

MASTER POWER SALE AGREEMENT

This Master Power Sale Agreement (the "Agreement") is entered into as of this 30th day of September, 2002 (the "Effective Date") by and between **The Cincinnati Gas & Electric Company** ("CG&E") an Ohio corporation, and **Kenergy Corp.**, a Kentucky electric cooperative corporation ("Buyer") (each individually a "Party" or collectively the "Parties").

RECITALS

WHEREAS, CG&E has been authorized by the Federal Energy Regulatory Commission (FERC) to make sales for resale of Capacity and Energy at market-based rates; and

WHEREAS, the Parties are desirous of entering into an agreement under which such sales can be made.

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

ARTICLE I DEFINITIONS

The following definitions and any terms defined in this Agreement shall apply hereunder.

- 1.1 "Business Day" means a day on which Federal Reserve member banks in New York City are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. eastern prevailing time, unless otherwise agreed to by the Parties in writing.
- 1.2 "Capacity" means electric capacity (expressed in MWs).
- 1.3 "Delivery Point" means the agreed point or points of delivery and receipt of Energy with respect to any Transaction.
- 1.4 "Energy" means electric energy of the character commonly known as three-phase, sixty-hertz electric energy that is delivered at the nominal voltage of the Delivery Point, expressed in megawatt hours (MWh).
- 1.5 "Firm" means, with respect to a Transaction, that the only excuse for the failure to deliver Capacity and/or Energy by CG&E or the failure to receive Capacity and/or Energy by the Buyer is Force Majeure or the other Party's failure to perform.

- 1.6 “Interest Rate” means. for any date the lesser of (a) two (2) percent over the per annum rate of interest equal to the prime lending rate (“Prime Rate”) as may be published from time to time in the Federal Reserve Statistical Release H.15; or (b) the maximum lawful interest rate.
- 1.7 “Non-Firm” means, with respect to a Transaction, that delivery or receipt of Capacity and/or Energy may be interrupted for any reason without liability by either Party, except as provided in Section 5.2.
- 1.8 “Penalties” means any fees, liabilities, assessments or similar charges assessed by a Transmission Provider as a result of a Party’s failure to comply with its Scheduling.
- 1.9 “Period of Delivery” means the period of time from the date physical delivery of Energy is to commence to the date physical delivery is to terminate under a Transaction.
- 1.10 “Price” means the price to be paid by Buyer to CG&E for the purchase of Capacity and/or Energy, including the energy price, demand charges, transmission charges and any other charges pursuant to a Transaction.
- 1.11 “Quantity” means that quantity of Capacity and/or Energy that CG&E agrees to make available to sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from CG&E pursuant to the terms of a Transaction.
- 1.12 “Scheduling” or “Schedule” means the acts of CG&E, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Energy to be delivered on any given day or days during the Period of Delivery at a specified Delivery Point.
- 1.13 “Taxes” means any or all *ad valorem*, property, occupation, severance, generation, first use, conservation, Btu or energy, transmission, utility, gross receipts, privilege, sales, use, consumption, excise, lease, transaction, and other taxes, governmental charges, licenses, fees, permits and assessments, or increases therein, other than taxes based on net income or net worth.
- 1.14 “Transaction” has the meaning described in Section 2.1.
- 1.15 “Transmission Providers” means the entity or entities transmitting or transporting the Energy on behalf of CG&E or Buyer to or from a Delivery Point in a particular Transaction.

ARTICLE II TRANSACTIONS

- 2.1 Transactions. For purposes of this Agreement the definition of "Transaction" shall be limited to one or more transactions under this Agreement whereby CG&E sells and Buyer purchases Energy solely for resale to Alcan Aluminum Corporation's ("Alcan") aluminum reduction facility located at Sebree, Kentucky under an Agreement for Electric Service dated July 15, 1998 (the "Retail Agreement"). A Transaction shall be entered into upon agreement of the Parties in writing, including an electronic means of communication or, in the case of individual Transactions of no more than twenty-four hours duration, may be agreed upon orally. Each Party agrees not to contest or assert any defense to (a) the validity or enforceability of an oral Transaction under laws relating to whether certain agreements are to be in writing or signed by the Party to be bound thereby, or (b) the authority of any employee of the Party to enter into a Transaction. The specific terms to be established by the Parties for each Transaction shall include the Period of Delivery, the Price, the Quantity, the Delivery Point, whether the Transaction is Firm or Non-Firm, whether the Transaction includes Capacity and Energy, and such other terms as the Parties may agree. Attachment A is a Transaction.
- 2.2 Governing Terms. Unless otherwise specifically agreed upon, (i) each Transaction shall be governed by this Agreement and (ii) this Agreement and all Transactions shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Power Agreement and any terms of a Transaction shall be resolved in favor of the terms of such Transaction.
- 2.3 Confirmation. CG&E shall confirm an oral Transaction, under which the Delivery Period begins or ends more than twenty-four (24) hours after the Transaction is agreed upon, by forwarding to Buyer by facsimile or telecopy within three (3) Business Days, a confirmation ("Confirmation") substantially in the form of Exhibit A, which shall be executed by Buyer and returned to CG&E within two (2) Business Days of Buyer's receipt of it. If Buyer objects to any terms of such Confirmation, Buyer shall notify CG&E of such objections within two (2) Business Days of Buyer's receipt thereof, failing which Buyer shall be deemed to have accepted the terms thereof as sent. Failure by CG&E to send, or Buyer to return, an executed Confirmation or any objection by Buyer shall not invalidate any Transaction agreed to by the Parties. However, if CG&E fails to send a Confirmation within the time period specified herein, Buyer may confirm such oral Transaction by forwarding to CG&E within two (2) Business Days of the lapse of such time period a Confirmation, which shall be executed by CG&E (with any objections noted thereon) and returned to Buyer within two (2) Business Days of receipt by CG&E or else be deemed correct as sent. If Buyer and Seller each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be

