the expiration of the existing bond. Said bond shall be paid and delivered to BUYER in the event of default or material breach of this Contract by SELLER or the insolvency or bankruptcy of SELLER. It is understood and agreed by the parties, however, that said security does not represent "liquidated damages," but it is additional security from SELLER to BUYER in the event of a default or breach of this contract by SELLER.

**13. Waiver of Breach and Remedies**

No waiver of a breach of this contract shall be construed or held to be a waiver of subsequent or any other breaches. All remedies afforded under this Contract shall be cumulative and in addition to every remedy provided by law.

**14. Non-Assignability**

This Contract is personal as between BUYER and SELLER, and except that, after prior written notice to the other party, BUYER may assign its rights under this Contract only to the Rural Utilities Service or other lenders to BUYER; rights or obligations under this Contract are otherwise neither assignable nor transferable except by the written consent of said parties (which consent shall not be unreasonably withheld).

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns; but this Contract may not be assigned by either party without the written consent of the other.

**15. Fair Competitive Bidding**

This Contract has been awarded to SELLER pursuant to a fair and confidential competitive bidding process. By entering this Contract, SELLER represents and warrants that it did not promise or deliver anything of significant value to, or solicit or receive any confidential competitive bidding information regarding this Contract from, any officer, director, agent or employee of BUYER, or any member of their families. BUYER shall have the right to terminate this Agreement should it determine that this representation of SELLER is false.

**16. Captions**

The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**17. Applicable Law**

This Contract shall be construed under the laws of the Commonwealth of Kentucky, and it is agreed that any disputes that may arise under this Contract between the parties that culminates in litigation, shall be instituted and tried in Clark County, Kentucky.

**18. Nondiscrimination**

The Equal Employment Opportunity Clause at 41 CFR 60-1.4 (a) and the Affirmative Action Clauses at 41 CFR 60-250.5 and 60-741.5 are hereby incorporated by reference and made a part of this Contract as though fully set forth herein.



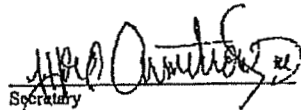
19. Entire Agreement

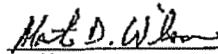
This instrument contains the entire contract between the parties, and there are no representations, understandings, or agreements, oral or written, which are not included or expressly referred to herein. This Contract cannot be changed except by duly authorized representatives of all parties in writing.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned authorized representatives of the parties, on the date first above written, in triplicate originals, which are executed in Clark County, Kentucky, for and on behalf of said parties and pursuant to duly authorized resolutions by their respective Board of Directors.

ATTEST:

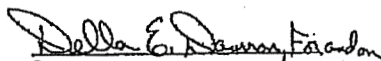
SELLER: Armstrong Coal Company, Inc.

  
Secretary

BY:   
President

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

  
Secretary  
behalf of the Corporate Secretary

BY:   
President & Chief Executive Officer

COMMONWEALTH OF KENTUCKY  
25<sup>th</sup> JUDICIAL CIRCUIT  
CLARK CIRCUIT COURT  
CIVIL BRANCH  
DIVISION ONE

CASE NO. 09-CI-00549

EAST KENTUCKY POWER COOPERATIVE, INC.

PLAINTIFF

V. **DEFENDANT, ARMSTRONG COAL COMPANY, INC.'S  
ANSWER TO FIRST AMENDED  
COMPLAINT FOR DECLARATORY RELIEF**

ARMSTRONG COAL COMPANY, INC.

DEFENDANT

\*\*\*\*\*

In accordance with the Court's December 11, 2009 Order(s), Defendant, Armstrong Coal Company, Inc. ("Armstrong Coal Co."), by and through undersigned counsel, states the following for its Answer to the First Amended Complaint for Declaratory Relief ("the Complaint") brought by Plaintiff, East Kentucky Power Cooperative, Inc. ("EKPC"):

1. With regard to the Complaint's numerical paragraph 1, Armstrong Coal Co. admits that "[o]n October 2, 2007, [EKPC] and Armstrong [Coal Co.] entered into a contract whereby [EKPC] agreed to purchase, and Armstrong [Coal Co.] agreed to sell coal for use by [EKPC] at its Spurlock Power Station Unit Nos. 1 and 2, Maysville Kentucky beginning October 1, 2008 (the "Coal Contract."). As demonstrated by the *Agreed Order of Substitution of Exhibit to Complaint for Declaratory Relief* previously entered on or about August 12, 2009, however, Exhibit 1 to the Complaint contains only a redacted copy of the Coal Contract, and Armstrong Coal Co. must therefore deny, in part, the Complaint's allegation that "[a] true and complete copy of the Coal Contract is attached hereto as Exhibit 1" (emphasis added).

2. With regard to the Complaint's numerical paragraph 2, Armstrong Coal Co. states that Section 17 of the Coal Contract speaks for itself.

3. With regard to the Complaint's numerical paragraph 3, Armstrong Coal Co. states that Section 1(a) of the Coal Contract speaks for itself.

4. With regard to the Complaint's numerical paragraph 4, Armstrong Coal Co. states that Section 1(c) of the Coal Contract speaks for itself.

5. With regard to the Complaint's numerical paragraph 5, Armstrong Coal Co. states that Section 1(b) of the Coal Contract speaks for itself.

6. With regard to the Complaint's numerical paragraph 6, Armstrong Coal Co. denies that EKPC properly and timely exercised its one-time option under Section 1(b) of the Coal Contract.

7. Armstrong Coal Co. admits that EKPC has asserted the erroneous interpretation of the Coal Agreement set forth in the Complaint's numerical paragraph 7.

8. With regard to numerical paragraph 8 of the Complaint, Armstrong Coal Co. admits that it has denied EKPC's asserted and erroneous interpretation of the Coal Agreement. Armstrong Coal Co. further admits that if EKPC had properly exercised its one-time option under Section 1(b) of the Coal Contract, Armstrong Coal would interpret the Coal Contract as requiring Armstrong to sell EKPC additional tonnage "for just the first year of the Coal Contract (a total of only 180,000 additional tons)."

9. Armstrong Coal Co. denies the factual allegation contained in the Complaint's numerical paragraph 9 because that allegation erroneously narrows the scope of the parties' dispute and appears to presuppose a counterfactual event, e.g., EKPC's proper and timely exercise of its one-time option under Section 1(b) of the Coal Contract.

10. Armstrong Coal Co. admits that, to the best of its knowledge and belief, EKPC seeks the declarative relief set forth in the Complaint's numerical paragraph 10, and by this responsive pleading, Armstrong Coal Co. similarly requests as alternative relief that the Court grant declaratory judgment as Armstrong Coal Co. requests below.

11. Armstrong Coal Co. denies any allegation in numerical paragraphs 1-10 of EKPC's Complaint that it has not specifically addressed and admitted above in numerical paragraphs 1-10 of this Answer.

AFFIRMATIVE DEFENSES

Having responded to each of the Complaint's factual allegations, Armstrong Coal Co. raises the following affirmative defense(s):

FIRST AFFIRMATIVE DEFENSE

12. EKPC's Complaint fails to state any claim upon which this Court can grant relief.

SECOND AFFIRMATIVE DEFENSE

13. Armstrong Coal Co. provisionally asserts as affirmative defenses the doctrines of estoppel, laches, and waiver and reserves the right to seek the Court's leave to amend this Reply to assert any additional appropriate affirmative defenses that might become apparent during the progression of this case.

WHEREFORE, Armstrong Coal Co. requests the following relief:

1. In the alternative: (a) dismissal of EKPC's Complaint; or (b) a declaration that EKPC failed to properly exercise the "one-time option to increase the annual tonnage of this contract up to an additional one hundred eighty thousand . . . tons" referenced in Paragraph 1(b) of the Coal Contract (thus mooted the declaration EKPC seeks); or (c) a declaration EKPC's exercise of its Paragraph 1(b) "one-time option" obligated Armstrong Coal Co sell EKPC an

additional 180,000 tons of coal only for the first year (October 1, 2008 – September 30, 2009) of the three-year term, with the base annual tonnage amount to revert to 360,000 tons thereafter.

2. Its costs and reasonable attorneys' fees expended in addition to any and all other relief, legal or equitable, to which Armstrong Coal Co. is or may be entitled.

Respectfully submitted,




MASON L. MILLER  
TREVOR W. WELLS  
MILLER + WELLS, PLLC  
300 East Main Street, Suite 360  
Lexington, Kentucky 40507  
Tel: (859) 281-0077  
Fax: (859) 281-0079  
[mmiller@millerswells.com](mailto:mmiller@millerswells.com)  
[twells@millerswells.com](mailto:twells@millerswells.com)

COUNSEL FOR PLAINTIFFS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the following by hand delivery on this the 4<sup>th</sup> day of January, 2009:

Roger R. Cowden, Esq.  
Keith Moorman, Esq.  
FROST BROWN TODD, LLC  
250 W. Main Street, Suite 2800  
Lexington, Kentucky 40507

  
COUNSEL FOR DEFENDANT

AOC-105 Rev. 1-07 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.courts.ky.gov CR 4.02; CR Official Form 1	Doc. Code: CI 09/18/2009 11:45 am Ver. 1.02	 <b>CIVIL SUMMONS</b>	Case No. <u>09-CI-00792</u> Court <input checked="" type="checkbox"/> Circuit <input type="checkbox"/> District County <u>Clark</u>
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PLAINTIFF

East Kentucky Power Cooperative, Inc.

VS.

DEFENDANT

Argus Energy, LLC

**Service of Process Agent for Defendant:**

Argus Energy, LLC

Rebecca S. Gohmann, Registered Agent

107 Dennis Drive

Lexington

Kentucky

40503

**THE COMMONWEALTH OF KENTUCKY  
TO THE ABOVE-NAMED DEFENDANT(S):**

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: Nov 3rd, 2009 By: Paul S. Joslin Clerk  
[Signature] D.C.

**Proof of Service**

This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:

this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Served by: \_\_\_\_\_

Title

FILED 11-3-09  
PAULA S. JOSLIN  
CLARK CIRCUIT/DISTRICT COURT  
BY [Signature] D.C.

COMMONWEALTH OF KENTUCKY  
CLARK CIRCUIT COURT  
DIVISION F  
CIVIL ACTION NO. 09-CI- 00792

EAST KENTUCKY POWER  
COOPERATIVE, INC.

PLAINTIFF

v.

**COMPLAINT**

ARGUS ENERGY, LLC

DEFENDANT

Serve: Rebecca S. Gohmann  
Registered Agent  
107 Dennis Drive  
Lexington, Kentucky 40503

\*\*\*\*\*

Comes the Plaintiff, East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, and for its Complaint against the Defendant, Argus Energy, LLC ("Argus"), states and alleges as follows:

**PARTIES**

- 1. EKPC is a non-profit corporation organized and existing under the laws of the Commonwealth of Kentucky, with its principal place of business in Winchester, Kentucky.
- 2. EKPC engages in the business of generating energy and shipping it to co-ops that distribute it to retail customers.
- 3. Argus is a limited liability company organized and existing under the laws of the Commonwealth of Kentucky. On information and belief, its sole members, James H. Booth and Ted McGinnis, are citizens of Kentucky.

**JURISDICTION AND VENUE**

- 4. Jurisdiction is proper in this Court as Argus is a resident of the Commonwealth of Kentucky and amenable to service of process in Kentucky.

5. Venue is proper pursuant to the venue provision in the supply contract at issue, which provides that “any disputes that may arise under this Contract between the parties that culminates in litigation, shall be instituted and tried in Clark County, Kentucky.” Venue is also proper under KRS 452.450, as the contract at issue was made and performed in Clark County, Kentucky.

6. This Court has jurisdiction because the amount in controversy exceeds the Court’s jurisdictional minimum.

**FACTUAL ALLEGATIONS**

**BACKGROUND**

7. On or about July 12, 1994, the predecessor to Argus, Pen Coal Corporation (“Pen Coal”), as “SELLER” and EKPC as “BUYER,” entered into a coal supply agreement for the purchase and sale of coal for EKPC’s Spurlock Power Station Unit No. 2 (the “CSA,”).

8. Over the course of the next fourteen (14) years, the CSA was amended eleven (11) times, to, among other things, extend the term of the CSA, amend the tonnage and price of coal during various periods, and include other qualities of coal for use by EKPC at other Units (the CSA, as amended by Amendment Nos. 1 through 11 is hereinafter collectively referred to as the “Contract”, a true and correct copy of which is attached hereto as Exhibit A).

9. On or about January 24, 2002, Pen Coal declared bankruptcy, and on or about October 28, 2002, Argus purchased the Contract from Pen Coal and assumed all of the obligations of the Seller thereunder.

**THE PERTINENT PROVISIONS OF THE CONTRACT**

10. The Contract originally called for the purchase and sale f.o.b. barge at Wayne County River Terminal of a single quality of coal containing a sulfur content on an “as received” basis of no more than the percentage computed by the following formula:



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$$\text{Percent sulfur} = \frac{\text{[REDACTED]} \times \text{Btu/lb.}}{\text{[REDACTED]}}$$

Based on this formula, the maximum sulfur content of all coal initially covered by the Contract was [REDACTED] lbs. SO<sub>2</sub>/MMBtu ("Compliance Coal"). All Compliance Coal bought and sold under the Contract was for use at EKPC's Spurlock Power Station Unit No. 2.

11. Under Amendment No. 3 to the Contract, the obligations of Buyer and Seller were expanded to provide for the sale and purchase of additional coal containing a maximum quantity of [REDACTED] lbs. SO<sub>2</sub>/MMBtu for use at EKPC's Spurlock Power Station Unit No. 1, and coal with a maximum quantity of [REDACTED] lbs SO<sub>2</sub>/MMBtu for use at EKPC's Dale Power Station, all at times and in quantities specified in the Contract.

12. Paragraph 7 of the Contract provided:

[T]he obligations of both parties under this Contract are subject to riots, strikes, or Acts of God that directly affect the operations of either said parties. In the event of such an occurrence, then said affected party shall be excused from performance of this Contract, . . . . No other acts or events shall excuse either party from full performance of this Contract except as may be stated under the terms of this Contract.

13. Paragraph 7 further provided that:

'Force Majeure' as used herein shall mean a cause beyond the control of SELLER or BUYER, as the case may be, which wholly or materially prevents the mining, loading, or delivery of coal at or from the property, or receiving, transporting or delivery of same, or the unloading, storing, or burning of coal by BUYER at the destination. Examples (without limitations) of force majeure, but only if beyond the control of SELLER or BUYER, as the case may be, are the following:

Acts of God; acts of the public enemy; insurrections; riots; strikes; labor disputes; shortage of supplies; fires, explosions; floods; breakdowns of or damage to plants, mines, equipment, or facilities; interruptions to or contingencies of transportation; embargoes; orders or acts of civil or military authority.

If because of force majeure either BUYER or SELLER is unable to carry out its obligation under this Contract, and if such party promptly gives the other party hereto written notice of such force majeure, the obligations and liabilities of the party giving such notices and the corresponding obligations of the other party shall be suspended

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to the extent made necessary by and during the continuance of such force majeure, provided, however, that the disabling effects of such force majeure shall be eliminated as soon as and to the extent practicable.

14. The Contract contained no specified source from which any coal had to be produced and sold, and the Seller was free to supply coal of the quality and quantity called for under the Contract from any source or location it chose.

15. Paragraph 9 of the Contract provided that "a material breach of contract shall specifically include, but is not specifically limited to either unjustified nonpayment by BUYER, failure by SELLER to provide coal in the quantities stated in Paragraph 1, meeting the specifications stated in Paragraph 4(a) of this Contract, or violation by SELLER of the provisions of Paragraph 10. In the event of a material breach the non-defaulting party may pursue any remedies available at law or inequity [*sic*]."

16. Under Paragraph 15 of the Contract, the parties agreed that "[t]his Contract shall be construed under the laws of the Commonwealth of Kentucky, and it is agreed that any disputes that may arise under this Contract between the parties that culminates in litigation, shall be instituted and tried in Clark County, Kentucky."

## ARGUS' FAILURE TO PERFORM

17. On or about October 10, 2007, the parties entered into Amendment No. 10 to the Contract, under which Argus agreed to sell and deliver to EKPC f.o.b. barge at Wayne County River Terminal to Spurlock Power Station Unit No. 2, Compliance Coal at a base monthly rate of (i) Thirty Thousand (30,000) tons during the period January 1, 2006 through December 31, 2007, and (ii) Forty Thousand (40,000) tons during the period January 1, 2008 through June 30, 2008, all pursuant to the terms and conditions of the Contract.

18. The agreed upon base price f.o.b. barge on an "as received" basis per million Btu for the Compliance Coal to be bought and sold under Amendment No. 10 was (i) [REDACTED]



term on September 30, 2008, and informed Argus that its failure to do so would require EKPC to purchase substitute coal on the open market at a greatly increased cost.

23. By letter dated August 11, 2008 from James H. Booth to Robert M. Marshall (the "Booth Letter," a true and correct copy of which is attached hereto as Exhibit C), Argus responded by purporting to declare a condition of force majeure impacting the supply of Compliance Coal under the Contract on the basis that it had encountered "geologic variance and inconsistencies in both the No. 5 Block and Coalburg Seams that ha[d] dramatically impacted its ability to predictably ship a compliance coal product," and that "regulatory permitting actions ha[d] been unpredictably delayed such that [its] operational flexibility remain[ed] limited."

