

AGREEMENT FOR PURCHASE OF POWER

RECEIVED
JUL 27 1997
PUBLIC SERVICE COMMISSION
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OF KENTUCKY
EFFECTIVE

THIS AGREEMENT made and entered into this 30th day of June, 1997 by between HENDERSON UNION ELECTRIC COOPERATIVE, P.O. Box 18, Henderson, Kentucky 42420 (hereinafter called the "Seller"), and CR MINING COMPANY, 3621 Highway 416 East, Henderson, Kentucky 42420 (hereinafter called the "Customer").

WITNESSETH:

That for and in consideration of the premises and the mutual covenants contained, the parties do hereby contract and agree as follows:

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PURSUANT TO 807 KAR 5:01 i,
SECTION 9 (1)
BY: Jordan C. Neal
FOR THE PUBLIC SERVICE COMMISSION

1. GENERAL OBLIGATIONS

1.01 Seller shall make available, sell and deliver to the Customer, and Customer shall take and pay for all of the electric power and energy, up to a maximum of 5,000 kW, as specified herein and required by Customer in the operation of its facilities described upon Exhibit A hereto, at the rates specified upon Schedule LP-3, and upon the terms and conditions herein specified until. Schedule LP-4 will be substituted for Schedule LP-3 the first month, and every month thereafter in which Customer's billing demand exceeds 2001 kW.

1.02 Customer shall become a member of Seller, shall pay the membership fee of \$25.00, and shall be bound by such rules and regulations as may from time to time be adopted by Seller.

2. SERVICE CHARACTERISTICS

2.01 Service hereunder shall be alternating current, three-phase, four-wire, sixty hertz, 69 kV.

2.02 The delivery of the electric power and energy supplied hereunder shall be at points specified upon Exhibit A.

3. FACILITIES AND SERVICES PROVIDED BY CUSTOMER

3.01 Customer shall furnish and install such facilities and equipment as may be necessary to enable Customer to receive and use electric power and energy purchased hereunder at the points described upon Exhibit A.

3.02 Customer shall not directly or indirectly resell any electric power and

energy purchased hereunder.

4. FACILITIES AND SERVICES PROVIDED BY SELLER

Seller shall furnish and install, or cause to be furnished and installed, all of the facilities required for the delivery of electric power and energy to Customer as described upon Exhibit A.

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5. OPERATION AND MAINTENANCE OF FACILITIES

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Seller shall operate and maintain, or cause to be operated and maintained, all of the transmission lines and substation facilities owned by it, its wholesale power supplier, or both. Customer shall furnish, install, maintain and operate such equipment as may be necessary to enable it to receive and use electric power and energy purchased hereunder, and as may be necessary in the opinion of Seller to afford reasonable protection to the facilities of Seller, its wholesale power supplier, or both. Plans for equipment to be installed for the protection of the facilities of Customer, Seller or its wholesale power supplier, or any combination thereof, shall be subject to Seller's approval.

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6. CONSTRUCTION STANDARDS

Seller and Customer shall construct and maintain the facilities to be provided by each under this agreement in accordance with applicable provisions of the National Electric Safety Code of the American National Standards Institute, the rules and regulations of the Kentucky Public Service Commission, and other applicable laws, codes and regulations, provided, however, Seller shall have no duty to inspect Customer's facilities for conformance therewith. Nothing in this agreement shall be construed to render Seller liable for any claim, demand, cost, loss, cause of action, damage or liability of whatsoever kind or nature arising out of or resulting from the construction or operations and maintenance of Customer's electric system.

7. ELECTRIC DISTURBANCE and PHASE BALANCING, and HARMONICS

7.01 Customer shall not use the energy delivered hereunder in such a manner as to cause electric disturbances which may reasonably be expected to (i) cause damage or interference with Seller's system, or facilities or other property in proximity to Seller's system, or (ii) prevent Seller from serving other Customers satisfactorily. Seller may require Customer, at Customer's expense, to make such changes in its system, as may be necessary to reasonably limit such disturbances.