deemed accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

- 2.4 Recording. Each Party consents to the recording of its representatives' telephone conversations without any further notice. All recordings and any other relevant evidence may be introduced to prove any oral agreement between the Parties.
- 2.5 Credit. Prior to entering into any Transaction, CG&E shall have the right to review the creditworthiness of the Buyer to ensure the Buyer meets the credit requirements of CG&E. The creditworthiness of the Buyer may be reviewed on an ongoing basis during the term of this Agreement to ensure continued compliance with CG&E's credit requirements.

ARTICLE III OBLIGATIONS AND DELIVERIES

- 3.1 Seller's and Buyer's Obligations. With respect to each Transaction, CG&E shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, at the Delivery Point, the Quantity, and Buyer shall pay CG&E the Price. Unless otherwise agreed in a Transaction, CG&E shall be responsible for any Taxes, costs, losses or charges imposed on or associated with the delivery of the Quantity up to the Delivery Point. Buyer shall be responsible for any Taxes, costs, losses or charges imposed on or associated with the Quantity at and from the Delivery Point. Each Party shall indemnify, defend and hold harmless the other Party for and against any Taxes for which such Party is responsible under this Section 3.1.
- 3.2 Transmission and Scheduling. CG&E shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to deliver Energy to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive Energy at the Delivery Point. Each Party shall designate authorized representatives to effectuate the Scheduling of Power. CG&E shall secure transmission service and interface capacity necessary to deliver the Energy into Buyer's designated Transmission Provider's system. If interface capacity is not available at the designated interface, CG&E shall either (a) Schedule delivery to an alternative interface with available capacity, or (b) notify Buyer of its inability to perform. In the case of (b), CG&E shall be liable for failure to perform in accordance with Article V.
- 3.3 Title, Risk of Loss and Indemnity. As between the Parties, CG&E shall be deemed to be in exclusive control and possession of the Quantity prior to the Delivery Point, and Buyer shall be deemed to be in exclusive control and possession of the Quantity at and from the Delivery Point. CG&E warrants that it will deliver the Quantity to Buyer at the Delivery Point free and clear of all liens, claims and encumbrances arising or attaching prior to the

Delivery Point. Title to and risk of loss related to the Quantity shall transfer from CG&E to Buyer at the Delivery Point. CG&E and Buyer shall each indemnify, defend and hold harmless the other Party from claims, damages or injuries arising from an occurrence when title to the Capacity and/or Energy is held by the indemnifying Party.

ARTICLE IV BILLING, PAYMENT AND NETTING

- 4.1 Scheduled Quantities. In the absence of data showing actual Quantities delivered and received, billing and payment shall be based on Scheduled hourly Quantities, with adjustments made in the next billing cycle to reflect any differences between estimates and actual delivered Quantities.
- 4.2 Billing Period. Unless otherwise agreed upon, the calendar month shall be the standard billing period for all settlements under this Agreement.
- 4.3 Reconciliation and Billing. Notwithstanding any provisions contained in any other agreements which provide for the purchase and sale of Capacity and Energy between the Parties ("Contracts"), when the Parties have entered into Transactions during any given calendar month, the Party owing the greater amount for its purchases during such calendar month on any given due date (the "Debtor") shall apply the amount (the "Credit Balance") owed on or before the same date by the other Party (the "Creditor") toward payment of the amount owed by the Debtor to the Creditor for such calendar month. The remainder of the amount owed by the Debtor to the Creditor (after deduction of the Credit Balance) shall be paid in accordance with the provisions of Section 4.4 of this Agreement.
- (a) Unless otherwise mutually agreed, on or before the tenth (10th) day of each month, each Party shall, in good faith, calculate and use best efforts to agree upon with the other Party the net difference between (the "Reconciliation"): (i) the Capacity and total Quantity of Energy that was Scheduled by Creditor (the Party owing the lesser amount) or that Debtor (the Party owing the greater amount) was obligated to purchase and any other charges due Creditor, including liquidated damages, capacity charges, interest, and payments and credits between the Parties for the preceding calendar month and the amounts due to Creditor therefor; and (ii) the Capacity and total Quantity of Energy that was Scheduled by Debtor or that Creditor was obligated to purchase and any other charges due Debtor, including liquidated damages, capacity charges, interest and payments or credits between the Parties during the preceding calendar month and the amounts due to Debtor therefor.
- (b) Unless otherwise mutually agreed in writing, no later than the fifteenth (15th) day of each month, Creditor shall transmit to Debtor by facsimile, regular mail or other mutually agreed upon means, a statement setting forth Creditor's calculation of the amounts set forth in Section 4.3(a) (the "Creditor's Statement").