24. Argus' attempt to declare force majeure was invalid because, among other things, (i) geologic inconsistencies and permit issues do not constitute events of force majeure under the terms of the Contract; (ii) the purported notice contained in the Booth Letter was not timely delivered to EKPC; and (iii) Argus offered no reason it could not supply the Compliance Coal from other sources that were not impacted by the described conditions, and was thus not unable to carry out its obligations under the Contract.

25. Following the Booth Letter, Argus failed to deliver even the 25,000 tons per month of Compliance Coal it had told EKPC on July 15, 2008 that it could sell and deliver during July, August and September, and Argus ultimately failed to deliver some 95,000 tons of Compliance Coal it was obligated to sell to EKPC under the Contract.

26. Due to that failure, EKPC was forced to purchase some 95,000 tons of coal meeting the quality specifications of the Compliance Coal on the open market at a price (the "Cover Price") that exceeded the then current base price of the Compliance Coal Argus failed to sell and deliver under the Contract (the "Contract Price") by more than \$100 per ton.

27. Argus' unexcused failure to sell and deliver the quantity of Compliance Coal called for under the Contract constitutes a material breach of the Contract for which EKPC is entitled to recover the difference between the Contract Price and the Cover Price for each ton of Compliance Coal Argus failed to sell and deliver under the Contract, plus interest and costs incurred in procuring substitute coal.

28. Despite demands therefor, Argus has failed to pay the amounts it owes to EKPC as a result of Argus' breach of the Contract.

**COUNT I**

**BREACH OF CONTRACT**

29. EKPC incorporates by reference the statements and allegations in numerical paragraphs 1 through 28, as though fully set forth herein.

30. The Contract constitutes a valid and enforceable contract between the parties.

31. EKPC has fully performed all of its obligations under the Contract.

32. Argus has materially breached the Contract to the detriment of EKPC by failing to sell and deliver to EKPC some 95,000 tons of Compliance Coal as required by the Contract.

33. As a result of Argus' failure to sell and deliver the remaining 95,000 tons of Compliance Coal under the Contract, EKPC has suffered damages in excess of the jurisdictional minimum of this Court, the precise amount of which shall be proved at trial.

**COUNT II**

**UNJUST ENRICHMENT**

34. EKPC incorporates by reference the statements and allegations in numerical paragraphs 1 through 33, as though fully set forth herein.


35. By its failure to sell and deliver to EKPC some 95,000 tons of Compliance Coal under the Contract, Argus has been unjustly enriched by having the ability to sell that coal to other buyers at a higher price than that called for under the Contract.

36. As a result of Argus' failure to deliver some 95,000 tons of Compliance Coal under the Contract, EKPC has suffered damages in excess of the jurisdictional minimum of this Court, the precise amount of which shall be proved at trial.

WHEREFORE, EKPC respectfully requests that the Court award the following relief:

- A. An award of compensatory damages in an amount to be determined at trial as requested in Count I of this Complaint;
- B. An award of compensatory damages in an amount to be determined at trial as requested in Count II of this Complaint;
- C. An award of all costs incurred, including attorneys' fees;
- D. Pre and post-judgment interest; and
- E. All other relief to which EKPC is entitled.

Respectfully submitted,

  
\_\_\_\_\_  
Chauncey S. R. Curtz  
Grahm N. Morgan  
MacKenzie M. Walter  
Dinsmore & Shohl LLP  
250 West Main Street  
Suite 1400  
Lexington, KY 40507  
Phone: (859) 425-1000  
Fax: (859) 425-1099

*Counsel for Plaintiff*

COAL CONTRACT

THIS CONTRACT made and entered into this 12th day of July, 1994, by and between Pen Coal Corporation, 5110 Maryland Way, 3rd Floor, P. O. Box 2128, Brentwood, Tennessee 37024-2128, hereinafter called "SELLER" and EAST KENTUCKY POWER COOPERATIVE, INCORPORATED, a Kentucky corporation with its principal office at 4758 Lexington Road, P. O. Box 707, Winchester, Clark County, Kentucky 40392-0707, hereinafter called "BUYER".

WITNESSETH

THAT for and in consideration of the mutual covenants contained herein, SELLER agrees to sell to BUYER and BUYER agrees to purchase from SELLER, coal for BUYER'S Spurlock Power Station Unit No. 2, Maysville, Kentucky, under the following terms and conditions:

1. Quantity and Term

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Two Hundred Seventy Thousand (270,000) tons of coal (the total contract tonnage) over three (3) years at a rate of Ninety Thousand (90,000) tons of coal per year (the "base annual tonnage amount"), subject to Paragraph 5 (d) and 7 herein, and BUYER'S right to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Paragraph 1 (b) hereinbelow.

(b) The base monthly delivery rate, beginning July 1, 1994, shall be Seven Thousand Five Hundred (7,500) Tons. BUYER shall have the right, upon at least thirty (30) days notice to SELLER, to vary the actual delivery rate for any given month under this Contract to any amount between six thousand (6,000) tons and nine thousand (9,000) tons per month. The actual annual tonnage amount and the total contract tonnage amount, as provided in Paragraph 1 (a) above, shall automatically be amended to conform to the actual monthly delivery rates scheduled by BUYER from time to time pursuant to this Paragraph, so that the total contract tonnage amount at the end of the term of this Contract will reflect the cumulative changes in scheduled deliveries made by BUYER pursuant to this Paragraph 1 (b).

(c) Monthly deliveries shall commence on July 1, 1994, and continue through June 30, 1997, for a total contract term of three (3) years.



2. Coal Price

The base price for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Paragraph 4 (g) and f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7 shall be [REDACTED] [REDACTED] per million Btu.

EXAMPLE: The base price of coal with a heat content of 11,800 Btu/lb. would be [REDACTED] per ton. For coal with a heat content of 12,400 Btu/lb., it would be [REDACTED] per ton.

3. Coal Price Adjustments

(a) The base price shall remain fixed, except as provided in Subparagraph (b) below, for the first six (6) months of the Contract. On January 1, 1995, and thereafter every six (6) months, the current price then in effect, shall escalate by [REDACTED] [REDACTED] (%). The escalated price shall be rounded to the nearest [REDACTED]. The escalated prices f.o.b. barge and their effective dates are as follows:

January 1, 1995 --	[REDACTED]	per
	million Btu	
July 1, 1995 --	[REDACTED]	per
	million Btu	
January 1, 1996 --	[REDACTED]	per
	million Btu	
July 1, 1996 --	[REDACTED]	per
	million Btu	
January 1, 1997 --	[REDACTED]	per
	million Btu	

(b) The parties hereto agree that the price quoted herein for coal, in Paragraphs 2, 4 (c), and 4 (d) include the cost of complying with all existing Federal, State, or Local laws or regulations. The parties agree to utilize the following procedures to adjust the price of coal to reflect changes in costs to SELLER resulting directly from any changes in Federal, State, or Local taxes, fees, special assessments, or similar levies directly relating to the mining, processing, or transportation of coal to be delivered pursuant to this Contract. This adjustment procedure shall not apply to changes in SELLER'S costs of complying with various Federal, State, or Local laws or regulations specifying health and safety, environmental or reclamation compliance standards, or similar requirements, unless such changes in costs result directly from changes in such laws or regulations. SELLER must provide a detailed explanation of any such changes in compliance costs resulting from changes in such laws or regulations as part of any request for a price adjustment for increased compliance costs,



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and subsequent price adjustments based upon the same changes in such laws or regulations shall not be permissible hereunder.

SELLER shall submit any requests for price adjustment under this Paragraph 3 (b) to BUYER prior to the time SELLER desires such price adjustment to become effective, to allow BUYER a reasonable time in which to review such requests. In the event that SELLER is unable, using reasonable business care, to calculate the exact cost increase claimed as a price adjustment hereunder prior to the desired effective date, SELLER shall submit its best reasonable estimate of such cost increase to BUYER for review and information purposes, subject to the submission of a final cost increase schedule. Failure of SELLER to submit a cost increase schedule or estimate to BUYER within a reasonable time prior to the desired effective date for a requested price adjustment hereunder shall constitute a waiver of SELLER'S right to request such price adjustment for any shipments made prior to SELLER's submission of a cost increase schedule or estimate to BUYER. Any price adjustment hereunder shall be based only on a final schedule of cost increases and not an estimate submitted as provided hereinabove.

SELLER shall use its best efforts and reasonable business care to submit a final detailed breakdown of cost increases claimed as a basis for price adjustment hereunder to BUYER as soon as the information is available. Upon the receipt of said information, BUYER shall accept or reject the requested price adjustment.

In the event that the added cost of said taxes, fees, special assessments, or similar levies on the mining, processing, or transportation of coal rise to such a level that their inclusion in the price per ton of coal delivered under this Contract would increase said price to a level [REDACTED] higher than the then-current billing price for coal under this Contract and the delivered price of coal of comparable contract terms and quality then reasonably available to BUYER, and the parties cannot agree on an acceptable price, then BUYER shall have the right, at its sole option, to terminate this Contract with no further obligation or liability to SELLER, except in regard to payment for shipments of coal received by BUYER prior to such termination.

In the event that any said taxes, fees, special assessments or similar levies, whether included in the base price of coal or added to the price of coal by escalation hereunder, are reduced and such reduction results in a cost decrease for SELLER, BUYER will submit to SELLER an estimate of the decreased costs, and the decreased cost per ton of coal, at which time SELLER, at its sole option, will accept or reject the estimate of the decreased cost. In the event that SELLER rejects the estimate

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submitted by BUYER, SELLER will submit its schedule of such decreased costs to BUYER, which BUYER, at its sole option, will accept or reject.

In the event that a request for price adjustment under this Paragraph 3 (b) would not raise the price of coal sufficiently to give BUYER the right to terminate this Contract, as provided hereinabove, and BUYER and SELLER do not agree on the amount of the adjustment, the parties do hereby agree to first attempt to compromise said changes in costs and failing to do so, they will select a third and impartial representative within ten (10) days thereafter, and the three (3) of them will then attempt to agree upon said changes in costs, and their decision will be final and binding on the parties to this Contract. If the two (2) parties cannot agree on a third and impartial representative, then it is agreed that the Senior Judge of the Eastern District of Kentucky shall select said third person, and his decision, and the decision of the three (3) ultimate representatives, shall be binding upon the parties to this Contract. Time being of the essence, a final decision shall be made within three (3) months after the parties originally submit their alleged changes in cost. Each party will bear the cost of its representative and they shall equally share the cost of a third representative if needed.

#### 4. Quality, Sampling, and Analysis

(a) Coal sold hereunder for the Spurlock Power Station Unit No. 2 shall meet the following specifications:

Heat Content — "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than ten and [REDACTED] [REDACTED] except as provided in Paragraph 4 (c) (II) hereinbelow.

Moisture Content — "as received" shall not be more than [REDACTED]

Sulfur Content — "as received" shall not be more than the percentage computed by the following formula:

$$\text{Percent Sulfur} = \frac{[REDACTED] \text{ Btu/lb.}}{[REDACTED]}$$

#### Ash Softening Temperature (Reducing Atmosphere)

Initial Deformation	—	[REDACTED] Minimum
Softening (H=W)	—	[REDACTED] Minimum
Softening (H=1/2W)	—	[REDACTED] Minimum
Fluid	—	[REDACTED] Minimum

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Grind — Shall not be less than [REDACTED] on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R. O. M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

(b) BUYER shall have the right, at its sole option, to reject any coal shipment, or any portion on a barge basis, if upon visual inspection of such shipment, the coal is not run-of-mine having a maximum top size of [REDACTED] or is not free of impurities or has an excessive amount of fines or is "hot coal" or if BUYER believes that unloading the coal would involve an unusually hazardous condition. When any barge has been rejected by BUYER upon visual inspection before unloading, SELLER shall remove such shipment immediately from BUYER'S premises at SELLER'S expense.

It is further understood and agreed that BUYER does not waive its rights under this Contract by receiving any shipments of coal, and acceptance thereof shall not be implied unless BUYER fails to give SELLER written notice of any breaches or defaults within a reasonable time after each monthly sampling period has ended and the coal analysis has been completed.

(c) BUYER agrees to accept deliveries of coal with a heat content of at least [REDACTED] Btu/lb. and/or ash content of up to [REDACTED], subject to the following price adjustments. The parties agree that these adjustments shall help defray BUYER'S costs for blending and burning such lower quality coal. Such coal deliveries, subject to the price adjustments provided in this Paragraph 4 (c), shall be considered to conform to the contract specifications for heat and ash content.

I. Price Adjustment for heat content below [REDACTED] Btu/lb., but not less than [REDACTED] Btu/lb. on an "as received" basis:

For each [REDACTED] Btu/lb. that the heat content falls below [REDACTED] Btu/lb., but does not fall below [REDACTED] Btu/lb., [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] Btu/lb. deficiency in heat content.

II. Price Adjustment for ash content above [REDACTED], but not more than [REDACTED] on an "as received" basis:

For each [REDACTED] that the ash content exceeds [REDACTED], but does not exceed [REDACTED], [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in ash content.

EXAMPLES:

ASSUME:	Contract Specification	Monthly Average Analysis
Btu	[REDACTED]	[REDACTED]
Ash	[REDACTED]	[REDACTED]

COMPUTATION:

Btu:

[REDACTED]  
Therefore, [REDACTED] ton would be deducted from the billing price.

Ash:

[REDACTED]  
Therefore, [REDACTED] per ton would be deducted from the billing price.

(d) BUYER reserves the right to reject any shipments of coal by SELLER which do not meet the minimum heat content requirement of [REDACTED] Btu/lb., maximum ash content requirement of [REDACTED], or other contract specifications contained in Paragraph 4 (a) hereinabove. In the event that BUYER elects to accept occasional shipments of non-conforming coal, the following price adjustments shall apply to such shipments, as appropriate, in addition to the price adjustment provided in Paragraph 4 (c), hereinabove, and to any other remedies available to BUYER:

I. Price Adjustment for heat content below [REDACTED] Btu/lb., on an "as received" basis:

For each [REDACTED] Btu/lb. that the heat content falls below [REDACTED] Btu/lb., [REDACTED] per ton shall be deducted from the billing price.

A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] Btu/lb. deficiency in heat content.

II. Price Adjustment for ash content over [REDACTED] on an "as received" basis:

For each [REDACTED] that the ash content exceeds [REDACTED] [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in ash content.

III. Price Adjustment for sulfur content in excess of Paragraph 4 (a) specification on an "as received" basis:

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For each [REDACTED] the sulfur content exceeds the Paragraph 4 (a) specification, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in sulfur content.

ASSUME:	Contract Specification	Monthly Average Analysis
Btu	[REDACTED]	[REDACTED]
Ash	[REDACTED]	[REDACTED]
Sulfur	[REDACTED] (1)	[REDACTED]

(1) Based on [REDACTED] Btu/lb. "as received" in this example.

## COMPUTATION:

Btu:

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

Ash:

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

Sulfur:

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

For the purpose of computing payment for coal subject to price adjustment under Paragraphs 4 (c) or 4 (d), the heat, ash, and sulfur contents of the coal "as received" shall be deemed to be the monthly weighted composite average value of the heat, ash, and sulfur contents as defined and computed in Subparagraph (g) of this Paragraph 4. BUYER and SELLER agree that the application of the price reductions provided in Paragraph 4 (d) shall not be considered liquidated damages but is intended to partially defray BUYER'S additional costs for blending and burning said lower quality coal; shall not constitute a waiver by BUYER of any of the terms of this Contract; shall not excuse noncompliance with the contract specifications by any shipment by SELLER; and shall not affect BUYER'S right to exercise any of its remedies provided hereunder or at law for unsatisfactory performance of the Contract by SELLER or to reject any coal received which fails to meet the requirements of

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Paragraph 4 (a) herein or which BUYER has a right to reject pursuant to other provisions of this Contract.