7.02 Customer shall take and use the power and energy hereunder in such a manner that the load at the Point of Delivery shall not cause a current imbalance between

phases greater than five percent (5%). Seller reserves the right to require Customer, at Customer's expense, to make necessary changes to correct such conditions. In addition to any other remedies that Seller may have hereunder, should Customer fail to make such changes, Seller may, in its determination of billing demand, assume the load on each phase is equal to the greatest load on any phase.

7.03 Customer shall take and use power and energy hereunder in such a manner that the current harmonic total demand distortion (TDD) shall not exceed limits as described in IEEE Standard 519, Section 10. When necessary to maintain an acceptable TDD level, Customer, at its expense, will install, own, operate, and maintain required harmonic filtering equipment. Seller reserves the right to install at Customer's expense, suitable equipment to maintain a TDD level in accordance with IEEE Standard 519.

7.04 Seller shall give Customer written notice of any disturbances, imbalances, or harmonic distortions, described in Section 7, that Seller determines are caused by Customer's operation of its facilities. Seller's written notice will describe the changes, requirements, corrections or remedies that Seller deems necessary to correct the operations problems. Customer may request a meeting of representatives of both Seller and Customer to review the matters contained in Seller's written notice and to resolve any disputes that arise.

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8. POWER FACTOR

Customer shall maintain a power factor as specified upon Schedule LP-3 attached hereto, or LP-4, which ever is applicable.

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9. METERING

Seller, or its wholesale power supplier, shall install, maintain and operate the 69 kV metering equipment located as shown on Exhibit A. The meter shall be read on or about the first day of each month (or such other date as may be mutually agreed upon) by a representative of the Seller, and may be simultaneously read by a representative of the Customer if Customer so elects. Seller shall make such tests and inspections of the meters as may be necessary to maintain them at the highest practical commercial standard of accuracy. If periodic tests indicate that a meter used for billing purposes is accurate within one percent (1%) slow or fast, no correction shall be made in the billing. If any such tests indicate that such meter is inaccurate by more than one percent (1%) slow or fast, correction shall be made in the billing to the proper party for the period during which the parties agree that the inaccuracy existed. Seller will make additional tests of meters at the request and expense of Customer and in the presence of Customer's representative. In all other respects, meters shall be installed, operated, maintained and tested in accordance with the rules and regulations of the Kentucky Public Service Commission.

10. RIGHT OF REMOVAL

Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed by either of the parties hereto on or in the premises of the other party shall be and remain the property of the party owning and installing same, regardless of mode or manner of annexation or attachment to real property of the other. Upon termination of this agreement, the owner thereof shall have the right to enter upon the premises of the other party and shall within a reasonable time remove such equipment, apparatus, devices, or facilities, except that Customer shall not recover any easement or sites conveyed to Seller or its wholesale power supplier necessary to provide service to other customers served through such easements or sites. The party effecting removal under this provision shall pay any damages to the premises or property of the other party caused by such removal.

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11. RIGHT OF ACCESS

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

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12. RATES AND PAYMENT

12.01 Customer shall pay Seller for service hereunder at the rates set forth upon Schedule LP-3, attached hereto and made a part hereof, or LP-4 as applicable, subject to such changes as may become effective from time to time by operation of law, by order of the Kentucky Public Service Commission.

12.02 Seller shall revise said Schedule LP-3, or LP-4 as applicable, to reflect any such changes in rates, terms or conditions contained therein, and each revision shall automatically be incorporated into this agreement. Failure of Seller to promptly revise such schedules shall not affect Customer's duty to pay for service in accordance with any changed rates, terms, or conditions of service rendered on or after the effective date of such change.