(c) No later than the fifteenth (15th) day of the month, the Debtor may, at its option, transmit to Creditor by facsimile, regular mail or other mutually agreed upon means, a statement setting forth Debtor's calculation of the amounts set forth in Section 4.3(a).

4.4 Payment of Bills. Bills for amounts owed by one Party to the other Party shall be due as follows:

(i) Normal Monthly Invoices – After determining the Reconciliation on a net basis, in accordance with Section 4.3(a) hereof, the remainder due from Debtor to Creditor (the "Balance") shall be paid on the first Business Day following the 24th day of each month following the calendar month of the service.

(ii) Premiums for Options – on the date specified in the Confirmation for the Transaction.

Payment Method – All such payments shall be made by electronic transfer in immediately available funds to an account designated in writing by the Creditor in accordance with a Security and Lock Box Agreement dated August 11, 2000 by and among Buyer, CG&E and others, as amended September 30, 2002.

4.5 Late Payment. Overdue payments shall accrue interest at the Interest Rate from, and including, the due date to, but excluding, the date of payment.

4.6 Billing Disputes. If buyer, in good faith, disputes an invoice, buyer shall immediately notify seller of the basis for the dispute and pay the portion of such statement not in dispute no later than the due date. If any amount withheld under dispute by buyer is ultimately determined to be due to seller, it shall be paid within one (1) Business Day after such determination, along with interest accrued at the Interest Rate from the original due date until the date paid. Inadvertent overpayments shall be returned by the receiving Party upon request or deducted by the receiving Party from subsequent payments, with interest accrued at the Interest Rate from the date originally paid until the date repaid or deducted.

ARTICLE V INTERRUPTION OF FIRM AND NON-FIRM TRANSACTIONS

5.1 Unless excused by Force Majeure or the other Party's failure to perform, if (a) CG&E fails to make available Capacity or Schedule or deliver the Quantity under a Firm Transaction, or (b) Buyer fails to receive (i) the minimum Quantity, if any, required under a Firm Transaction or (ii) amounts of Energy agreed to be Scheduled under a Firm Transaction, (in either case, the "Nonperforming Party"), the other Party (the "Performing Party") shall give notice of such failure as promptly as reasonably practicable.

5.1.1 The Performing Party shall be entitled to receive from the Nonperforming Party an amount calculated as follows ("Liquidated Damages"):

(a) if CG&E is the Nonperforming Party, CG&E shall pay Buyer, on the date payment would otherwise be due to CG&E, an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting the per unit Price from the per unit Replacement Price;

(b) if Buyer is the Nonperforming Party, Buyer shall pay CG&E on the date payment would otherwise be due, an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting the per unit Sales Price from the per unit Price.

5.1.2 As used hereunder, "Replacement Price" means the price at which Buyer, acting in a commercially reasonable manner, purchases substitute Capacity and Energy for that not delivered by CG&E, which substitute energy shall include Tier 3 Backup Energy Buyer may purchase from LG&E Energy Marketing Inc. ("LEM") for resale to Alcan pursuant to an Agreement for Electric Service dated July 15, 1998 between Buyer and LEM, the pertinent portion of which is attached hereto as Exhibit A, plus any additional transmission charges incurred by Buyer to the Delivery Point; or, absent any such purchase, the market price for such quantity at such Delivery Point during the applicable Period of Delivery, as determined by Buyer in a commercially reasonable manner; *provided, however*, in no event shall the Replacement Price include any Penalties, ratcheted demand or similar charges or any stranded costs. "Sales Price" means the price at which CG&E, acting in a commercially reasonable manner, resells, or if not resold would have been able to resell, the Capacity and Energy not received by Buyer, plus additional transmission charges, if any (including, without limitation, charges for any applicable ancillary services), incurred by CG&E to effectuate such resale; or, absent any such resale, the market price for such quantity at the Delivery Point during the applicable Period of Delivery, as determined by CG&E in a commercially reasonable manner.