(e) If the coal shipped to BUYER fails to meet a minimum heat content requirement of [REDACTED] Btu per pound, a maximum ash content of [REDACTED] [REDACTED] or any of the other requirements set forth in Subparagraph (a) of this Paragraph 4, for two (2) consecutive weeks based on the analyses made during such time, except for the sulfur requirements which are discussed further hereinbelow, or if SELLER fails to deliver coal for two (2) consecutive scheduled deliveries without excuse under Paragraph 7, and notice thereof, BUYER shall have the right, upon giving SELLER written notice, to refuse to accept further deliveries until SELLER has provided assurance, in the opinion of BUYER, that all shipments of coal delivered thereafter will conform to each and every requirement set forth in Paragraph 4 (a). If SELLER fails to furnish BUYER with such assurance within thirty (30) days after written notice is sent to SELLER, BUYER may, at its sole option, treat this Contract as materially breached by SELLER. It being understood and agreed, of course, that the aforesaid assurance procedure is not an exclusive remedy afforded BUYER, but it is optional and cumulative and in addition to other rights and remedies of BUYER provided herein and by law.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN TO THE CONTRARY, OR OTHERWISE, it is understood and agreed that BUYER faces severe penalties by the Environmental Protection Agency, and others, in the event of its use of coal with a sulfur content of more than the percentages noted in Paragraph 4 (a) hereinabove; and therefore, BUYER constantly monitors and tests its coal to assure itself of sulfur compliance, and it cannot tolerate the receipt of any substantial amount of coal that does not meet such specifications. Therefore, in the event that BUYER'S testing procedures reveal that any coal delivered under this Contract fails to meet the above stated sulfur requirements, then BUYER may suspend shipments until and unless within thirty (30) days, SELLER assures BUYER of future and continuous compliance with said sulfur requirements. If SELLER provides assurance of future compliance within this thirty (30) day period which is satisfactory to BUYER, then deliveries may resume under the terms of this Contract. If, however, SELLER fails to provide BUYER with adequate assurance of future compliance, BUYER shall have the right, at its sole option, to declare SELLER in material breach of this Contract, or to allow SELLER up to an additional sixty (60) days to provide adequate assurance of such future sulfur compliance. In the event that BUYER allows an additional period of time for the furnishing of such assurance, SELLER shall either make arrangements for

delivery of adequate quantities of coal meeting such contract specification as provided in Paragraph 4 (a), hereinabove, at the then-current contract price, to meet SELLER'S contract commitment; or SELLER shall reimburse BUYER for any amount that replacement coal purchased by BUYER, in amounts not to exceed scheduled quantities under this Contract, exceeds the then-current contract price. Such reimbursement shall be made by SELLER to BUYER by the 20th day of the month following the receipt of such replacement coal. If SELLER does not provide adequate assurance of future compliance by the end of any such extended time period, BUYER may, at its sole option, declare SELLER in material breach of this Contract. This assurance procedure is not an exclusive remedy for such noncompliance, but is optional and cumulative and in addition to other rights and remedies of BUYER provided herein or at Law.

(f) For purposes of determining the price and quality of all coal delivered under this Contract, except for the purposes of Paragraph 4 (e) and for coal rejected by BUYER by visual inspection before unloading, including the moisture, ash, sulfur, and heat content requirements, the analysis of the coal shall be deemed to be, and is, the average monthly values of the moisture, ash, sulfur, and heat content as defined and computed in Subparagraph (g) of this Paragraph 4.

(g) The average monthly values of the moisture, ash, sulfur, and heat content of the coal "as received" shall be the weighted average moisture, ash, sulfur, and heat content of all composite samples collected during the Sample Period. (As example of this weighted average, at present, samples are taken from each barge delivered and an analysis is made of each sample taken in a given week. These weekly analyses are then weighted according to the quantities delivered in each week, and a monthly weighted average figure is computed. This procedure could change, however, but the weighted average approach will be retained.) The Sample Period shall be a one (1) month interval during which period of time several samples, the exact number being at the BUYER'S option, shall be collected and used for the aforesaid sampling purposes. The collection, preparation, and analysis of coal conducted in determining the average monthly values of the moisture, ash, sulfur, and heat content of the coal shall be performed by BUYER from samples taken at BUYER'S facilities and in accordance with the "Coal Sampling and Analysis Procedures", Spurlock Power Station, dated July 20, 1978, and subsequent amendments to those procedures, copies of which are available from BUYER upon request, and all tests shall be conducted at BUYER'S expense. SELLER shall be sent a copy of any changes in procedures for sampling and analysis. SELLER, at its expense, shall have the right upon written notice to BUYER, to have a representative present when samples are taken, prepared, and analyzed in

BUYER'S laboratory. Of each composite sample prepared for analysis, a split will be prepared for SELLER and retained by BUYER for at least fourteen (14) days after the analysis results of that sample have been sent to SELLER. Anytime within this fourteen (14) day period, this split shall be made available to SELLER upon request.

**5. Delivery and Weighing**

(a) Coal sold and purchased hereunder shall be delivered by barge in approximately equal monthly shipments. The barges, which will be furnished by BUYER'S Contract carrier, shall be loaded at Big Sandy River, Milepost 7.65, Wayne County River Terminal or other points approved by BUYER, to not less than 1,475 tons or maximum allowable capacity instructed by BUYER'S Contract carrier. Any charges incurred by BUYER, as a result of SELLER loading barges with less than the minimum tons or taking more than forty-eight (48) hours to load a barge from the first 7:00 a.m. after barges are delivered to SELLER'S loading dock, shall be the responsibility of SELLER and, therefore, deducted from BUYER'S payment to SELLER.

(b) The weight of coal sold and purchased hereunder shall be determined by BUYER'S barge draft weights or certified belt scale weights at its Spurlock Power Station. Such weights shall be accepted as correct and govern settlements hereunder.

(c) After loading each shipment, SELLER shall give prompt notification to BUYER. Such notification shall include, specifically, the barge numbers, short proximate analysis, tonnage, and other pertinent information as mutually agreed upon. It is understood and agreed that BUYER WILL NOT unload any barges until the above information is received. Any charges, such as demurrage, incurred by BUYER as a result of SELLER'S late notification to BUYER, shall be the responsibility of the SELLER and, therefore, will be deducted from the payment made to SELLER.

(d) The monthly delivery rates applicable to any given month, as provided for in Paragraph 1 (b) hereinabove, shall not be exceeded except on permission of BUYER. The term of this Contract shall not be extended in order to make up for deficiencies in the delivery schedule caused by SELLER, except at the sole option of the BUYER, nor shall any unexcused deficiencies in monthly deliveries caused by SELLER be made up except at the sole option of the BUYER.

**6. Payment and Notice**

(a) BUYER shall make payment for balance due on deliveries made during a calendar month no later than the twentieth (20th) day of the month following the month



in which the deliveries were received at Spurlock Power Station, provided certified invoices with prices and the mine location, in triplicate, have been received by BUYER no later than the tenth (10th) day of each of the aforesaid months.

All said payments shall be made payable to Pen Coal Corporation, and shall be mailed to SELLER at P. O. Box 360244, Pittsburg, Pennsylvania 15251-6244, unless designated otherwise by SELLER in writing to BUYER.

(b) All notices required or permitted to be given hereunder shall be in writing and shall be deemed properly given if mailed to the proper party at the following addresses:

BUYER: EAST KENTUCKY POWER COOPERATIVE, INC.  
4758 LEXINGTON ROAD  
P. O. BOX 707  
WINCHESTER, KENTUCKY 40392-0707  
ATTN: FUEL BUYER

SELLER: PEN COAL CORPORATION  
5110 MARYLAND WAY, 3RD FLOOR  
P. O. BOX 2128  
BRENTWOOD, TENNESSEE 37027-2128  
ATTENTION: VICE-PRESIDENT—SALES

**7. Interruption of Operation—Force Majeure**

It is specifically understood and agreed that the obligations of both parties under this Contract are subject to riots, strikes, or Acts of God that directly affect the operations of either of said parties. In the event of such an occurrence, then said affected party shall be excused from performance of this Contract, but only for such time as said occurrence is in effect, and after said occurrence has ended or been resolved, then both parties shall be fully bound to perform under the terms of this Contract for the duration of this Contract, except that any deficiencies in the production or sale of coal hereunder caused by force majeure will be made up only by mutual agreement, nor will the term of this agreement be extended by force majeure unless the parties so agree. No other acts or events shall excuse either party from full performance of this Contract except as may be stated under the terms of this Contract.

"Force Majeure" as used herein shall mean a cause beyond the control of SELLER or BUYER, as the case may be, which wholly or materially prevents the mining, loading, or delivery of coal at or from the property, or receiving, transporting or delivery of same, or the unloading, storing, or burning of coal by BUYER at its destination. Examples (without limitations) of force majeure, but only if beyond the control of SELLER or BUYER, as the case may be, are the following:

Acts of God; acts of the public enemy; insurrections; riots, strikes; labor disputes; shortage of supplies; fires, explosions; floods; breakdowns of or damage to plants, mines, equipment, or facilities; interruptions to or contingencies of transportation; embargoes; orders or acts of civil or military authority.

If because of force majeure either BUYER or SELLER is unable to carry out its obligation under this Contract, and if such party promptly gives the other party hereto written notice of such force majeure, the obligations and liabilities of the party giving such notices and the corresponding obligations of the other party shall be suspended to the extent made necessary by and during the continuance of such force majeure, provided, however, that the disabling effects of such force majeure shall be eliminated as soon as and to the extent practicable. During any period when BUYER asserts a force majeure condition and said condition results in a reduction of coal deliveries, BUYER shall prorate deliveries of coal meeting the specifications contained in Paragraph 4 (a) herein among its suppliers based on contractual commitments.

#### **8. Changes in Legislation**

It is fully contemplated by both parties that BUYER is purchasing said coal for the primary purpose of using it as fuel for the generation and production of electrical power under present governmental standards and regulations, and it is understood and agreed that in the event any Federal, State, or Local law, regulation, or standard has been or is enacted that would prohibit or make commercially uneconomical BUYER'S purchase or use in its Spurlock Power Station Unit No. 2 of the grade or quality of coal hereinbefore specified for such purpose, such as stricter or relaxed environmental quality standards, then all obligations under this Contract by BUYER to use and SELLER to sell the said prohibitive grade or quality of coal will be discharged and excused on the date specified in said law, regulation, or standard. However, said parties will be fully bound and legally obligated to perform under the exact terms and conditions of this Contract up and until said date. It is also understood that in the event that during the term of this Contract there is any Federal, State, or Local law, regulation, or standard enacted which prevents or severely penalizes SELLER from mining, removing, and delivering coal to BUYER, other than the aforesaid taxes, fees, special assessments, or similar levies for which escalation is provided for in Paragraph 3 herein, and SELLER is unable to correct or modify such condition without unreasonable expense, then SELLER and BUYER may, upon the effective date specified in such legislation or regulation, be discharged and excused from the respective obligations under this Contract to sell and purchase coal.

**9. Breach of Contract**

It is fully understood and agreed that a material breach of contract shall specifically include, but is not specifically limited to either unjustified nonpayment by BUYER, failure by SELLER to provide coal in the quantities stated in Paragraph 1, meeting the specifications stated in Paragraph 4 (a) of this Contract, or violation by SELLER of the provisions of Paragraph 10.

**10. Security for Performance**

To assure, in part, performance under this Contract, by no later than July 1, 1994, SELLER shall provide BUYER with a [REDACTED] Performance Bond, Letter of Credit, or Certificate of Deposit from a Surety or Bank that is approved by BUYER and in a form acceptable to BUYER. Said bond, letter of credit, or certificate of deposit shall be paid and delivered to BUYER in the event of default or material breach of this Contract by SELLER or the insolvency or bankruptcy of SELLER. It is understood and agreed by the parties, however, that said security does not represent "liquidated damages", but it is additional security from SELLER to BUYER in the event of a default or breach of this contract by SELLER.

**11. Waiver of Breach and Remedies**

No waiver of a breach of this contract shall be construed or held to be a waiver of subsequent or any other breaches. All remedies afforded under this Contract shall be cumulative and in addition to every remedy provided by law.

**12. Non-Assignability**

This Contract is personal as between BUYER and SELLER, and except that, after prior written notice to the other party, BUYER may assign its rights under this Contract only to the Rural Electrification Administration or other lenders to BUYER; rights or obligations under this Contract are neither assignable nor otherwise transferable and may not be subcontracted except by the written consent of said parties, which consent shall not be unreasonably withheld.

**13. Fair Competitive Bidding**

This Contract has been awarded to SELLER pursuant to a fair and confidential competitive bidding process. By entering this Contract, SELLER represents and warrants that it did not promise or deliver anything of significant value to, or solicit or receive any confidential competitive bidding information regarding this Contract from, any officer, director, agent or employee of BUYER, or any member of their families.

BUYER shall have the right to terminate this Agreement should it determine that this representation of SELLER is false.

**14. Captions**

The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**15. Applicable Law**

This Contract shall be construed under the laws of the Commonwealth of Kentucky, and it is agreed that any disputes that may arise under this Contract between the parties that culminates in litigation, shall be instituted and tried in Clark County, Kentucky.

**16. Nondiscrimination**

This Contract is subject to the provisions of Paragraphs 1 through 7 of Section 202, SubPart B, of Presidential Executive Order 11246, September 24, 1965, which is hereby incorporated by reference and made a part of this Contract.

**17. Entire Agreement**

This instrument contains the entire contract between the parties, and there are no representations, understandings, or agreements, oral or written, which are not included or expressly referred to herein. This Contract cannot be changed except by duly authorized representatives of all parties in writing.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned authorized representatives of the parties, on the date first above written, in triplicate originals, which are executed in Clark County, Kentucky, for and on behalf of said parties and pursuant to duly authorized resolutions by their respective Board of Directors.

ATTEST:

SELLER: Pen Coal Corporation

*Alvin D. Boy*  
Secretary

BY: *[Signature]*  
Executive Vice President

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

*Richard E. Custer*  
Secretary

BY: *Raymond Paek*  
President & Chief Executive Officer

APPROVED AS TO LEGAL FORM.

14 BY: *[Signature]*

**COAL CONTRACT AMENDMENT NO. 1**

THIS CONTRACT AMENDMENT, made and entered into this 25th day of November, 1996, by and between Pen Coal Corporation, a Tennessee corporation with its principal office at 5110 Maryland Way, 3rd Floor, P. O. Box 2128, Brentwood, Tennessee 37024-2128, hereinafter called "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4758 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

**W I T N E S S E T H**

WHEREAS, BUYER entered into a coal contract dated July 12, 1994, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, with SELLER; and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract to revise the purchase price of coal, extend the expiration date, and make other agreed changes;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective July 1, 1996, to amend the Contract as follows:

1. The following new Paragraph 1 shall replace and amend the existing Paragraph 1:

1. Quantity and Term

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Six Hundred Seventy-Five Thousand (675,000) tons of coal (the total contract tonnage) over five and one-half (5 ½) years through December 31, 1999, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997, and a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1999, (the "base annual tonnage amount"), subject to Paragraphs 5 (d) and 7 herein, and BUYER'S right to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Paragraph 1 (b) hereinbelow.

(b) The base monthly delivery rate beginning July 1, 1994, through June 30, 1997, shall be Seven Thousand Five Hundred (7,500) tons and beginning July 1, 1997, through December 31, 1999, shall be Thirteen Thousand Five Hundred (13,500) tons. BUYER shall have the right, upon at least thirty (30) days notice to SELLER, to vary the actual delivery rate for any given month under this Contract to any amount between six thousand (6,000) and nine thousand (9,000) tons per month beginning July 1, 1994, through June 30, 1997, and any amount between twelve thousand (12,000) and sixteen thousand (16,000) tons per month beginning July 1, 1997, through December 31, 1999. The actual annual tonnage amount and the

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total contract tonnage amount, as provided in Paragraph 1 (a) above, shall automatically be amended to conform to the actual monthly delivery rates scheduled by BUYER from time to time pursuant to this Paragraph, so that the total contract tonnage amount at the end of the term of this Contract will reflect the cumulative changes in scheduled deliveries made by BUYER pursuant to this Paragraph 1 (b).

(c) Monthly deliveries shall commence on July 1, 1994, and continue through December 31, 1999, for a total contract term of five and one-half (5 ½) years, except as may be extended as provided herein.

(d) Notwithstanding any other provisions of this Contract, and in order to accommodate BUYER'S annually scheduled plant and/or coal handling maintenance outages, effective July 1, 1996, BUYER may, at its sole option, up to two times each calendar year, reschedule up to one month's deliveries for delivery in one or more different months, provided at least thirty (30) days' notice is given and any such rescheduled deliveries are made within six months.

2. The following new Paragraph 2 shall replace and amend the existing Paragraph 2:

2. Coal Price

The base price for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Paragraph 4 (g) and f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7 shall be [REDACTED]

\_\_\_\_\_

\_\_\_\_\_ per million Btu beginning July 1, 1994, through June 30, 1996, and \_\_\_\_\_

\_\_\_\_\_ per million Btu retroactive to and beginning July 1, 1996, through December 31, 1999. The billing price for coal delivered hereunder shall be determined from the appropriate base price and all applicable escalations and adjustments provided hereinbelow.

EXAMPLE: The base price of coal beginning July 1, 1994, through June 30, 1996, with a heat content of \_\_\_\_\_ Btu/lb. would be \_\_\_\_\_ per ton. The base price of coal beginning July 1, 1996, through December 31, 1999, with a heat content of \_\_\_\_\_ Btu/lb. would be \_\_\_\_\_ per ton.

3. The following new Paragraph 3 (a) shall replace and amend the existing Paragraph 3 (a):

3. Coal Price Adjustments

(a) The base price shall remain fixed except as provided in Subparagraph (b) below, for the first six (6) months of the Contract from July 1, 1994, through December 31, 1994, and the new base price in effect on July 1, 1996, shall remain fixed except as provided in Subparagraph (b) below, for the first six (6) months from July 1, 1996, through December 31, 1996. On January 1, 1995, and thereafter every six months through June 30, 1996, the current price, then in effect, shall escalate by \_\_\_\_\_. Beginning January 1, 1997, and thereafter every six (6) months through December 31, 1999, the current price, then in effect, shall



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escalate by [REDACTED]. The escalated base price shall be rounded to the nearest [REDACTED].

4. Paragraph 3 (b) shall be revised by inserting the following sentence after the first sentence of Paragraph 3 (b):

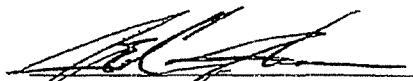
The parties hereto agree that effective July 1, 1996, the price quoted herein for coal, in Paragraphs 2, 4 (c), and 4 (d) include the cost of complying with all existing Federal, State, or Local laws or regulations as of June 30, 1996.

5. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

ATTEST:

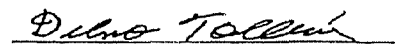
SELLER: Pen Coal Corporation

  
Secretary

BY:   
Vice President—Sales

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

  
Secretary

BY:   
President & Chief Executive Officer

**COAL CONTRACT AMENDMENT NO. 2**

THIS CONTRACT AMENDMENT, made and entered into this 15th day of November, 1997, by and between Pen Coal Corporation, a Tennessee corporation with its principal office at 5110 Maryland Way, 3rd Floor, P. O. Box 2128, Brentwood, Tennessee 37024-2128, hereinafter called "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

**W I T N E S S E T H**

WHEREAS, BUYER entered into a coal contract dated July 12, 1994, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, with SELLER; and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract to revise the purchase price of coal, extend the expiration date, and make other agreed changes;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective January 1, 1998, to amend the Contract as follows:

1. The following new Paragraph 1 shall replace and amend the existing Paragraph 1:

1. Quantity and Term

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, One Million Nine Hundred Seventy-One Thousand (1,971,000) tons of coal (the total contract tonnage) over eight (8) years through June 30, 2002, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997; at a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1997; and at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year from January 1, 1998, through June 30, 2002, (the "base annual tonnage amount"), subject to Paragraphs 5 (d) and 7 herein, and subject to BUYER'S right to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Paragraph 1 (b) hereinbelow.

(b) The base monthly delivery rate beginning July 1, 1994, through June 30, 1997, shall be Seven Thousand Five Hundred (7,500) tons. The base monthly delivery rate beginning July 1, 1997, through December 31, 1997, shall be Thirteen Thousand Five Hundred (13,500) tons. The base monthly delivery rate beginning January 1, 1998 through June 30, 2002, shall be Thirty Thousand (30,000) tons. BUYER shall have the right, upon at least thirty (30) days notice to SELLER, to vary the actual delivery rate for any given month under this Contract to

any amount between six thousand (6,000) and nine thousand (9,000) tons per month beginning July 1, 1994, through June 30, 1997; to vary the actual delivery rate to any amount between twelve thousand (12,000) and sixteen thousand (16,000) tons per month beginning July 1, 1997, through December 31, 1997; and to vary the actual delivery rate to any amount between twenty-five thousand (25,000) and thirty-five thousand tons per month beginning January 1, 1998, through June 30, 2002. The actual annual tonnage amount and the total contract tonnage amount, as provided in Paragraph 1 (a) above, shall automatically be amended to conform to the actual monthly delivery rates scheduled by BUYER from time to time pursuant to this Paragraph, so that the total contract tonnage amount at the end of the term of this Contract will reflect the cumulative changes in scheduled deliveries made by BUYER pursuant to this Paragraph 1 (b) and pursuant to BUYER'S option contained in Paragraph 1 (e) hereinbelow.

(c) Monthly deliveries shall commence on July 1, 1994, and continue through June 30, 2002, for a total contract term of eight (8) years, except as may be extended as provided herein.

(d) Notwithstanding any other provisions of this Contract, and in order to accommodate BUYER'S annually scheduled plant and/or coal handling maintenance outages, effective July 1, 1996, BUYER may, at its sole option, up to two times each calendar year, reschedule up to one month's deliveries for delivery in one or more different months, provided at least

thirty (30) days' notice is given and any such rescheduled deliveries are made within six months.

(e) BUYER, at its sole option, may upon written notice by July 1, 2000, increase the base annual tonnage amount up to 480,000 tons effective January 1, 2001, for the remainder of the contract term.

2. The following new Paragraph 2 shall replace and amend the existing Paragraph 2:

2. Coal Price

The base price for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Paragraph 4 (g) and f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7 shall be as follows:

\_\_\_\_\_

\_\_\_\_\_ per million Btu beginning July 1, 1994, through June 30, 1996; and \_\_\_\_\_

\_\_\_\_\_ per million Btu retroactive to and beginning July 1, 1996, through December 31, 1997; and \_\_\_\_\_

\_\_\_\_\_ cents per million Btu beginning January 1, 1998, through June 30, 2002. The billing price for coal delivered hereunder shall be determined from the appropriate base price and all applicable escalations and adjustments provided hereinbelow.

EXAMPLE: The base price of coal beginning July 1, 1994, through June 30, 1996, with a heat content of \_\_\_\_\_ Btu/lb. would be \_\_\_\_\_ per ton. The base price of coal beginning July 1, 1996,

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through December 31, 1997, with a heat content of [REDACTED] Btu/lb. would be [REDACTED] per ton. The base price of coal beginning January 1, 1998, through June 30, 2002, with a heat content of [REDACTED] Btu/lb. would be [REDACTED] per ton.

3. The following new Paragraph 3 (a) shall replace and amend the existing Paragraph 3 (a):

### 3. Coal Price Adjustments

(a) The base price shall remain fixed, except as provided in Subparagraph (b) below, for the first six (6) months of the Contract from July 1, 1994, through December 31, 1994. The new base price in effect on July 1, 1996, shall remain fixed except as provided in Subparagraph (b) below, for the first six (6) months from July 1, 1996, through December 31, 1996. The new base price in effect on January 1, 1998, shall remain fixed, except as provided in Subparagraph (b) below, for the first six (6) months from January 1, 1998, through June 30, 1998. On January 1, 1995, and thereafter every six months through June 30, 1996, the current price, then in effect, shall escalate by [REDACTED]. Beginning January 1, 1997, and thereafter every six (6) months through December 31, 1997, the current price, then in effect, shall escalate by [REDACTED]. Beginning July 1, 1998, and thereafter every six (6) months through June 30, 2002, the current price, then in effect, shall escalate by [REDACTED]. The escalated base price shall be rounded to the nearest [REDACTED].

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4. Paragraph 3 (b) shall be revised by inserting the following sentence after the first sentence of Paragraph 3 (b):

The parties hereto agree that effective January 1, 1998, the price quoted herein for coal, in Paragraphs 2, 4 (c), and 4 (d), includes the cost of complying with all existing Federal, State, or Local laws or regulations as of October 1, 1997.

5. Paragraph 4 (a), Heat Content, shall be revised as follows:

Heat Content — "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.

6. The following new Paragraph 5 (d), shall be added to the end of Paragraph 5:

(d) It is agreed by both parties that BUYER may use the supply of coal as covered by this contract at multiple destinations as chosen by BUYER at its option.

7. Paragraph 2 within Paragraph 7, Interruption of Operation—Force Majeure, shall be amended to read as follows:

"Force Majeure" as used herein shall mean a cause beyond the control of SELLER or BUYER, as the case may be, which wholly or materially prevents the mining, loading, or delivery of coal at or from the property, or receiving, transporting or delivery of same, or the unloading, storing, or burning of coal by BUYER at its destination. Examples (without limitations) of force majeure, but only if beyond the control of SELLER or BUYER, as the case may be, are the following:

Acts of God; acts of the public enemy; insurrections; riots, strikes; labor disputes; shortage of supplies; fires, explosions; floods; breakdowns of or damage to plants, mine equipment or facilities; interruptions to or contingencies of transportation; embargoes; orders or acts of civil or military authority. Malfunctions of computer hardware, software, or any type of equipment resulting from so-called "Year 2000 compliance" problems that could reasonably be foreseen and were within a non-performing party's ability to prevent or correct, shall not be considered to be force majeure events that excuse non-performance by BUYER or SELLER hereunder.

8. The following language shall be added to the end of Paragraph 8,  
Changes in Legislation:

If BUYER elects to activate its scrubber system at Spurlock Power Station during the term of this Contract, BUYER shall give SELLER a one-year written notice on or after January 1, 2000, upon which SELLER will have 60 days to provide BUYER, at its option, a proposal for a substitute fuel source, of adequate quality, and at a competitive price, to meet BUYER'S new fuel requirements. If the source or quality are not acceptable to BUYER, or the price is not competitive, based on BUYER'S survey of the then current market price, SELLER and BUYER will be discharged and excused from their respective obligations under this Contract to sell and purchase coal after the effective date of the notice.

9. The first sentence in Paragraph 10, Security for Performance, shall be changed to read as follows:

To assure, in part, performance under this Contract, by no later than December 31, 1997, SELLER shall provide BUYER with a



**REDACTED**

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**[REDACTED]** Performance  
Bond from a Surety that is approved by BUYER and in a form  
acceptable to BUYER.

10. All other provisions of the Contract not specifically affected by this  
amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned  
duly authorized representatives, on the date first above written, in triplicate originals,  
for and on behalf of said parties.

ATTEST:

SELLER: Pen Coal Corporation

Mark A. Oldham  
Secretary

BY: Jadavus  
Senior Vice President—Sales

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

Della E. Dameron, for and on behalf  
of Corporate Secretary

BY: Roy M. Palk  
President & Chief Executive Officer

COAL CONTRACT AMENDMENT NO. 3

THIS CONTRACT AMENDMENT, made and entered into this 26th day of October, 2001, by and between Pen Coal Corporation, a Tennessee corporation with its principal office at 5110 Maryland Way, 3rd Floor, P. O. Box 2128, Brentwood, Tennessee 37024-2128, hereinafter called "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

W I T N E S S E T H

WHEREAS, BUYER and SELLER entered into a coal contract dated July 12, 1994, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, as previously amended on November 25, 1996, and November 15, 1997; and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract to revise the purchase price of coal, extend the expiration date, and make other agreed changes;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective January 1, 2001, to amend the Contract as follows:

1. The following new Paragraph 1 shall replace and amend the existing Paragraph 1:

**1. Quantity and Term**

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Two Million Eight Hundred Seventy-One Thousand

(2,871,000) tons of coal (the total contract tonnage) over ten and one-half (10 ½) years through December 31, 2004, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997; at a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1997; and at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year from January 1, 1998, through December 31, 2004, (the "base annual tonnage amount"), all subject to Paragraphs 5 (d), and 7 herein, and subject to BUYER'S right to vary the total contract tonnage and annual tonnage amounts through the adjustment of monthly delivery rates, as provided in Paragraph 1 (b) hereinbelow.

(b) The base monthly delivery rate for 1.15 lbs. SO<sub>2</sub>/MMBtu coal to Spurlock Power Station beginning July 1, 1994, through June 30, 1997, shall be Seven Thousand Five Hundred (7,500) tons; from July 1, 1997, through December 31, 1997, shall be Thirteen Thousand Five Hundred (13,500) tons; and from January 1, 1998, through December 31, 2000, shall be Thirty Thousand (30,000) tons. The base monthly delivery rate for 1.15 lbs. SO<sub>2</sub>/MMBtu coal to Spurlock Power Station from January 1, 2001, through April 30, 2001, shall be 15,000 tons. The base monthly delivery rate for 1.6 lbs. SO<sub>2</sub>/MMBtu coal to Spurlock Power Station from January 1, 2001, through April 30, 2001, shall be 15,000 tons. The base monthly delivery rate for 1.6 lbs. SO<sub>2</sub>/MMBtu from May 1, 2001, through December 31, 2004, shall be 30,000 tons, subject to BUYER'S option in Paragraph 5 (d). BUYER shall have the right, upon at least thirty (30) days notice to SELLER, to vary the actual delivery rate for any given month under this Contract to any amount between six thousand (6,000) and nine thousand (9,000) tons per month beginning July 1, 1994, through June 30, 1997; to vary the actual delivery rate

to any amount between twelve thousand (12,000) and sixteen thousand (16,000) tons per month beginning July 1, 1997, through December 31, 1997; and to vary the actual delivery rate to any amount between twenty-five thousand (25,000) and thirty-five thousand (35,000) tons per month beginning January 1, 1998, through December 31, 2000. The actual annual tonnage amount and the total contract tonnage amount, as provided in Paragraph 1 (a) above, shall automatically be amended to conform to the actual monthly delivery rates scheduled by BUYER from time to time pursuant to this Paragraph, so that the total contract tonnage amount at the end of the term of this Contract will reflect the cumulative changes in scheduled deliveries made by BUYER pursuant to this Paragraph 1 (b).

(c) Monthly deliveries shall commence on July 1, 1994, and continue through December 31, 2004, for a total contract term of ten and one-half (10 ½) years, unless terminated earlier pursuant to the provision of Paragraph 3 (c).

(d) Notwithstanding any other provisions of this Contract, and in order to accommodate BUYER'S annually scheduled plant and/or coal handling maintenance outages, effective July 1, 1996, BUYER may, at its sole option, up to two times each calendar year, reschedule up to one month's deliveries for delivery in one or more different months, provided at least thirty (30) days' notice is given and any such rescheduled deliveries are made within six months.

2. The following new Paragraph 2 shall replace and amend the existing Paragraph 2:

2. **Coal Price**

The base price for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in

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Paragraph 4 (g) and f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7 for [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station shall be as follows: [REDACTED] [REDACTED] per million Btu beginning July 1, 1994, through June 30, 1996; [REDACTED] per million Btu retroactive to and beginning July 1, 1996, through December 31, 1997; and [REDACTED] cents per million Btu beginning January 1, 1998, through April 30, 2001.

The base price for all coal supplied hereunder, retroactive to and effective on and after January 1, 2001, through April 30, 2001, for [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station shall be [REDACTED] per million Btu f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7 and effective May 1, 2001, shall be [REDACTED] per million Btu f.o.b. barge. Effective May 1, 2001, the base price for [REDACTED] SO<sub>2</sub>/MMBtu coal to Dale Power Station shall be [REDACTED] per million Btu f.o.b. stockpile or unloading facilities at BUYER'S Dale Power Station. The billing price for coal delivered hereunder shall be determined from the appropriate base price and all applicable escalations and adjustments provided hereinbelow.

EXAMPLE: The base price of coal beginning July 1, 1994, through June 30, 1996, with a heat content of [REDACTED] Btu/lb. would be [REDACTED] per ton. The base price of coal beginning July 1, 1996, through December 31, 1997, with a heat content of [REDACTED] Btu/lb. would be [REDACTED] per ton. The base price of coal beginning January 1, 1998, with a heat content of [REDACTED] Btu/lb. would be [REDACTED] per ton.

3. The following new Paragraph 3 (a) shall replace and amend the existing Paragraph 3 (a):

3. Coal Price Adjustments

(a) The base price shall remain fixed, except as provided in Subparagraph (b) below, for the first six (6) months of the Contract from July 1, 1994, through December 31, 1994. The new base price in effect on July 1, 1996, shall remain fixed except as provided in Subparagraph (b) below, for the first six (6) months from July 1, 1996, through December 31, 1996. The new base price in effect on January 1, 1998, shall remain fixed, except as provided in Subparagraph (b) below, for the first six (6) months from January 1, 1998, through June 30, 1998. On January 1, 1995, and thereafter every six months through June 30, 1996, the current price, then in effect, shall escalate by [REDACTED]. Beginning January 1, 1997, and thereafter every six (6) months through December 31, 1997, the current price, then in effect, shall escalate by [REDACTED]. Beginning July 1, 1998, and thereafter every six (6) months through April 30, 2001, the current price, then in effect, shall escalate by [REDACTED]. The price shall not escalate after May 1, 2001. The escalated base price shall be rounded to the nearest [REDACTED].

4. Paragraph 3 (b) shall be revised by inserting the following sentence after the second sentence of Paragraph 3 (b):

The parties hereto agree that effective January 1, 2001, the price quoted herein for coal, in Paragraphs 2, 4 (c), and 4 (d), includes the cost of

# REDACTED

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complying with all existing Federal, State, or Local laws or regulations as of December 31, 2000.

5. The following new paragraph shall replace and amend the existing Paragraph 3 (c):

3 (c) Between August 1 and October 31, 2002, the parties shall jointly consider the effect of economic conditions and market prices in the coal industry to ascertain whether the Adjusted Price should be further adjusted in order to avoid economic hardship for SELLER or for BUYER. If it is thus ascertained that a substantial change has occurred in either party's economic condition and/or market prices, then the Adjusted Price shall be further adjusted to compensate for such change and the amount of such adjustment and its effective date shall be mutually agreed upon by SELLER and BUYER.

The intent of this Paragraph 3 (c) is to avoid having SELLER experience a significant loss as a result of changed economic conditions and to insure that BUYER will not pay SELLER a price significantly higher than market prices for steam coal of similar quality, specifications, quantity, and availability.

If the parties are unable to agree with respect to a price adjustment, then either party may terminate this Contract effective December 31, 2002.

6. The following new Paragraph 4 shall replace and amend the existing Paragraph 4:

**4. Quality, Sampling, and Analysis**

(a) Coal sold hereunder for the Spurlock Power Station Unit No. 2 shall meet the following specifications:

Heat Content — "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.





[REDACTED] beginning  
January 1, 2001, through April 30, 2001;

[REDACTED] beginning  
May 1, 2001, through December 31, 2002;

[REDACTED] beginning  
January 1, 2003, through December 31, 2007.

(c) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. stockpile or unloading facilities at Dale Power Station:

[REDACTED] beginning  
May 1, 2001, through December 31, 2002;

[REDACTED] beginning  
January 1, 2003, through December 31, 2007.