5.2 Failure to Deliver or Receive Non-Firm Transactions. A Party shall be excused from delivering or receiving the Quantity, in whole or in part, in a Non-Firm Transaction for any reason without liability (a) unless specifically provided otherwise in any Transaction; or (b) if it gives the other Party notice of its decision to interrupt the Scheduled delivery or receipt of Energy, which notice is sufficiently timely to allow the Party receiving such notice to change Scheduling and avoid incurring any Penalties. If timely notice of any interruption of Scheduled delivery or receipt is not provided, the Party causing such interruption shall be obligated to the other Party for all Penalties resulting therefrom.

ARTICLE VI FORCE MAJEURE

6.1 Definition. Force Majeure means an event not anticipated as of the Effective Date, which is not within the reasonable control of the Party claiming suspension (the "Claiming

Party”), and which, by the exercise of due diligence, the Claiming Party, is unable to overcome or avoid or cause to be avoided. Force Majeure includes, but is not restricted to: acts of God; fire; civil disturbance; labor dispute, labor or material shortage; sabotage; action or restraint by court order or public or governmental authority (so long as the Claiming Party has not applied for or assisted in the application for, and has opposed, to the extent reasonable, such government action); *provided, however*, that an event of Force Majeure shall not include (a) the loss of Buyer’s markets; (b) Buyer’s inability economically to use or resell Capacity or Energy purchased hereunder; (c) the loss or failure of CG&E’s supply, or (d) CG&E’s ability to sell Capacity or Energy to another market at a more advantageous price. Interruption by a Transmission Provider shall not be deemed to be an event of Force Majeure unless (i) the Party contracting with such Transmission Provider shall have made arrangements with such Transmission Provider for firm transmission, as defined under the Transmission Provider’s tariff, of Energy to be delivered or received hereunder and (ii) such interruption is due to force majeure as defined under the Transmission Provider’s tariff; *provided, however*, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined has occurred.

- 6.2 Performance Excused. If either Party is rendered unable to carry out, in whole or part, its obligations under a Firm Transaction due to Force Majeure then, during the pendency of such Force Majeure but for no longer period, the Party affected by the Force Majeure shall be relieved of its obligations insofar as they are affected by Force Majeure (other than any obligation to make payments then due or becoming due with respect to performance which occurred prior to the Force Majeure); *provided, however*, Buyer shall be obligated to pay demand or capacity charges (if any) with respect to a Transaction notwithstanding the existence of a Force Majeure. The Party affected by the Force Majeure shall provide the other Party with written notice setting forth the full details thereof, including the anticipated duration of the Force Majeure event, as soon as practicable after the occurrence of such event and shall take all reasonable measures to mitigate or minimize the effects of such Force Majeure; *provided, however*, that this provision shall not require CG&E to deliver, or Buyer to receive, Energy at points other than the Delivery Point.

ARTICLE VII DEFAULTS AND REMEDIES

- 7.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (“Defaulting Party”), the occurrence of any of the following:

(a) the failure to make when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice of such failure is given by the other Party, and provided the payment is not the subject of a good faith dispute as described in Section 4.6.

(b) any representation or warranty made by the Defaulting Party herein shall at any time prove to be false or misleading in any material respect;

(c) the failure of the Defaulting Party to perform any covenant set forth in this Agreement (other than the events that are otherwise specifically covered in this Article 7 as a separate Event of Default, or its obligations to deliver or receive any Capacity and/or Energy, the remedy for which is provided in Article 5) and such failure is not excused by Force Majeure or cured within two (2) Business Days after written notice thereof to the Defaulting Party;

(d) the Defaulting Party (i) files a petition or otherwise commences or acquiesces in a proceeding under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is unable to pay its debts as they fall due (collectively, "Bankruptcy Proceedings");

(e) with respect to CG&E, the occurrence of a Material Adverse Change; provided, however, that such Material Adverse Change shall not be considered an Event of Default if CG&E establishes and maintains for so long as the Material Adverse Change is continuing adequate assurance of its ability to perform all of its outstanding obligations or adequate credit support satisfactory to Buyer in a commercially reasonable manner. For purposes of this Agreement, Material Adverse Change means a material adverse change in the condition (financial or otherwise), net worth, assets, properties, or operations of such Party taken as a whole.

(f) with respect to Buyer, the breach by Alcan of the Assurances Agreement or the Undertaking of Alcan Aluminum Corporation of even date or the failure of Alcan to perform any financial undertaking it may make in connection with any Transaction.

7.2 Remedies upon an Event of Default. Upon the occurrence of an Event of Default with respect to a Defaulting Party, the Non-Defaulting Party shall have the right, without prior notice, to liquidate and terminate any or all Transactions then outstanding between the Parties (except to the extent that, in the good faith opinion of the Non-Defaulting Party, certain of such Transactions may not be closed out and liquidated under applicable law) at any time and from time to time, to accelerate all amounts owing between the Parties, to withhold any payments owing to the Defaulting Party under this Agreement, and to calculate, in a commercially reasonable manner, a Settlement Amount for each such Transaction that is a Firm Transaction as of the time of its termination or as soon thereafter as is commercially reasonable and shall net such Settlement Amounts in the manner provided for in Section 7.2.2.

7.2.1 "Settlement Amount" shall mean, with respect to a Firm Transaction and the Non-Defaulting Party, the losses and costs (but not gains), expressed in U.S., that such Party incurs as a result of the liquidation, including, but not limited to, losses and costs (but not gains) based upon the then current replacement value of such Firm Transaction together with, at the Non-Defaulting Party's option, but without duplication, all losses and costs which such Party incurs as a result of maintaining, terminating, obtaining or re-establishing any hedge or related trading positions; provided, however, that if the calculation of the Settlement Amount results in a net gain to the Defaulting Party, the Settlement Amount shall be deemed to be zero. In calculating a Settlement Amount, the Non-Defaulting Party shall discount to present value (in a commercially reasonable manner based on the Interest Rate for the applicable period) any amount that would otherwise have been due at a later date, and shall add interest at the Interest Rate to any amount due prior to the date of calculation. Notwithstanding any provision in this Article VII to the contrary, in no event shall the Non-Defaulting Party have any payment obligation to the Defaulting Party arising with respect to the termination of a Transaction.

- 7.2.2 The Non-Defaulting Party shall set off (a) all such Settlement Amounts that are due to the Defaulting Party, plus any Margin then available to the Non-Defaulting Party, plus (at the Non-Defaulting Party's election) any or all other amounts due to the Defaulting Party under the Agreement against (b) all such Settlement Amounts that are due to the Non-Defaulting Party, plus any Margin then available to the Defaulting Party, plus (at the Non-Defaulting Party's election) any or all other amounts due to the Non-Defaulting Party under the Agreement, so that all such amounts shall be netted to a single liquidated amount (the "Termination Payment") payable by one Party to the other. As used hereunder, "Margin" shall mean cash, securities or other property held by or due from one Party to guarantee or secure obligations of the other Party under the Agreement.
- 7.2.3 Notice of a liquidation pursuant to this Section 7.2 of at least five (5) Business Days shall be given by the Non-Defaulting Party to the Defaulting Party. The notice shall specify the amount of the Termination Payment, if any, due from the Defaulting Party to the Non-Defaulting Party. The Termination Payment shall be made by the Defaulting Party to the Non-Defaulting Party within two (2) Business Days after such notice is given.
- 7.2.4 Notwithstanding any contrary provision of this Section 7.2, if an Event of Default specified in subsection 7.1(d) is governed by a system of laws which does not permit the liquidation of Transactions to take place upon or after the occurrence of the relevant Event of Default in accordance with the other terms of this Article 7.2, the liquidation of all outstanding Transactions shall automatically take place upon the occurrence of such an Event of Default as of a time immediately preceding the occurrence of such Event of Default and, upon the occurrence of

any such automatic liquidation, the Defaulting Party shall indemnify the Non-Defaulting Party on demand against all expenses, losses, damages or liabilities that the Non-Defaulting Party may incur as a consequence of changes in Energy and Capacity, if applicable, prices or other relevant prices, rates or charges between the date of such automatic liquidation and the Business Day on which the Non-Defaulting Party first becomes aware that such automatic liquidation has occurred.

7.2.5 If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute, provided that the Defaulting Party shall promptly pay to the Non-Defaulting Party such portion thereof that is not in dispute. If the Parties cannot resolve such dispute within three (3) Business Days after the Non-Defaulting Party's receipt of the Defaulting Party's written explanation, then either Party may submit such dispute to arbitration in accordance with the arbitration procedures set forth in Section 9.2 or pursue other available remedies; *provided, however*, that the Defaulting Party shall transfer collateral (of a type and in a form acceptable to the Non-Defaulting Party) to the Non-Defaulting Party in an amount equal to the disputed and unpaid portion of the Termination Payment. Any payment that is due as a result of an arbitrator's award shall be paid by the Party that owes it within two (2) Business Days after the award is rendered.

7.3 Setoffs. Without limiting its rights under this Article VII or otherwise, upon an Event of Default, the Non-Defaulting Party may from time to time setoff any or all amounts that the Defaulting Party owes to it under this Agreement against any or all amounts that it owes to the Defaulting Party (whether under Agreement or otherwise and whether or not then due; *provided, however*, that any amount not then due that is included in such setoff shall be discounted to present value (in the manner specified in subsection 7.2.1) as of the date of setoff.

7.3.1 Notwithstanding any other provision of this Agreement, upon the occurrence of an Event of Default, or an event that, with the giving of notice or the passage of time or both, would constitute an Event of Default with respect to a Party, the other Party shall have the right to suspend performance under any or all Transactions.