The billing price for coal delivered hereunder shall be determined from the appropriate base price and all applicable escalations and adjustments provided hereinbelow.

4. The following new Paragraph 3 (a) shall replace and amend the existing Paragraph 3 (a):

**3. Coal Price Adjustments**

(a) The base price of [REDACTED] SO<sub>2</sub>/MMBtu coal delivered to Spurlock Power Station and [REDACTED] SO<sub>2</sub>/MMBtu delivered to Dale Power Station shall escalate at an annual rate of [REDACTED] beginning January 1, 2004. The base price of [REDACTED] SO<sub>2</sub>/MMBtu coal delivered to Spurlock Power Station shall escalate at an annual rate of [REDACTED] beginning January 1, 2005. The escalated base price shall be rounded to the nearest [REDACTED]. The base price and all future escalated prices shall be subject to Subparagraph (b) below.

5. Paragraph 3 (b) shall be revised by inserting the following sentence after the second sentence of Paragraph 3 (b):

The parties hereto agree that effective January 1, 2003, the price quoted herein for coal, in Paragraphs 2, 4 (c), and 4 (d), includes the cost of complying with all existing Federal, State, or Local laws or regulations as of December 31, 2002.

6. The following new paragraph shall replace and amend the existing Paragraph 3 (c):

(c) Between August 1, 2005, and October 31, 2005, the parties shall jointly consider the effect of economic conditions and market prices in the coal industry to ascertain whether the Adjusted Price should be further adjusted. If it is thus ascertained that a substantial change has occurred in market prices, then the Adjusted Price shall be further adjusted to compensate for such change and the amount of such adjustment and its effective date shall be mutually agreed upon by SELLER and BUYER.

The intent of this Paragraph 3 (c) is to avoid having SELLER experience a significant loss as a result of changed economic conditions and to insure that BUYER will not pay SELLER a price significantly higher than market prices for steam coal of similar quality, specifications, quantity, and availability.

If the parties are unable to agree with respect to a price adjustment, then either party may terminate this Contract effective December 31, 2005.

7. The following new Paragraph 4 (a) shall replace and amend the existing Paragraph 4 (a):

4. Quality, Sampling, and Analysis

(a) (i) Coal sold hereunder for the Spurlock Power Station Unit No. 1 beginning January 1, 2003, and continuing through December 31, 2007, shall meet the following specifications:

Heat Content — "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than [REDACTED], except as provided in Paragraph 4 (c) (II) hereinbelow.

Moisture Content — "as received" shall not be more than [REDACTED]

Sulfur Content — "as received" shall not be more than the percentage computed by the following formula:

$$\text{Percent Sulfur} = \frac{[REDACTED] \times \text{Btu/lb.}}{[REDACTED]}$$

Ash Softening Temperature (Reducing Atmosphere)

Initial Deformation	—	[REDACTED]	Minimum
Softening (H=W)	—	[REDACTED]	Minimum
Softening (H=1/2W)	—	[REDACTED]	Minimum
Fluid	—	[REDACTED]	Minimum

Grind — Shall not be less than [REDACTED] on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R. O. M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

(ii) Coal sold hereunder for the Spurlock Power Station Unit No. 1 but delivered to Dale Power Station shall meet the following specifications:

# REDACTED

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Heat Content — Effective January 1, 2003, "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than [REDACTED] [REDACTED] except as provided in Paragraph 4 (c) (II) hereinbelow for Spurlock Power Station only.

Moisture Content — "as received" shall not be more than [REDACTED] [REDACTED]

Sulfur Content — "as received" shall not be more than the percentage computed by the following formula:

$$\text{Percent Sulfur} = \frac{[REDACTED] \times \text{Btu/lb.}}{[REDACTED]}$$

### Ash Softening Temperature (Reducing Atmosphere)

	<u>Dale</u>
Initial Deformation	— [REDACTED] Minimum
Softening (H=W)	— [REDACTED] Minimum
Softening (H=1/2W)	— [REDACTED] Minimum
Fluid	— [REDACTED] Minimum

Grind — Shall not be less than [REDACTED] on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R.O.M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

(iii) Coal sold hereunder for the Spurlock Power Station Unit No. 2 shall meet the following specifications:

Heat Content — Effective January 1, 2003, "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Paragraph 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than [REDACTED] [REDACTED] except as provided in Paragraph 4 (c) (II) hereinbelow for Spurlock Power Station only.

Moisture Content — "as received" shall not be more than [REDACTED] [REDACTED]

# REDACTED

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Sulfur Content — “as received” shall not be more than the percentage computed by the following formula:

$$\text{Percent Sulfur} = \frac{\text{[REDACTED]} \times \text{Btu/lb.}}{\text{[REDACTED]}}$$

Ash Softening Temperature (Reducing Atmosphere)

		<u>Spurlock</u>
Initial Deformation	—	[REDACTED] Minimum
Softening (H=W)	—	[REDACTED] Minimum
Softening (H=1/2W)	—	[REDACTED] Minimum
Fluid	—	[REDACTED] Minimum

Grind — Shall not be less than forty-five (45) on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R.O.M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

8. The following new Paragraph 5 (a) shall replace and amend the existing Paragraph 5 (a):

**5. Delivery and Weighing**

(a) Coal sold and purchased hereunder shall be delivered by barge to Spurlock Power Station or truck to Dale Power Station in approximately equal monthly shipments. The barges, which will be furnished by BUYER'S Contract carrier, shall be loaded at Big Sandy River, Milepost 7.7, Wayne County River Terminal or other points approved by BUYER, which approval shall not be unreasonably withheld, to not less than 1,550 tons or maximum allowable capacity instructed by BUYER'S Contract carrier. Any charges incurred by BUYER, as a result of SELLER loading barges with less than the minimum tons or taking more than forty-eight (48) hours to load a barge from the first 7:00 a.m. after barges are delivered to SELLER'S loading dock, shall be the responsibility of SELLER and, therefore, deducted from BUYER'S payment to SELLER. Trucking shall be the responsibility of SELLER and

delivered during Dale Power Station's coal unloading hours, which are currently 7 a.m. to 3 p.m.

9. The following new Paragraph 5 (d) shall replace and amend the existing Paragraph 5 (d):

(d) The monthly delivery rates applicable to any given month, as provided for in Paragraph 1 (b) hereinabove, shall not be exceeded except on permission of BUYER. The term of this Contract shall not be extended in order to make up for deficiencies in the delivery schedule caused by SELLER, except at the sole option of the BUYER, nor shall any unexcused deficiencies in monthly deliveries caused by SELLER be made up except at the sole option of the BUYER. It is agreed by both parties that BUYER may use the supply of coal as covered by this Contract at multiple destinations as chosen by BUYER at its option. On and after January 1, 2003, BUYER shall have the option upon 30 days' notice to designate up to one-half or 10,000 tons of the monthly commitment tonnage for Spurlock Power Station Unit No. 1 to be delivered to Dale Power Station.

10. The following new Paragraph 6 shall replace and amend the existing Paragraph 6:

**6. Payment and Notice**

(a) BUYER shall make payment for balance due on deliveries made during a calendar month no later than the twentieth (20th) day of the month following the month in which the deliveries were received at Spurlock Power Station.

All said payments shall be made payable to Argus Energy, LLC, and shall be mailed to SELLER at P. O. Box 190, Lovely, Kentucky 41231, unless designated otherwise by SELLER in writing to BUYER.

(b) All notices required or permitted to be given hereunder shall be in writing and shall be deemed properly given if mailed to the proper party at the following addresses:

BUYER: EAST KENTUCKY POWER COOPERATIVE, INC.  
4775 LEXINGTON ROAD  
P. O. BOX 707  
WINCHESTER, KENTUCKY 40392-0707  
ATTN: FUEL BUYER

SELLER: ARGUS ENERGY, LLC  
ROUTE 292  
FAST LANE BUILDING  
P. O. BOX 190  
LOVELY, KENTUCKY 41231

11. The following new Paragraph 9 shall replace and amend the existing Paragraph 9:

**9. Breach of Contract**

It is fully understood and agreed that a material breach of contract shall specifically include, but is not specifically limited to either unjustified nonpayment by BUYER, failure by SELLER to provide coal in the quantities stated in Paragraph 1, meeting the specifications stated in Paragraph 4 (a) of this Contract, or violation by SELLER of the provisions of Paragraph 10. In the event of a material breach the non-defaulting party may pursue any remedies available at law or inequity.

12. Deliveries by SELLER to BUYER for Spurlock Power Station under purchase order No. 50805 from January 1, 2001, through December 31, 2002, and deliveries to Dale Power Station under purchase order No. 50862 from May 1, 2001, through December 31,

2002, which meet applicable quality specifications of said purchase order, shall serve to satisfy the like tonnage amount under this Contract.

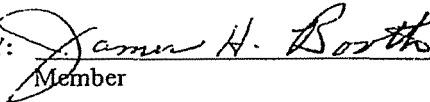
13. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

ATTEST:

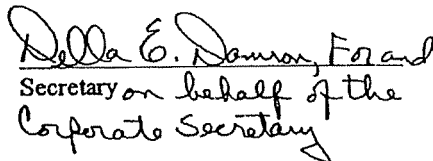
SELLER: Argus Energy, LLC

  
~~Secretary~~ WITNESS

BY:   
Member

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

  
Secretary on behalf of the  
Corporate Secretary

BY:   
President & Chief Executive Officer





EAST KENTUCKY POWER COOPERATIVE

July 22, 2005

Mr. James H. Booth  
Member  
Argus Energy, LLC  
P. O. Box 190  
Lovely, KY 41231

Dear Mr. Booth:

Subject: Amendment No. 5 to Coal Supply Contract Between East Kentucky Power Cooperative, Inc., ("EKPC") and Argus Energy, LLC, ("Argus") Dated July 12, 1994 (the "Contract")

This letter shall serve as Amendment No. 5 to the subject Contract and shall document the agreements reached between representatives of our two companies, as follows:

1. The following new Paragraph 1 (e) is added to the Contract:

(e) BUYER shall have the option, upon 30 days notice to SELLER, to cancel some or all of any monthly deliveries scheduled for Spurlock Power Station if a substitute buyer for those monthly deliveries can be agreed upon by BUYER and SELLER. Sales of such coal to a substitute buyer shall be counted toward the satisfaction of the annual and total contract tonnage requirements contained in Paragraph 1 (a). Such sales to substitute buyers shall not be governed by the terms of this Contract, but shall be made pursuant to separate contract terms, as agreed between SELLER and the substitute buyer.

2. All other terms and conditions of the Contract, as previously amended, that are not affected by this Amendment No. 5, shall remain in full force and effect.

Please acknowledge your agreement in the space provided below, and return one original to Ernie Huff at our office for EKPC's files. The second original copy may be kept for your files.

Sincerely,

Roy M. Falk  
President and Chief Executive Officer

eh/gv

Acknowledged and agreed to:

James H. Booth, Member  
Argus Energy, LLC

4775 Lexington Road 40391  
P.O. Box 707, Winchester,  
Kentucky 40392-0707

Tel. (859) 744-4812  
Fax: (859) 744-6008  
<http://www.ekpc.coop>

**COAL CONTRACT AMENDMENT NO. 6**

THIS CONTRACT AMENDMENT, made and entered into this 13<sup>th</sup> day of October, 2005, by and between Argus Energy, LLC, a Kentucky limited liability company with its principal office at Route 292, Fast Lane Building, P. O. Box 190, Lovely, Kentucky 41231, successor-in-interest to Pen Coal Corporation, hereinafter called Argus or "SELLER," and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

**W I T N E S S E T H**

WHEREAS, BUYER and SELLER are parties to a coal contract dated July 12, 1994, as previously amended, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, and BUYER'S Dale Power Station near Ford, Kentucky; and

WHEREAS, The parties have concluded market reopener negotiations, pursuant to the terms of the Contract, and wish to continue the Contract on amended terms;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective January 1, 2006, to amend the Contract as follows:

1. The following new Section 1 (a) shall replace and amend the existing Section 1 (a):

1. Quantity and Term

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Five Million Thirty-One Thousand (5,031,000) tons of coal (the total contract tonnage) over thirteen and one-half (13 ½) years through December 31, 2007, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997; at a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1997; at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year from January 1, 1998, through December 31, 2002, at a rate of Two Hundred Forty Thousand (240,000) tons of coal per year from January 1, 2003, through December 31, 2003, at a rate of Seven Hundred Twenty Thousand (720,000) tons of coal per year from January 1, 2004, through December 31, 2005, and at a rate of Six Hundred Thousand (600,000) tons of coal per year from January 1, 2006, through December 31, 2007, (the "base annual tonnage amounts"), all subject to Sections 5 (d), and 7 herein.

2. The following new Section 1 (b) (i) shall replace and amend the existing Section 1 (b) (i):

(b) Base monthly delivery rates for coal shall be as follows:

(i) The base monthly delivery rate for [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 2 shall be:

July 1, 1994, through June 30, 1997—Seven Thousand Five Hundred (7,500) tons;

July 1, 1997, through December 31, 1997—Thirteen Thousand Five Hundred (13,500) tons;

January 1, 1998, through December 31, 2000,—Thirty Thousand (30,000) tons;

January 1, 2001, through April 30, 2001,—Fifteen Thousand (15,000) tons;

January 1, 2004, through December 31, 2005,—Forty Thousand (40,000) tons.

January 1, 2006, through December 31, 2007,—Thirty Thousand (30,000) tons.

3. The following new Section 2 shall replace and amend the existing Section 2:

**2. Coal Price**

The base price per million Btu for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Section 4 (g) shall be as follows, subject to escalations and adjustments as set forth herein:

(a) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 2:

[REDACTED]  
beginning July 1, 1994, through June 30, 1996;

[REDACTED]  
beginning July 1, 1996, through December 31, 1997;

[REDACTED]  
beginning January 1, 1998, through April 30, 2001;

[REDACTED]  
beginning January 1, 2004, through December 31, 2005.

[REDACTED]  
beginning January 1, 2006, through December 31, 2007.

(b) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 1:

[REDACTED] beginning January 1, 2001, through April 30, 2001;

[REDACTED] beginning May 1, 2001, through December 31, 2002;

[REDACTED] beginning January 1, 2003, through December 31, 2005.

[REDACTED]  
beginning January 1, 2006, through December 31, 2007.

(c) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. stockpile or unloading facilities at Dale Power Station:

[REDACTED] beginning May 1, 2001, through December 31, 2002;

[REDACTED] beginning January 1, 2003, through December 31, 2005.

[REDACTED]  
beginning January 1, 2006, through December 31, 2007.

Pricing as stated above beginning January 1, 2006, shall not apply to deficit tons delivered, as described in Subsection (d).

(d) SELLER agrees that all tons committed through December 31, 2005, but in deficit at this time, shall be shipped during 2006 in equal monthly allotments at the applicable base price in effect during 2005. BUYER shall determine the monthly allotment of deficit deliveries for 2006 as of

December 31, 2005, and shall notify SELLER. Deliveries in each month during 2006 shall be designated as deficit deliveries until such monthly allotment is fulfilled.

(e) The billing price for coal delivered hereunder shall be determined from the appropriate base price and all applicable escalations and adjustments provided hereinbelow.

4. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

ATTEST:

SELLER: Argus Energy, LLC

Ted McKinna  
Secretary

BY: Jamie H. Borth  
Member

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

Della E. Damon, Ferandon  
Secretary  
behalf of the Corporate Secretary

BY: Ray M. Falk  
President & Chief Executive Officer

REDACTED



EAST KENTUCKY POWER COOPERATIVE

PLEASE SIGN THIS PAGE AND  
RETURN WITH ACCEPTANCE  
SIGNATURE

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January 30, 2006

Mr. James H. Booth  
Member  
Argus Energy, LLC  
P. O. Box 190  
Lovely, KY 41231

Dear Mr. Booth:

Subject: Amendment No. 7 to Coal Supply Contract Between Argus Energy, LLC, and East Kentucky Power Cooperative, Inc., Dated July 12, 1994 (the "Contract")—Dale and Spurlock Power Stations (EKPC Reference Contract Nos. 114-Dale, 308-non-compliance coal, and 426-compliance coal)

This letter shall serve as Amendment No. 7 to the subject Contract and shall document the agreements reached between the representatives of our two companies as follows:

Coal contract amendment No. 6 between Argus Energy, LLC, ("Argus") and East Kentucky Power Cooperative, Inc., ("EKPC") dated October 13, 2005, reflects base coal pricing, beginning January 1, 2006, of:

[REDACTED]  
f.o.b. barge for [REDACTED] SO<sub>2</sub>/MMBtu coal at Wayne County River Terminal, Big Sandy River Milepost 7.7, ("Wayne County"), and a base annual tonnage of 360,000 tons to Spurlock Power Station Unit No. 2;

[REDACTED]  
[REDACTED] for [REDACTED] SO<sub>2</sub>/MMBtu coal f.o.b. Wayne County, and a base annual tonnage of 240,000 tons to Spurlock Power Station Unit No. 1;  
and

[REDACTED]  
[REDACTED] for [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. stockpile or unloading facilities at Dale Power Station.