7.4 Other Termination Events.

7.4.1 In the event Buyer is regulated by a federal, state or local regulatory body, and such body shall disallow all or any portion of any costs incurred or yet to be incurred by Buyer under any provision of this Agreement or with respect to any Transaction, such action shall not operate to excuse Buyer from performance of any obligation hereunder, nor shall such action give rise to any right of Buyer to

any refund or retroactive adjustment of the Price of any Transaction. Notwithstanding the foregoing, if performance by either Party (an "Affected Party") under this Agreement or with respect to any Transaction becomes subject to regulation of any kind whatsoever under any law, rule, regulation, order or similar provision (including any change by the Federal Energy Regulatory Commission regarding a Party's authority to sell wholesale power at market-based rates) to a greater or different extent than that existing on the Effective Date and such regulation either (a) renders this Agreement illegal or unenforceable or (b) would render performance by the Affected Party of some but not all outstanding Transactions (the "Affected Transactions") illegal, unenforceable or commercially impracticable, such Party (or either Party if both Parties are Affected Parties) may declare an Event of Default in the manner contemplated by Section 7.2, which notice shall specify the basis for declaring such Event of Default and (in the circumstances described in clause (b) above) identify which Transactions are Affected Transactions. If an Event of Default is declared under circumstances described in clause (a) above, both Parties shall calculate their respective gains, losses or costs in respect of the Affected Transactions as provided in Section 7.2, and endeavor in good faith to agree upon the Termination Payment payable by either Party, and, if an Event of Default is declared under circumstances described in clause (b) above, only the Party that is not the Affected Party shall calculate its gains, losses and costs in respect of all terminated Transactions and notify the Affected Party of the Termination Payment, as provided in Section 7.2. Only the Affected Transactions shall be terminated under the circumstances described in clause (b) above. All other Transactions shall remain unaffected as if no Event of Default had been declared.

7.4.2 In the event any new tax ("New Tax") is imposed for which Buyer or CG&E is responsible, the Parties agree that they will apportion the burden of such tax on an equal basis.

ARTICLE VIII LIMITATIONS; DUTY TO MITIGATE

8.1 Limitation of Remedies, Liability and Damages. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS

EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE IS SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

- 8.2 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.
- 8.3 UCC. Except as otherwise provided herein, the provisions of the Uniform Commercial Code ("UCC") of the state whose laws shall govern this Agreement shall be deemed to apply to all Transactions and Capacity and Energy shall be deemed to be "goods" for purposes of the UCC. EXCEPT AS EXPRESSLY SET FORTH HEREIN, CG&E EXPRESSLY NEGATES ANY OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO CONFORMITY TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

ARTICLE IX GOVERNING LAW - DISPUTE RESOLUTION

- 9.1 Governing Law and Jurisdiction. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE Commonwealth of Kentucky, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. Each Party hereby waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement or any Transaction.
- 9.2 Dispute Resolution. If a dispute arises between the Parties relating to this Agreement or any Transaction, the Parties agree to use the following procedure prior to either Party pursuing other available remedies:

9.2.1 A meeting shall be held promptly between the Parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

a) If, within thirty (30) days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute or have not agreed to extend the negotiations period, then, upon seven (7) days written notice to the other Party, either Party may request that the matter be referred to binding arbitration before three arbitrators, one of whom shall be named by Buyer, one by CG&E, and a third of whom shall be named by the two arbitrators appointed by Buyer and CG&E, respectively. If either CG&E or Buyer fails to select an arbitrator within fifteen (15) days after a request for arbitration, either Party shall be free to pursue its other available remedies. If the Parties agree to binding arbitration, the appointment of the third arbitrator, if not agreed upon within thirty (30) days after the initial request for arbitration, shall be made in accordance with CPR's Rules for Non-administered Arbitration then in effect (the "Rules"). The Rules shall govern any such proceedings. Judgment upon any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Each Party shall pay for the services and expenses of the arbitrator appointed by it and for its costs, expenses, and attorneys' fees. Fees and expenses of the third arbitrator and court reporter shall be paid in equal parts by the Parties hereto.

9.2.2 All negotiation and mediation proceedings shall be strictly confidential and used solely for the purposes of settlement. Any materials prepared by one Party for those proceedings and statements made by either Party in settlement negotiations shall not be used as evidence by the other Party in any subsequent arbitration; *provided, however*, the underlying facts supporting such materials may be subject to discovery. All arbitration proceedings shall also be strictly confidential.

9.2.3 Each Party fully understands its specific obligations under the provisions of this Agreement. Neither Party considers such obligations to be vague or in any way unenforceable, and neither Party will contend to the contrary at any future time or in any future proceeding.

ARTICLE X MISCELLANEOUS

10.1 Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon thirty (30) days prior written notice; *provided, however*, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement or a Transaction that by its terms survives any such termination, and *provided further*, that this Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to any Transaction entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction.

10.2 Representations and Warranties. On the Effective Date and on the date of entering into each Transaction, each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in each jurisdiction in which each such Transaction will be performed by it; (b) upon approval by the Kentucky Public Service Commission of the rates, terms and conditions of the retail sale by Buyer to Alcan, it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and any other documentation relating to this Agreement or such Transaction; (c) the execution, delivery and performance of this Agreement and any other documentation relating to this Agreement or such Transaction are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or similar provision applicable to it; (d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; (e) there are no Bankruptcy Proceedings pending or being contemplated by it or, to its knowledge, threatened against it; (f) there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligation under this Agreement or any other document relating to this Agreement; (g) no Event of Default or event which, with the giving of notice or lapse of time, or both, would constitute an Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any other document relating to this Agreement or any Transaction; and (h) it is acting for its own account, has made its own independent decision to enter into each Transaction and as to whether each such Transaction is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding and understands and accepts, the terms, conditions and risks of each such Transaction; provided, however, with respect to (h) above, Buyer has consulted with and is relying on the consent of Alcan in connection with the Transaction whereby Buyer will purchase 50 MW of Firm Energy from CG&E for resale to Alcan for a term commencing January 1, 2003 and terminating December 31, 2003.

10.3 Assignment. This Agreement shall be assignable by CG&E without the Buyer's consent provided such assignment is to any other direct or indirect subsidiary of Cinergy Corp. and provided further that such assignment shall not relieve CG&E of its liability under this Agreement. Any other assignment by either Party of this Agreement or any rights or obligation hereunder shall be made only with the written consent of the other Party, which consent shall not be unreasonably withheld.

10.4 Notices. All notices, requests, statements or payments shall be made as specified below. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by regular mail shall be deemed to have been received three

(3) Business Days after it has been sent. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the Business Day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close of normal business hours, in which case it shall be deemed to have been received at the close of the next Business Day). Notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it has been sent. A Party may change its addresses by providing notice of the same in accordance with this Section 10.4.

To CG&E:

NOTICES & CORRESPONDENCE:

The Cincinnati Gas & Electric Company
Mail Code: EA 503
139 East Fourth Street (45202)
P.O. Box 960 (45201)
Cincinnati, OH
Attention: Manager, Contract Administration
Phone: (513) 419-5466
Fax: (513) 419-2196

The Cincinnati Gas & Electric Company
Mail Code: EA 502
139 East Fourth Street (45202)
P.O. Box 960 (45201)
Cincinnati, OH
Attention: Vice President
Phone Number: (513) 419-5467

INVOICES:

Attention: Manager, Billing Dept.
Mail Code: EA 502
Fax Number: 513-419-5748
Phone Number: 513-419-5790

PAYMENTS:

PNC Bank, Ohio
Cincinnati, Ohio
CG&E
Account No:
ABA No:

SCHEDULING:

Attention: Scheduling
Fax Number: 513-419-5112
Phone Number: 513-419-5740

To Buyer:

NOTICES & CORRESPONDENCE:

Kenergy Corp.
P.O. Box 18
Henderson, Kentucky 42419-0018
Attn: Dean Stanley, President and CEO
Phone (270) 826-3991

Fax Number: (270) 685-5981

INVOICES:

Attention: Steve Thompson

Fax Number: (270) 685-2279
Phone Number: (270) 826-3991

SCHEDULING:

Attention: Travis Housley
Big Rivers Electric Corporation
Fax Number: (270) 827-0183
Phone Number: (270) 827-2561
Cell Number: (270) 748-0907

- 10.5 General. This Agreement and each Confirmation of a Transaction constitute the entire agreement between the Parties relating to the subject matter contemplated by this Agreement. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. No amendment or modification to this Agreement shall be enforceable unless set forth in writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). No waiver by a Party of any default by the other Party shall be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining lawful obligations that arise under this Agreement. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights contained herein shall survive the termination or expiration of this Agreement for six (6) years.
- 10.6 Audit. Each Party has the right, at its sole expense, during normal business hours, and upon reasonable notice, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, CG&E shall provide to the Buyer statements evidencing the quantities of Capacity made available and Energy delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and any payments related thereto shall be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; *provided, however,* that no adjustment for any statement or payment will be made unless objected to within two (2) years from the rendition thereof.

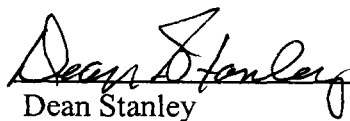
- 10.7 Credit. Any credit agreement between the Parties shall be deemed to be incorporated into and will become part of this Agreement and any Transactions hereunder.
- 10.8 Forward Contract. The Parties agree that this Agreement and all Transactions constitute "forward contracts" and that CG&E and Buyer are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.
- 10.10 Attachment. The Service Schedule attached hereto as Attachment A is incorporated herein by reference and made a part of this Agreement.