4775 Lexington Road 40391  
P.O. Box 707, Winchester,  
Kentucky 40392-0707

Tel. (859) 744-4812  
Fax: (859) 744-6008  
<http://www.ekpc.com>

A Touchstone Energy Company

Mr. James H. Booth

Page 2

January 30, 2006

On December 6, 2005, Argus requested a price increase of \$.56 per ton for coal shipped to EKPC's Spurlock Power Station due to new legislation in West Virginia. This increase was accepted by EKPC pursuant to section 3 (b) of the Contract. This addition raises the base price of [REDACTED] SO<sub>2</sub>/MMBtu coal f.o.b. barge at Wayne County to [REDACTED], and the base price of [REDACTED] SO<sub>2</sub>/MMBtu coal f.o.b. barge at Wayne County to [REDACTED].

As of December 31, 2005, Argus is in arrears on shipments as follows:

91,000 tons of [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 2, at an f.o.b. barge base price of [REDACTED]

152,000 tons of [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 1, at an f.o.b. barge base price of [REDACTED] and

6,400 tons of [REDACTED] SO<sub>2</sub>/MMBtu coal to Dale Power Station, at an f.o.b. stockpile or unloading facilities base price of [REDACTED]

In order to resolve the deficiencies in deliveries, the Parties hereby agree to replace and amend section 2 (d) of the Contract, effective January 1, 2006, as follows:

(d) The parties agree that the following actions will be taken to resolve delivery arrearages that exist on January 1, 2006:

(i) Argus will ship 6,400 tons of [REDACTED] SO<sub>2</sub>/MMBtu coal to Dale Power Station in January and February 2006, at the base price of [REDACTED] f.o.b. stockpile or unloading facilities;

(ii) Effective January 1, 2006, all [REDACTED] SO<sub>2</sub>/MMBtu coal shipped for EKPC's Spurlock Power Station Unit No. 2, until arrearages are corrected, shall be at the base price of [REDACTED] f.o.b. barge Wayne County, which is the weighted average price of the 91,000 tons of coal currently in arrears, and the 360,000 tons of coal committed by Argus for 2006. Argus shall ship a total of 451,000 tons of coal at this price;



Mr. James H. Booth  
Page 3  
January 30, 2006

(iii) Effective January 1, 2006, all [REDACTED] SO<sub>2</sub>/MMBtu coal shipped for EKPC's Spurlock Power Station Unit No. 1, until arrearages are corrected, shall be at the base price of [REDACTED] f.o.b. Wayne County, which is the weighted average of the 152,000 tons of coal currently in arrears and the 240,000 tons of coal committed by Argus for 2006. Argus shall ship a total of 392,000 tons of coal at this price.

(iv) Upon the completion of deliveries to each location pursuant to sections 2 (d) (i), (ii), or (iii), normal base prices for coal deliveries, as provided under the Contract, shall apply to all subsequent deliveries.

All other terms and conditions of the Contract, as previously amended, that are not affected by this amendment, shall remain in full force and effect.

Please acknowledge your acceptance below on both originals, retain one original for your records, and return one original to my attention.

Sincerely,

  
Roy M. Palk  
President and Chief Executive Officer

eh/gv  
By Fedex

Accepted by: James A. Booth

Date: Feb 2, 2006

**COAL CONTRACT AMENDMENT NO. 8**

THIS CONTRACT AMENDMENT, made and entered into this 25<sup>th</sup> day of August, 2006, by and between Argus Energy, LLC, a Kentucky limited liability company with its principal office at Route 292, Fast Lane Building, P. O. Box 190, Lovely, Kentucky 41231, successor-in-interest to Pen Coal Corporation, hereinafter called Argus or "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

**W I T N E S S E T H**

WHEREAS, BUYER and SELLER are parties to a coal contract dated July 12, 1994, as previously amended, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, and BUYER'S Dale Power Station near Ford, Kentucky; and

WHEREAS, The parties have concluded negotiations and wish to amend the Contract and revise the purchase price of coal and the quality specifications of the coal;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective August 8, 2006, to amend the Contract as follows:

1. The following new Sections 2 (a) and 2 (b) shall replace and amend the existing Sections 2 (a) and 2 (b):

(a) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 2:

(i) [REDACTED]  
beginning July 1, 1994, through June 30, 1996;

(ii) [REDACTED]  
beginning July 1, 1996, through December 31, 1997;

(iii) [REDACTED]  
beginning January 1, 1998, through April 30, 2001;

(iv) [REDACTED]  
beginning January 1, 2004, through December 31, 2005.

(v) [REDACTED]  
beginning January 1, 2006, through July 31, 2006.

(vi) [REDACTED]  
beginning August 1, 2006, through December 31, 2007.

(b) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 1:

(i) [REDACTED] beginning  
January 1, 2001, through April 30, 2001;

(ii) [REDACTED] beginning  
May 1, 2001, through December 31, 2002;

(iii) [REDACTED] beginning  
January 1, 2003, through December 31, 2005.

(iv) [REDACTED]  
beginning January 1, 2006, through July 31, 2006.

(v) [REDACTED]

beginning August 1, 2006, through December 31, 2007.

2. The following new Sections 2 (d) (ii) and 2 (d) (iii) shall replace and amend the existing Sections 2 (d) (ii) and 2 (d) (iii):

(ii) Effective August 1, 2006, all [REDACTED] SO<sub>2</sub>/MMBtu coal shipped for BUYER'S Spurlock Power Station Unit No. 2 shall be at the base price of [REDACTED] f.o.b. barge Wayne County, until arrearages are corrected as explained in letter amendment No. 7 of the Contract dated January 30, 2006. Argus shall ship 218,032 tons of coal at this price.

(iii) Effective August 1, 2006, all [REDACTED] SO<sub>2</sub>/MMBtu coal shipped for BUYER'S Spurlock Power Station Unit No. 1 shall be at a base price of [REDACTED] f.o.b. barge Wayne County until arrearages are corrected as explained in letter amendment No. 7 of the Contract dated January 30, 2006. August shall ship 166,721 tons of coal at this price.

3. The following new Section 4 (a) (i) shall replace and amend the existing Section 4 (a) (i):

**4. Quality, Sampling, and Analysis**

(a) (i) Coal sold hereunder for Spurlock Power Station Unit No. 1 beginning August 1, 2006, and continuing through December 31, 2007, shall meet the following specifications:

Heat Content — "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Section 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than [REDACTED] [REDACTED] except as provided in Section 4 (c) (II) hereinbelow.

**REDACTED**

Moisture Content — "as received" shall not be more than [REDACTED]

Sulfur Content — "as received" shall not be more than the percentage computed by the following formula:

Percent Sulfur =  $\frac{[REDACTED]}{[REDACTED]} \times \text{Btu/lb.}$

Ash Softening Temperature (Reducing Atmosphere)

Initial Deformation	—	[REDACTED] Minimum
Softening (H=W)	—	[REDACTED] Minimum
Softening (H=1/2W)	—	[REDACTED] Minimum
Fluid	—	[REDACTED] Minimum

Grind — Shall not be less than [REDACTED] on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R.O.M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

4. The following new Section 4 (a) (iii) shall replace and amend the existing Section 4 (a) (iii):

(iii) Coal sold hereunder for Spurlock Power Station Unit No. 2 shall meet the following specifications:

Heat Content — Effective August 1, 2006, "as received" shall not be less than [REDACTED] Btu per pound, except as provided in Section 4 (c) (I) hereinbelow.

Ash Content — "as received" shall not be more than [REDACTED] [REDACTED] except as provided in Section 4 (c) (II) hereinbelow.

Moisture Content — "as received" shall not be more than [REDACTED]

**REDACTED**

Sulfur Content — "as received" shall not be more than the percentage computed by the following formula:

$$\text{Percent Sulfur} = \frac{\text{[REDACTED]} \times \text{Btu/lb.}}{\text{[REDACTED]}}$$

Ash Softening Temperature (Reducing Atmosphere)

Initial Deformation	—	[REDACTED]	Minimum
Softening (H=W)	—	[REDACTED]	Minimum
Softening (H=1/2W)	—	[REDACTED]	Minimum
Fluid	—	[REDACTED]	Minimum

Grind — Shall not be less than [REDACTED] on a Hardgrove Scale.

Size and Preparation — Shall be [REDACTED] R.O.M. or washed coal; clean and free of impurities. The amount of fines [REDACTED] shall not exceed [REDACTED].

5. The following new Section 4 (c) shall replace and amend the existing Section 4 (c):

(c) BUYER agrees to accept deliveries of coal with a heat content of at least [REDACTED] Btu/lb. and/or ash content of up to [REDACTED] for Spurlock Power Station Unit No. 1 and with a heat content of at least [REDACTED] Btu/lb. and/or ash content of up to [REDACTED] for Spurlock Power Station Unit No. 2, subject to the following price adjustments. The parties agree that these adjustments shall help defray BUYER'S costs for blending and burning such lower quality coal. Such coal deliveries, subject to the price adjustments provided in this Section 4 (c), shall be considered to conform to the contract specifications for heat and ash content. However, the monthly weighted average of coal received at Spurlock Power Station Unit Nos. 1 and 2 must meet the specifications of coal set forth in Sections 4 (a) (i) and 4 (a) (iii).

I. Price Adjustment for Spurlock Power Station Unit No. 1 heat content below [REDACTED] Btu/lb., but not less than [REDACTED] Btu/lb. on an "as received" basis:

For each [REDACTED] Btu/lb. that the heat content falls below [REDACTED] Btu/lb., but does not fall below [REDACTED] Btu/lb., [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] Btu/lb. deficiency in heat content.

Price Adjustment for Spurlock Power Station Unit No. 2 heat content below [REDACTED] Btu/lb., but not less than [REDACTED] Btu/lb. on an "as received" basis:

For each [REDACTED] Btu/lb. that the heat content falls below [REDACTED] Btu/lb., but does not fall below [REDACTED] Btu/lb., [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] Btu/lb. deficiency in heat content.

6. The following new Sections 4 (d) through 4 (d) (iii) shall replace and amend the existing Sections 4 (d) through 4 (d) (iii):

(d) BUYER reserves the right to reject any shipments of coal by SELLER which do not meet the minimum heat content requirement of [REDACTED] Btu/lb., maximum ash content requirement of [REDACTED], or other contract specifications contained in Section 4 (a) hereinabove for Spurlock Power Station Unit No. 1 or which do not meet the minimum heat content requirement of [REDACTED] Btu/lb., maximum ash content requirement of [REDACTED], or other contract specifications contained in Section 4 (a) hereinabove for Spurlock Power Station Unit No. 2. In the event that BUYER elects to accept occasional shipments of non-conforming coal, the following price adjustments shall apply to such shipments, as appropriate,

in addition to the price adjustment provided in Section 4 (c), hereinabove, and in addition to any other remedies available to BUYER:

I. Price Adjustment for heat content below [REDACTED] Btu/lb., on an "as received" basis for Spurlock Power Station:

For each [REDACTED] Btu/lb. that the heat content falls below [REDACTED] Btu/lb. for Spurlock Power Station, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] Btu/lb. deficiency in heat content.

II. Price Adjustment for ash content over [REDACTED] on an "as received" basis for Spurlock Power Station Unit No.1 or over [REDACTED] on an "as received" basis for Spurlock Power Station Unit No. 2:

For each [REDACTED] that the ash content exceeds [REDACTED] for Spurlock Power Station Unit No. 1 or 16 percent for Spurlock Power Station Unit No. 2, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in ash content.

III. Price Adjustment for sulfur content in excess of Section 4 (a) specification on an "as received" basis:

For each [REDACTED] the sulfur content exceeds the Section 4 (a) specification, [REDACTED] per ton shall be deducted from the billing price. A pro rata adjustment shall be made for any fractional portion of such a [REDACTED] excess in sulfur content.



REDACTED

ASSUME:	<u>Contract Specification</u>	<u>Monthly Average Analysis</u>
Btu	[REDACTED]	[REDACTED]
Ash	[REDACTED]	[REDACTED]
Sulfur	[REDACTED] (1)	[REDACTED]

(1) Based on [REDACTED] Btu/lb. "as received" in this example for Spurlock Power Station [REDACTED] SO<sub>2</sub>/MMBtu sulfur coal.

COMPUTATION:

Btu: (Example based on Spurlock Power Station Unit No. 1.)

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

Ash: (Example based on Spurlock Power Station Unit No. 1.)

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

Sulfur: (Example based on Spurlock Power Station Unit No. 1.)

[REDACTED]

Therefore, [REDACTED] per ton would be deducted from the billing price.

For the purpose of computing payment for coal subject to price adjustment under Sections 4 (c) or 4 (d), the heat, ash, and sulfur contents of the coal "as received" shall be deemed to be the monthly weighted composite average value of the heat, ash, and sulfur contents as defined and computed in Subsection (g) of this Section 4. BUYER and SELLER agree that the application of the price reductions provided in Section 4 (d) shall not be considered liquidated damages but is intended to partially defray BUYER'S additional costs for blending and burning said lower quality coal; shall not

# REDACTED

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constitute a waiver by BUYER of any of the terms of this Contract; shall not excuse noncompliance with the contract specifications by any shipment by SELLER; and shall not affect BUYER'S right to exercise any of its remedies provided hereunder or at law for unsatisfactory performance of the Contract by SELLER or to reject any coal received which fails to meet the requirements of Section 4 (a) herein or which BUYER has a right to reject pursuant to other provisions of this Contract.

7. The following new Section 4 (e) shall replace and amend the existing Section 4 (e):

(e) If the coal shipped to BUYER fails to meet a minimum heat content requirement of [REDACTED] Btu per pound for Spurlock Power Station Unit Nos. 1 and 2, a maximum ash content of [REDACTED] for Spurlock Power Station Unit No. 1 or [REDACTED] for Spurlock Power Station Unit No. 2, or any of the other requirements set forth in Subsection (a) of this Section 4, for four (4) consecutive weeks based on the analyses made during such time, except for the sulfur requirements which are discussed further hereinbelow, or if SELLER fails to deliver coal for two (2) consecutive weeks without adequate excuse under Section 7, and notice thereof, BUYER shall have the right, upon giving SELLER written notice, to refuse to accept further deliveries until SELLER has provided assurance, in the opinion of BUYER, that all shipments of coal delivered thereafter will conform to each and every requirement set forth in Section 4 (a). If SELLER fails to furnish BUYER with such assurance within thirty (30) days after written notice is sent to SELLER, BUYER may, at its sole option, treat this Contract as materially breached by SELLER. It being understood and agreed, of course, that the aforesaid assurance procedure is not an exclusive remedy afforded BUYER,

but it is optional and cumulative and in addition to other rights and remedies of BUYER provided herein and by law.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN TO THE CONTRARY, OR OTHERWISE, it is understood and agreed that BUYER faces severe penalties by the Environmental Protection Agency, and others, in the event of its use of coal with a sulfur content of more than the percentages noted in Section 4 (a) hereinabove; and therefore, BUYER constantly monitors and tests its coal to assure itself of sulfur compliance, and it cannot tolerate the receipt of any substantial amount of coal that does not meet such specifications. Therefore, in the event that BUYER'S testing procedures reveal that any coal delivered under this Contract fails to meet the above stated sulfur requirements, then BUYER may suspend shipments until and unless within thirty (30) days, SELLER assures BUYER of future and continuous compliance with said sulfur requirements. If SELLER provides assurance of future compliance within this thirty (30) day period that is satisfactory to BUYER, then deliveries may resume under the terms of this Contract. If, however, SELLER fails to provide BUYER with adequate assurance of future compliance, BUYER shall have the right, at its sole option, to declare SELLER in material breach of this Contract, or to allow SELLER up to an additional sixty (60) days to provide adequate assurance of such future sulfur compliance. In the event that BUYER allows an additional period of time for the furnishing of such assurance, SELLER shall either make arrangements for delivery of adequate quantities of coal meeting such contract specification as provided in Section 4 (a), hereinabove, at the then-current contract price, to meet SELLER'S contract commitment; or SELLER shall reimburse BUYER for any amount that replacement coal purchased by BUYER, in amounts not to exceed scheduled quantities under this Contract,

exceeds the then-current contract price. Such reimbursement shall be made by SELLER to BUYER by the 20th day of the month following the receipt of such replacement coal. If SELLER does not provide adequate assurance of future compliance by the end of any such extended time period, BUYER may, at its sole option, declare SELLER in material breach of this Contract. This assurance procedure is not an exclusive remedy for such noncompliance, but is optional and cumulative and in addition to other rights and remedies of BUYER provided herein or at law.


8. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

ATTEST:

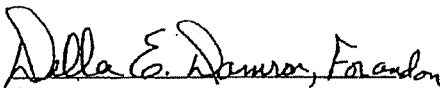
SELLER: Argus Energy, LLC

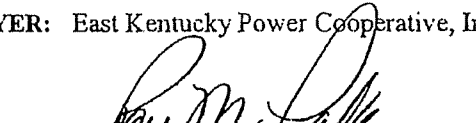
  
Secretary *FOR AND ON BEHALF OF THE CORPORATE SECRETARY*

BY:   
Member

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

  
Secretary  
*behalf of the Corporate Secretary*

BY:   
President & Chief Executive Officer

COAL CONTRACT AMENDMENT NO. 9

THIS CONTRACT AMENDMENT, made and entered into this 10<sup>th</sup> day of April, 2007, by and between Argus Energy, LLC, a Kentucky limited liability company with its principal office at Route 292, Fast Lane Building, P. O. Box 190, Lovely, Kentucky 41231, successor-in-interest to Pen Coal Corporation, hereinafter called Argus or "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

W I T N E S S E T H

WHEREAS, BUYER and SELLER are parties to a coal contract dated July 12, 1994, as previously amended, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, and BUYER'S Dale Power Station near Ford, Kentucky; and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract to increase the total contract tonnage, extend the expiration date, and make other agreed changes; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective August 8, 2006, to amend the Contract as follows:

1. The following new Section 1 (a) shall replace and amend the existing Section 1 (a):

1. Quantity and Term

- (a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Five Million Four Hundred Ninety-One Thousand (5,491,000) tons of coal (the total contract tonnage) over fourteen (14) years and five (5) months through November 30, 2008, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997; at a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1997; at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year from January 1, 1998, through December 31, 2002; at a rate of Two Hundred Forty Thousand (240,000) tons of coal per year from January 1, 2003, through December 31, 2003; at a rate of Seven Hundred Twenty Thousand (720,000) tons of coal per year from January 1, 2004, through December 31, 2005; at a rate of Six Hundred Thousand (600,000) tons of coal per year from January 1, 2006, through August 31, 2008, and at a rate of Two Hundred Forty Thousand (240,000) tons per year from September 1, 2008, through November 30, 2008, (the “base annual tonnage amounts”), all subject to Sections 5 (d) and 7 herein.

2. The following new Section 1 (b) shall replace and amend the existing Section 1 (b):

- (b) Base monthly delivery rates for coal shall be as follows:

- (i) The base monthly delivery rate for [REDACTED] SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 2 shall be:

- July 1, 1994, through June 30, 1997—Seven Thousand Five Hundred (7,500) tons;

- July 1, 1997, through December 31, 1997—Thirteen Thousand Five Hundred (13,500) tons;

January 1, 1998, through December 31, 2000—Thirty Thousand (30,000) tons;

January 1, 2001, through April 30, 2001—Fifteen Thousand (15,000) tons;

January 1, 2004, through December 31, 2005—Forty Thousand (40,000) tons;

January 1, 2006, through August 31, 2008—Thirty Thousand (30,000) tons;

(ii) The base monthly delivery rate for 1.6 lbs. SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 1 shall be:

January 1, 2001, through April 30, 2001—Fifteen Thousand (15,000) tons;

May 1, 2001, through December 31, 2002—Thirty Thousand (30,000) tons;

January 1, 2003, through November 30, 2008—Twenty Thousand (20,000) tons;

3. The following new Section 1 (c) shall replace and amend the existing Section 1 (c):

(c) Monthly deliveries shall commence on July 1, 1994, and continue through November 30, 2008, for a total contract term of fourteen (14) years and five (5) months, unless terminated earlier pursuant to the provision of Section 3 (c).

4. The following new Section 3 (c) shall replace and amend the existing Section 3 (c):

(c) Between September 1, 2007, and October 31, 2007, the parties shall jointly consider the effect of economic conditions and market prices in the coal industry to ascertain whether the Adjusted Price should be further adjusted. If it is thus ascertained that a substantial change has occurred in market prices, then the Adjusted Price shall be further adjusted to compensate

for such change, and the amount of such adjustment and its effective date shall be mutually agreed upon by SELLER and BUYER.

The intent of this Section 3 (c) is to avoid having SELLER experience a significant loss as a result of changed economic conditions and to insure that BUYER will not pay SELLER a price significantly higher than market prices for steam coal of similar quality, specifications, quantity, and availability.


If the parties are unable to agree with respect to a price adjustment, then either party may terminate this Contract effective December 31, 2007.

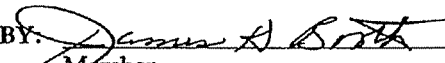
5. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

ATTEST:


SELLER: Argus Energy, LLC

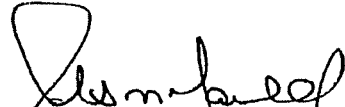
  
Secretary

BY:   
Member

ATTEST:

BUYER: East Kentucky Power Cooperative, Inc.

  
Secretary  
on behalf of the Corporate Secretary

BY:   
President & Chief Executive Officer



**COAL CONTRACT AMENDMENT NO. 10**

THIS CONTRACT AMENDMENT, made and entered into this 10<sup>th</sup> day of October, 2007, by and between Argus Energy, LLC, a Kentucky limited liability company with its principal office at Route 292, Fast Lane Building, P. O. Box 190, Lovely, Kentucky 41231, successor-in-interest to Pen Coal Corporation, hereinafter called Argus or "SELLER;" and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

**WITNESSETH**

WHEREAS, BUYER and SELLER are parties to a coal contract dated July 12, 1994, as previously amended, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Spurlock Power Station near Maysville, Kentucky, and BUYER'S Dale Power Station near Ford, Kentucky; and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract to revise the purchase price, increase the total contract tonnage, extend the expiration date, and make other agreed changes; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree, effective January 1, 2008, to amend the Contract as follows:

# REDACTED

PSC Request 14  
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1. The following new Section 1 (a) shall replace and amend the existing Section 1 (a):

1. **Quantity and Term**

- (a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Five Million Five Hundred Seventy-One Thousand (5,571,000) tons of coal (the total contract tonnage) over fourteen (14) years and nine (9) months through March 31, 2009, at a rate of Ninety Thousand (90,000) tons of coal per year between July 1, 1994, and June 30, 1997; at a rate of One Hundred Sixty-Two Thousand (162,000) tons of coal per year from July 1, 1997, through December 31, 1997; at a rate of Three Hundred Sixty Thousand (360,000) tons of coal per year from January 1, 1998, through December 31, 2002; at a rate of Two Hundred Forty Thousand (240,000) tons of coal per year from January 1, 2003, through December 31, 2003; at a rate of Seven Hundred Twenty Thousand (720,000) tons of coal per year from January 1, 2004, through December 31, 2005; at a rate of Six Hundred Thousand (600,000) tons of coal per year from January 1, 2006, through December 31, 2007, at a rate of Seven Hundred Twenty Thousand (720,000) tons per year from January 1, 2008, through June 30, 2008, and at a rate of Two Hundred Forty Thousand (240,000) tons per year from July 1, 2008, through March 31, 2009, (the "base annual tonnage amounts"), all subject to Sections 5 (d) and 7 herein.

2. The following new Section 1 (b) shall replace and amend the existing Section 1 (b):

- (b) Base monthly delivery rates for coal shall be as follows:

- (i) The base monthly delivery rate for ██████████ SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 2 shall be:

- July 1, 1994, through June 30, 1997—Seven Thousand Five Hundred (7,500) tons;

July 1, 1997, through December 31, 1997—Thirteen Thousand Five Hundred (13,500) tons;

January 1, 1998, through December 31, 2000—Thirty Thousand (30,000) tons;

January 1, 2001, through April 30, 2001—Fifteen Thousand (15,000) tons;

January 1, 2004, through December 31, 2005—Forty Thousand (40,000) tons;

January 1, 2006, through December 31, 2007—Thirty Thousand (30,000) tons;

January 1, 2008, through June 30, 2008—Forty Thousand (40,000) tons;

(ii) The base monthly delivery rate for 1.6 lbs. SO<sub>2</sub>/MMBtu coal to Spurlock Power Station Unit No. 1 shall be:

January 1, 2001, through April 30, 2001—Fifteen Thousand (15,000) tons;

May 1, 2001, through December 31, 2002—Thirty Thousand (30,000) tons;

January 1, 2003, through March 31, 2009—Twenty Thousand (20,000) tons;

3. The following new Section 1 (c) shall replace and amend the existing Section 1 (c):

(c) Monthly deliveries shall commence on July 1, 1994, and continue through March 31, 2009, for a total contract term of fourteen (14) years and nine (9) months, unless terminated earlier pursuant to the provision of Section 3 (c).

4. The following new Sections 2 (a) and 2 (b) shall replace and amend the existing Sections 2 (a) and 2 (b):

REDACTED

(a) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 2:

- (i) [REDACTED] beginning July 1, 1994, through June 30, 1996;
- (ii) [REDACTED] beginning July 1, 1996, through December 31, 1997;
- (iii) [REDACTED] beginning January 1, 1998, through April 30, 2001;
- (iv) [REDACTED] beginning January 1, 2004, through December 31, 2005;
- (v) [REDACTED] beginning January 1, 2006, through July 31, 2006;
- (vi) [REDACTED] beginning August 1, 2006, through December 31, 2007;
- (vii) [REDACTED] beginning January 1, 2008, through June 30, 2008.

(b) For [REDACTED] SO<sub>2</sub>/MMBtu coal delivered f.o.b. barge at Wayne County River Terminal, Big Sandy River Milepost 7.7, to Spurlock Power Station Unit No. 1:

- (i) [REDACTED] beginning January 1, 2001, through April 30, 2001;
- (ii) [REDACTED] beginning May 1, 2001, through December 31, 2002;
- (iii) [REDACTED] beginning January 1, 2003, through December 31, 2005;

**REDACTED**

- (iv) [REDACTED] beginning  
January 1, 2006, through July 31, 2006
- (v) [REDACTED] beginning  
August 1, 2006, through December 31, 2007;
- (vi) [REDACTED] beginning  
January 1, 2008, through March 31, 2009.

5. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

**ATTEST:**

**SELLER:** Argus Energy, LLC

Ted McQuinn  
Secretary

**BY:** James H. Booth  
Member

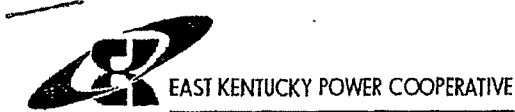
**ATTEST:**

**BUYER:** East Kentucky Power Cooperative, Inc.

Della E. Dawson Forand  
Secretary  
on behalf of the Corporate Secretary

**BY:** [Signature]  
President & Chief Executive Officer

PLEASE SIGN THIS PAGE AND  
RETURN WITH ACCEPTANCE  
SIGNATURE



June 25, 2008

Mr. James H. Booth  
Argus Energy, LLC  
P. O. Box 190  
Lovely, KY 41231

Dear Mr. Booth:

Subject: Amendment No. 11 to Coal Supply Contract Between Argus Energy, LLC,  
and East Kentucky Power Cooperative, Inc., Dated July 12, 1994 (the  
"Contract")—Spurlock Power Station Unit No. 2 (Contract No. 426)

This letter amendment shall serve to further extend the term of this Contract through  
September 30, 2008, in order for Argus Energy, LLC, to satisfy the total committed tons  
of the Contract.

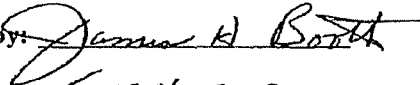
Please acknowledge your acceptance below on both originals, retain one original for your  
records, and return one signed original to Ernie Huff.

Sincerely,

A handwritten signature in black ink, appearing to read 'James C. Lamb, Jr.', is written over a horizontal line.

James C. Lamb, Jr.  
Senior Vice President, Power Supply

gv  
Federal Express

Accepted by:   
Date: JUNE 26, 2008



*Cme*

PSC Request 14  
Page 111 of 118

July 22, 2008

Mr. James H. Booth  
Argus Energy, LLC  
P. O. Box 190  
Lovely, KY 41231

Dear Mr. Booth:

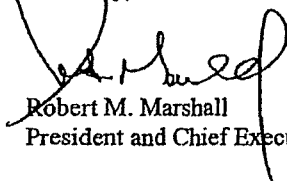
Subject: Amendment No. 11 to Coal Supply Contract Between Argus Energy, LLC, and East Kentucky Power Cooperative, Inc., Dated July 12, 1994 (the "Contract")—Spurlock Power Station Unit No. 2 (Contract No. 426)

East Kentucky Power Cooperative, Inc., ("EKPC") has been in frequent contact with Argus Energy, LLC, ("Argus") personnel, namely Jerald Hylton and Don Sexton, concerning the growing deficit of contract coal shipments on this Contract. Due to a previous deficiency in shipments, EKPC agreed on June 28, 2008 to a letter amendment to this Contract, extending the completion date of shipments from June 30, 2008, to September 30, 2008. As of July 1, 2008, 141,000 tons of coal remained to be shipped under this Contract. EKPC's fuel buyer, Ernie Huff, was informed by J. Mark Campbell via telephone on July 15, 2008, that 25,000 tons per month for July, August, and September would be the maximum Argus could ship to EKPC. That amount would leave a deficit of 66,000 tons that EKPC will have to replace on the spot market at an extremely high cost, or EKPC would be forced to shut this unit down.

A further extension of the completion date of this Contract, to make up any delivery deficiencies, is not feasible. September 30, 2008, is the date of the FGD (scrubber) activation for Spurlock Power Station Unit No. 2, and it is imperative that the balance of your committed tons are received before this date. This was the intent of the most recent Contract amendment, and was clearly communicated to Argus when EKPC agreed to that time extension. EKPC now expects Argus to fully honor the commitments made in Amendment No. 11.

Please give this matter your immediate attention and contact Ernie Huff to discuss Argus's plans for the completion of its contract commitment to EKPC.

Sincerely,




Robert M. Marshall  
President and Chief Executive Officer

gv  
By certified mail

4775 Lexington Road 40391  
P.O. Box 707, Winchester,  
Kentucky 40392-0707

Tel. (859) 744-4812  
Fax: (859) 744-6008  
<http://www.ekpc.coop>



A Touchstone Energy Cooperative 

# Argus Energy, LLC

PSC Request 14

Page 112 of 118

P.O. Box 190

Lovely, KY 41231

August 11, 2008

## CERTIFIED MAIL

Mr. Robert M. Marshall  
East Kentucky Power Cooperative  
P.O. Box 707  
Winchester, KY 40392-0707

Dear Mr. Marshall:

**Subject: Force Majeure Conditions Affecting Shipments from Argus Energy, LLC**

We are in receipt of your letter dated July 22, 2008 regarding deficiencies in coal shipments from Argus Energy, LLC ("Argus") under the Coal Contract between Pen Coal Corporation, whose rights under the Contract were assigned to Argus, and East Kentucky Power Cooperative, Incorporated ("EKP") dated July 12, 1994, as amended (the "Contract").

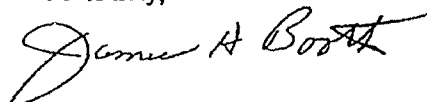
Argus has in the past successfully supplied EKP with compliance coal from ongoing surface and underground mining operations located on that property, and has been able to do that because the specific coal seams and mining areas had geologic consistency that produced a predictable quality compliance coal product. During recent months, Argus has encountered geologic variance and inconsistencies in both the No. 5 Block and Coalburg Seams that has dramatically impacted its ability to predictably ship a compliance coal product. EKP field personnel are well aware of multiple attempts by Argus to load what was expected to be a compliance barge based upon our quality history-- only to find upon full loading analysis that erratic sulfur variances had resulted in a non-compliance coal quality barge.

Substantial efforts have been made to analyze seam quality variances, identify new mining areas, modify blends, segregate coal products by mine, and even to relocate mining operations in an attempt to produce more compliance coal product. Argus has further submitted permitting actions with government agencies that would allow them to shift operations into adjacent controlled reserves that have a likelihood of providing a more consistent quantity of compliance coal product. Unfortunately those regulatory permitting actions have been unpredictably delayed such that our operational flexibility remains limited.

We remain unsure as to when the current geologic inconsistencies will be resolved, or when the pending permits would receive regulatory approval. The best Argus can do at this point is ship EKP compliance coal on a priority basis as prudent mine plans and geological conditions allow.

The combined effect of the above described factors cause us to declare a condition of Force Majeure in regard to compliance coal shipments under the Contract. We will keep you informed if our mining conditions or operational circumstances should improve.

Yours truly,



James H. Booth, President





COMMONWEALTH OF KENTUCKY  
CLARK CIRCUIT COURT  
DIVISION I  
CIVIL ACTION NO. 09-CI-00792

EAST KENTUCKY POWER  
COOPERATIVE, INC.

PLAINTIFF

v.

**ANSWER OF ARGUS ENERGY, LLC**

ARGUS ENERGY, LLC

DEFENDANT.

\*\*\*\*\*

Defendant, Argus Energy, LLC ("Argus"), by counsel, for its Answer to the Plaintiff's  
Complaint, states as follows:

**FIRST DEFENSE**

The Complaint fails to state a cause of action upon which relief can be granted and  
therefore should be dismissed.

**SECOND DEFENSE**

1. Argus admits the allegations contained in paragraph 1 of the Complaint.
2. Argus is without sufficient knowledge or information to form a belief as to the  
truthfulness of the allegations contained in paragraph 2 of the Complaint and therefore denies the  
same.
3. Argus admits the allegations contained in paragraph 3 of the Complaint.
4. Argus denies the allegations contained in paragraph 4 of the Complaint.
5. The terms of the contracts speak for themselves, and Argus denies the allegations  
contained in paragraph 5 of the Complaint that are inconsistent with them.
6. Argus denies the allegations contained in paragraph 6 of the Complaint.
7. Argus admits the allegations contained in paragraph 7 of the Complaint.

8. The terms of the Coal Supply Agreement, as amended, speak for themselves, and Argus denies the allegations contained in paragraph 8 of the Complaint that are inconsistent with them.