The Parties have caused this Agreement to be executed by their duly authorized representatives in multiple counterparts as of the Effective Date.

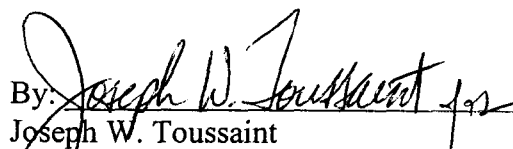
KENERGY CORP.

THE CINCINNATI GAS & ELECTRIC
COMPANY

By:


Dean Stanley

By:


Joseph W. Toussaint

Title: President and CEO

Title:

Executive Vice President

Date: September 30, 2002

Date:

September 30, 2002

ATTACHMENT A

SERVICE SCHEDULE FOR AGREEMENT BETWEEN THE CINCINNATI GAS & ELECTRIC COMPANY AND KENERGY CORP. DATED AS OF SEPTEMBER 30, 2002

The following are the Pricing Terms and Conditions of Service for the Transaction:

Seller:	CG&E
Customer:	Kenergy Corp.
Product:	Firm Energy with Liquidated Damages for each hour of each day service is required to be provided during the term of the Agreement (7 x 24 schedule). Kenergy, its successors or assigns, may not resell the energy delivered hereunder except to Alcan Aluminum Corporation.
Term:	January 1, 2003 through December 31, 2003
Quantity and Scheduling:	CG&E shall deliver and Kenergy shall receive or pay for 50 MW of energy ("Contract Quantity") for each and every hour of the Term (100 percent load factor). No further scheduling is required of Kenergy
Energy Charge:	\$ 27.25/MWh for all energy pursuant to this confirmation.
Delivery Points:	CG&E shall deliver energy into any available Big Rivers Electric Corporation ("Big Rivers") transmission interface (including any busbar of any generating facility within the Big Rivers Control Area) of its choosing. Such delivery interface shall be determined by CG&E in its sole discretion and subject to change as necessary or desired in CG&E's sole discretion. Title to the energy shall pass to Kenergy at the Delivery Point. Kenergy shall obtain all necessary transmission service on the Big Rivers system.
Unwind Costs; additional representations and warranties:	(1) To the extent that Kenergy fails to obtain all KyPSC approvals necessary to perform its obligations under this Agreement, CG&E will be entitled to collect as damages fifty (50) percent of all costs that it incurs to "unwind" or dissolve transactions entered into by CG&E to hedge the instant agreement ("Unwind Costs"). (2) Neither Kenergy, its successors or assigns, nor Alcan, its successors or assigns, nor CG&E, its successors and assigns, will request or encourage the KyPSC (or encourage or solicit any other person to request or encourage the KyPSC) to reject or modify Kenergy's application for the acceptance and approval of the tariff and/or contracts that contemplate this Agreement ("Counterpart Retail Agreement(s)"). To the extent that Kenergy, its successors or assigns, or Alcan, its successors or assigns, breaches this provision, CG&E will be entitled to collect as damages from Kenergy one hundred (100) percent of all Unwind Costs. To the extent that CG&E, its successors or assigns breaches this provision, Kenergy shall be entitled to collect as damages from CG&E, for the benefit of Alcan, the positive difference, if any, between its replacement cost per unit of power at the Delivery Point and the Energy Charge for energy required to be delivered under the Agreement. (3) To the extent the KyPSC either approves or accepts the Counterpart Retail Agreement(s), neither Kenergy, its successors or assigns, nor Alcan, its successor or assigns, nor CG&E, its successors and assigns, will request or encourage the KyPSC (or

	<p>encourage or solicit any other person to request or encourage the KyPSC) to rescind, alter or amend any order approving the Counterpart Retail Agreement(s), the affect of which may alter the terms of this Agreement ("Post Acceptance/Approval Modification(s)"). Post Acceptance/Approval Modifications caused by Kenergy will not serve to relieve Kenergy of its obligations under this Agreement. With respect to Nos. 2 and 3 above, Kenergy will use all reasonable efforts to contest and defend any motion adverse to this transaction.</p> <p>Unwind Costs shall be determined exclusively by CG&E in any commercially reasonable manner. Unwind Costs shall be equal to an amount for each MW equal to the positive difference, if any, obtained by subtracting the per unit Replacement Price from the per unit Energy Charge above. Replacement Price means the price per unit at which CG&E, acting in a commercially reasonable manner, resells the Power not received by Kenergy (adjusted to reflect the difference in transmission costs, if any) or, at CG&E's sole option, the market price for such quantity of Power at the Delivery Points during the applicable period of delivery as determined by CG&E in a commercially reasonable manner.</p>
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INITIALED BY:

DEAN STANLEY *DS*
Kenergy Corp.

Joseph W. Toussaint *JW*
The Cincinnati Gas & Electric Company