9. Argus has been unable to confirm whether Pen Coal declared bankruptcy on January 24, 2002 and this allegation is therefore denied. Further, the terms of the Coal Supply Agreement, as amended, speak for themselves, and Argus denies the allegations contained in paragraph 9 of the Complaint that are inconsistent with them.

10. The terms of the Contract speak for themselves, and Argus denies the allegations contained in paragraph 10 of the Complaint that are inconsistent with them.

11. The terms of Amendment No. 3 speak for themselves, and Argus denies the allegations contained in paragraph 11 of the Complaint that are inconsistent with them.

12. The terms of Paragraph 7 of the Contract speak for themselves, and Argus denies the allegations contained in paragraph 12 of the Complaint that are inconsistent with them.

13. The terms of Paragraph 7 of the Contract speak for themselves, and Argus denies the allegations contained in paragraph 13 of the Complaint that are inconsistent with them..

14. Argus denies the allegations contained in paragraph 14 of the Complaint.

15. The terms of Paragraph 9 of the Contract speak for themselves, and Argus denies the allegations contained in paragraph 15 of the Complaint that are inconsistent with them.

16. The terms of Paragraph 15 of the Contract speak for themselves, and Argues denies the allegations contained in paragraph 16 of the Complaint that are inconsistent with them.

17. The terms of Amendment No. 10 to the Contract speak for themselves, and Argus denies the allegations contained in paragraph 17 of the Complaint that are inconsistent with them.

18. The terms of Amendment No. 10 to the Contracts speak for themselves, and Argus denies the allegations contained in paragraph 18 of the Complaint that are inconsistent with them.

19. Argus denies the allegations contained in paragraph 19 of the Complaint.

20. The terms of Amendment No. 11 to the Contract speak for themselves, and Argus denies the allegations contained in paragraph 20 of the Complaint that are inconsistent with them. Further, Argus denies the remaining allegations contained within paragraph 20 of the Complaint.

21. The terms of Amendment No. 11 to the Contract speak for themselves, and Argus denies the allegations contained in paragraph 21 of the Complaint that are inconsistent with them. Further, Argus denies the remaining allegations contained within paragraph 21 of the Complaint.

22. The terms of the July 22, 2008 letter speak for themselves, and Argus denies the allegations contained in paragraph 22 of the Complaint that are inconsistent with them.

23. The terms of the August 11, 2008 letter speak for themselves, and Argus denies the allegations contained in paragraph 23 of the Complaint that are inconsistent with them.

24. Argus denies the allegations contained in paragraph 24 of the Complaint.

25. Argus denies the allegations contained in paragraph 25 of the Complaint.

26. Argus denies the allegations contained in paragraph 26 of the Complaint.

27. Argus denies the allegations contained in paragraph 27 of the Complaint.

28. Argus denies the allegations contained in paragraph 28 of the Complaint.

29. The allegations contained in paragraph 29 of Complaint are duplicate in nature and not entitled to a specific response.

30. The terms of the Contract speak for themselves, and Argus denies the allegations contained in paragraph 30 of the Complaint that are inconsistent with them.

31. Argus denies the allegations contained in paragraph 31 of the Complaint.

32. Argus denies the allegations contained in paragraph 32 of the Complaint.

33. Argus denies the allegations contained in paragraph 33 of the Complaint.

34. The allegations contained in paragraph 34 of Complaint are duplicate in nature and not entitled to a specific response.

35. Argus denies the allegations contained in paragraph 35 of the Complaint.

36. Argus denies the allegations contained in paragraph 36 of the Complaint.

37. Argus denies each and every allegation of the Complaint not heretofore expressly admitted.

### **THIRD DEFENSE**

Argus asserts all the affirmative defenses available to it pursuant to Kentucky Rule of Civil Procedure 8.01 that may become known to it through further investigation and discovery in this matter, and nothing contained herein shall be deemed a waiver of any specific affirmative defense that Argus may assert later.

### **FOURTH DEFENSE**

The Complaint fails because the claims are precluded by the doctrines of estoppel, waiver, laches, and unclean hands.

**FIFTH DEFENSE**

Plaintiff's claims are barred by the statute of frauds and the parol evidence rule.

**SIXTH DEFENSE**

Argus relies upon the terms and conditions of the subject written contracts between the parties and nothing contained in this Answer shall be deemed as a waiver of such terms and conditions.

**SEVENTH DEFENSE**

Plaintiff lacks standing to assert one or more claims.

**EIGHTH DEFENSE**

Plaintiff has failed to name indispensable parties and therefore the Complaint should be dismissed.

**NINTH DEFENSE**

Argus pleads force majeure as an affirmative defense.

**TENTH DEFENSE**

Argus reserves the right to assert additional affirmative defenses as same become available or are discovered during the course of this action.

**ELEVENTH DEFENSE**

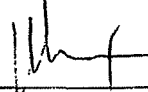
Argus pleads excuse by failure of presupposed conditions, KRS 355.2-615, and the impossibility of performance as an affirmative defense.

WHEREFORE, the Defendant Argus Energy, LLC, respectfully requests and demands as follows:

- (a) The Complaint be dismissed and taken for naught;
- (b) The Court enter a judgment in favor of Argus;

- (c) An award to Argus of all of its costs and attorneys fees;
- (d) All other relief to which Argus may appear properly or appropriately entitled.

Respectfully submitted,



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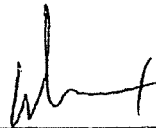
Thomas E. Meng  
Buckner Hinkle, Jr.  
Marshall R. Hixson  
Stephen G. Allen  
STITES & HARBISON, PLLC  
250 W. Main Street, Suite 2300  
Lexington, KY 40507  
Telephone: (859) 226-2300

*Counsel for Argus Energy, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by hand delivery, this 23rd day of  
November, 2009 upon:

Chauncey S. R. Curtz, Esq.  
Grahmn N. Morgan, Esq.  
MacKenzie M. Walter, Esq.  
DINSMORE & SHOHL LLP  
250 W. Main Street, Suite 1400  
Lexington, KY 40507  
*Counsel for Plaintiff*



---

COUNSEL FOR ARGUS ENERGY, LLC



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 15**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 15.** a. During the period from May 1, 2009 through October 31, 2009, have there been any changes to East Kentucky's written policies and procedures regarding its fuel procurement?

b. If yes:

- (1) Describe the changes;
- (2) Provide the written policies and procedures as changed;
- (3) State the date(s) the changes were made; and
- (4) Explain why the changes were made.

**Response 15.** a-b. No, East Kentucky has not made any changes to its written policies and procedures regarding fuel procurement.





EAST KENTUCKY POWER COOPERATIVE, INC

PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10

REQUEST 16

RESPONSIBLE PARTY: Ernest W. Huff

**Request 16.** a. State whether East Kentucky is aware of any violations of its policies and procedures regarding fuel procurement that occurred prior to or during the period from May 1, 2009 through October 31, 2009.

b. If yes, for each violation:

(1) Describe the violation;

(2) Describe the action(s) that East Kentucky took upon discovering the violation; and

(3) Identify the person(s) who committed the violation.

**Request 16.** a-b. No, East Kentucky is not aware of any violations of its policies and procedures regarding fuel procurement.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 17**

**RESPONSIBLE PARTY:            Julia J. Tucker**

**Request 17.**            Identify and explain the reasons for all changes that occurred during the period from May 1, 2009 through October 31, 2009 in the organizational structure and personnel of the departments or divisions that are responsible for East Kentucky's fuel procurement activities.

**Response 17.**            During the May 1, 2009 through October 31, 2009 time period, the Fuels and Emissions Manager retired, resulting in subsequent organizational changes. EKPC has divided the duties of the previous manager into two positions. There is now a Manager for coal procurement and delivery. A second Manager position for natural gas procurement and delivery, emissions procurement and hedging and renewable technology development was created and filled in December 2009. Additionally, a Director position has been established to guide the entire fuels, emissions and renewables functions for the strategic benefit of the organization; this position should be filled within the next 6 months.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**

**FUEL ADJUSTMENT CLAUSE**

**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 18**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 18.** a. Identify all changes that East Kentucky has made during the period under review to its maintenance and operation practices that also affect fuel usage at East Kentucky's generation facilities.

b. Describe the impact of these changes on East Kentucky's fuel usage.

**Response 18.** a. East Kentucky started the operation of the new flue gas desulphurization equipment on Spurlock Power Station Unit No. 1. The commercial operation began on August 1, 2009. The operation of the new pollution control equipment does have an effect on unit net heat rate and the fuel quality. No changes to maintenance and operations practices were made to our other generating facilities during this period.

b. The historical net heat rate for Spurlock Unit No. 1 was approximately 10,200 Btu/kwh. The additional pollution control equipment has caused the net heat rate to increase to an estimated 10,500 Btu/kwh. The new rating on this unit has changed from 325 net MWs to 300 net MWs. Spurlock Unit No. 1 fuel usage is expected to increase due to the increase in net heat rate. The added pollution control equipment will allow EKPC to purchase fuels with a high sulfur content.



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506**  
**FUEL ADJUSTMENT CLAUSE**  
**RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 19**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 19.** List each written coal supply solicitation issued during the period from May 1, 2009 through October 31, 2009.

a. For each solicitation, provide the date of the solicitation, the type of solicitation (contract or spot), the quantities solicited, a general description of the quality of coal solicited, the time period over which deliveries were requested, and the generating unit(s) for which the coal was intended.

b. For each solicitation, state the number of vendors to whom the solicitation was sent, the number of vendors who responded, and the selected vendor. Provide the bid tabulation sheet or corresponding document that ranked the proposals. (This document should identify all vendors who made offers.) State the reasons for each selection.

**Response 19.** a-b. Please see pages 2 through 5 of this response.

Confidential protection of the bid tabulation sheets or corresponding documents that ranked the proposals has been requested in the form of a motion for confidential treatment.



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506

RESPONSE TO PSC ORDER DATED 01/27/10

Unit	Date	Contract/Spot	Quantity (Tons)	Quality	Time Period	Number of Vendors Sent	Number of Vendors Respond	Tabulation Sheet
Dale	06/08/09	Contract	720,000	1% SO <sub>2</sub> <12% Ash >11,500 Btu	01/01/10—12/31/12	84	6	Page 3
Cooper	06/08/09	Contract	720,000	3.3# SO <sub>2</sub> /MMBtu <12% Ash >11,500 Btu	01/01/10—12/31/12	86	11	Pages 4-5

Date: 07/13/2009  
Event Nbr: 168  
Bid End Date: 07/13/2009

FUEL EVALUATION FOR DALE POWER STATION  
GATLIFF CONTRACT REOPENER

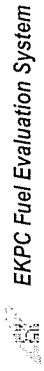
Coal Supplier	Number	Quality Btu		Tons	Term	Delivery Cost		Evaluated Cost		Reason for Recommendation
		% Sulfur	% Ash			\$ Ton	\$ MMBtu	\$ Ton	\$ MMBtu	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Date: 07/13/2009  
Event Nbr: 169  
Bid End Date: 07/13/2009

FUEL EVALUATION FOR COOPER POWER STATION

GATLIFF/TRINITY REOPENER

Coal Supplier	Number	Quality Btu		Term	Delivery Cost \$ Ton MMBtu	Evaluated Cost \$ Ton MMBtu	Reason for Recommendation
		% Sulfur	% Ash				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



Date: 07/13/2009  
Event Nbr: 169  
Bid End Date: 07/13/2009

FUEL EVALUATION FOR COOPER POWER STATION

GATLIFF/TRINITY REOPENER

Coal Supplier	Number	Quality Btu		Tons	Term	Delivery Cost \$ Ton MMBtu	Evaluated Cost \$ Ton MMBtu	Reason for Recommendation
		% Sulfur	% Ash					
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 20**

**RESPONSIBLE PARTY: Ernest W. Huff**

**Request 20.** List each oral coal supply solicitation issued during the period from May 1, 2009 through October 31, 2009.

a. For each solicitation, state why the solicitation was not written, the date(s) of the solicitation, the quantities solicited, a general description of the quality of coal solicited, the time period over which deliveries were requested, and the generating unit(s) for which the coal was intended.

b. For each solicitation, identify all vendors solicited and the vendor selected. Provide the tabulation sheet or other document that ranks the proposals. (This document should identify all vendors who made offers.) State the reasons for each selection.

**Response 20.** a-b. Please see pages 2 through 4 of this response.

Confidential protection of the bid tabulation sheets or corresponding documents that ranked the proposals has been requested in the form of a motion for confidential treatment.

EAST KENTUCKY POWER COOPERATIVE, INC.  
PSC FUEL ADJUSTMENT CLAUSE CASE NO. 2009-00506  
RESPONSE TO PSC ORDER DATED 01/27/10

Unit	Date	Reason	Quantity (Tons)	Quality	Time Period	Number of Vendors Contacted	Tabulation Sheet
Cooper	10/28/09	Immediate Response Required	60,000	3.3# SO <sub>2</sub> /MMBtu <12% Ash >11,500 Btu	11/02/09—04/30/10	12	Pages 3-4

Date: 10/26/2009  
 Event Nbr: 170  
 Bid End Date: 10/26/2009

FUEL EVALUATION FOR COOPER POWER STATION

NOV. 2009 - JAN. 2010

Coal Supplier	Number	Quality Btu			Term	Delivery Cost		Evaluated Cost		Reason for Recommendation
		% Sulfur	% Ash	Tons		\$ Ton	\$ MMBtu	\$ Ton	\$ MMBtu	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



Date: 10/26/2009  
Event Nbr: 170  
Bid End Date: 10/26/2009

FUEL EVALUATION FOR COOPER POWER STATION

NOV. 2009 - JAN. 2010

Coal Supplier	Number	Quality Btu		Tons	Term	Delivery Cost		Evaluated Cost		Reason for Recommendation
		% Sulfur	% Ash			\$ Ton	\$ MMBtu	\$ Ton	\$ MMBtu	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



**EAST KENTUCKY POWER COOPERATIVE, INC**

**PSC CASE NO. 2009-00506  
FUEL ADJUSTMENT CLAUSE  
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10  
REQUEST 21**

**RESPONSIBLE PARTY: Julia J. Tucker**

**Request 21.** a. List all inter-system sales during the period under review in which East Kentucky used a third party's transmission system.

b. For each sale listed above:

(1) Describe how East Kentucky addressed for FAC reporting purposes the cost of fuel expended to cover any line losses incurred to transmit its power across the third party's transmission system.

(2) State the line loss factor used for each transaction and describe how that line loss factor was determined.

**Response 21.** a. Please see page 2 to this response.

b. (1) For each transaction, the cost of fuel recognizes the line loss factor provided in each party's OATT and EKPC's transmission system losses.

(2) The OATT line loss factors for third party transactions are shown below:

TVA	3%
PJM	3%

In addition, EKPC used a line loss factor of 3.11% in May, 3.97% in June, 6.90% in July, .66% in September, and 5.54% in October.

East Kentucky Power Cooperative  
 Intersystem Sales Transactions that  
 Use a Third Party Transmission System  
 May 2009-October 2009

a.	Date	Power Sold To	MWh Sold
	05/05/09	Southern Company	50
	05/14/09	The Energy Authority	17
	05/14/09	PJM	50
	05/14/09	PJM	80
	05/21/09	The Energy Authority	154
	06/02/09	Cargill	800
	06/03/09	Ameren	360
	06/03/09	Cargill	700
	06/03/09	PJM	100
	06/04/09	Power South	794
	06/16/09	Oglethorpe	500
	06/17/09	Southern Company	21
	06/17/09	Southern Company	50
	06/17/09	Oglethorpe	100
	06/22/09	Power South	520
	06/23/09	Power South	520
	06/24/09	Power South	520
	06/25/09	Power South	520
	06/26/09	Power South	520
	06/27/09	Power South	520
	06/28/09	Power South	520
	06/29/09	The Energy Authority	50
	07/10/09	Cargill	600
	07/14/09	Cargill	792
	07/15/09	Southern Company	1020
	07/15/09	Power South	792
	07/16/09	Power South	400
	07/21/09	Power South	2400
	07/22/09	Power South	2800
	07/22/09	The Energy Authority	452
	07/23/09	Power South	2400
	07/24/09	Power South	2400
	07/28/09	Power South	400
	09/29/09	Oglethorpe	141
	10/01/09	EDF Trading	126
	10/13/09	EDF Trading	250
	10/16/09	EDF Trading	400
	10/21/09	EDF Trading	800
	10/22/09	Southern Company	97
	10/22/09	PJM	97
	10/23/09	EDF Trading	400
	10/23/09	Southern Company	1200
	10/24/09	EDF Trading	538
	10/24/09	Southern Company	29
	10/24/09	EDF Trading	36
	10/26/09	Southern Company	150
	10/27/09	Southern Company	750
	10/29/09	Power South	800
	10/30/09	Power South	799
	10/30/09	EDF Trading	1193



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**COMMISSION STAFF'S INFORMATION REQUEST DATED 01/27/10**

**REQUEST 22**

**RESPONSIBLE PARTY: Julia J. Tucker**

**Request 22.** Describe each change that East Kentucky made during the period under review to its methodology for calculating inter-system sales line losses.

**Response 22.** No changes in methodology for calculating intersystem sales line losses occurred during the period under review.