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

12.04 Bills for service furnished during the preceding monthly billing period shall be processed and mailed to Customer no later than the fifth (5th) day of each month. Bills for service hereunder shall be paid on or before the fifteenth (15th) day of each month or on the next full work day should the 15th day fall on a Saturday, Sunday, or holiday. In the event the current monthly bill is not paid by its due date, Seller may discontinue delivery of electric power and energy hereunder upon fifteen (15) days written notice to Customer of its intention to do so. Simple interest equal to the prime rate then in effect per the Wall Street

Journal Money Rates section plus one percent monthly (1%) shall apply to any unpaid amounts from due date until paid. Any such discontinuance of service under this paragraph shall not relieve Customer of any of its obligations under this agreement. No provision of the agreement shall be construed or operate to deny Customer the right to appear before any administrative or legal tribunal to protest any rate adjustment proposed by Seller's wholesale power supplier.

13. CUSTOMER DEPOSIT

As security for payment of its monthly billing obligations, Customer shall provide Seller a cash deposit or other sufficient guaranty in an amount equal to two twelfths of the estimated billing for one year, plus an amount equal to the termination charge of Section 16. Seller may request additional payment security from Customer as monthly billing obligations increase, and may decrease the payment security as the termination charge decreases.

14. BILLING DEMAND

14.01 If the first day service is taken under this agreement is other than the first day of the month, the billing demand for that initial partial month shall be the maximum integrated thirty-minute demand during the current billing month, prorated on the basis of the total days service is taken in such month.

14.02 The billing demand for the twelve months following the partial month described in Section 14.01 shall be the larger of the minimum billing demand and the maximum integrated thirty-minute demand metered during the current billing month.

14.03 The billing demand for all months following the partial month described in Section 14.01 and the twelve months described in Section 14.02 shall be the larger of the minimum billing demand, and the maximum integrated thirty-minute demand metered during the current month or the previous eleven (11) billing months, except the months described in Sections 14.01 and 14.02 above.

14.04 The minimum billing demand of Customer during the term of this agreement is 501 kW per month.

14.05 The maximum contract demand of Customer during the term of this agreement, or any extension thereof, shall be 5,000 kW.

15. TERM OF AGREEMENT

15.01 This agreement shall remain in full force and effect for an initial term of ninety (90) days from the beginning of the first day service is taken under this agreement and shall automatically renew for successive thirty (30) day terms upon the same terms and

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conditions stated herein and in any amendment hereto, until terminated by either party giving the other party at least thirty (30) days written notice prior to the effective date of such termination.

15.02 This agreement shall not be assigned without the prior written consent of Seller, which consent will not be unreasonably withheld. Seller may withhold approval of a proposed assignment until, among other things, Seller has been provided with all information it may require regarding the proposed assignee, and until the proposed assignee has provided Seller with assurances of payment, if any, required by Seller.

15.03 Electric service shall begin under this agreement after this agreement is accepted, approved or otherwise becomes effective under Kentucky statutes or the rules of the Kentucky Public Service Commission and any state or federal agency or creditor whose approval of such agreement is required, and after the effective date of an amendment to Seller's wholesale power contract with Big Rivers Electric Corporation relating to the wholesale power service supporting this agreement, and after Seller is in receipt of a surety bond stipulating separately a value of \$66,338.00 as surety for the termination charge of Section 16, and a value equal to two twelfths of the estimated billing for one year under this agreement.

16. TERMINATION

Upon termination of this agreement for any reason, a termination charge shall be paid to Seller by Customer in an amount equal to \$66,338.00, the unamortized investment cost of installation of the 69,000 volt transmission line constructed by Seller to serve the facilities of Customer. The termination charge shall be reduced by \$.90 per kW for all kilowatts of electrical demand bought and paid for during the term of this agreement.

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17. FORCE MAJEURE

16.01 In the event either party is rendered unable, wholly or in part, by force majeure or uncontrollable forces to carry out its obligations, upon such party's giving written notice and reasonable full particulars of such force majeure or uncontrollable forces, in writing or by telegraph, to the other party within a reasonable time after the occurrence of the cause relied on, then the obligations, so far as and to the extent that they are affected by such force majeure or uncontrollable forces, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, insofar as possible, be remedied with all reasonable dispatch.

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16.02 The term "force majeure" as used herein, shall mean acts of God, strikes, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of government,

either federal or state, civil or military, civil disturbances, explosions, breakage or accident to machinery or transmission lines, inability of either party hereto to obtain necessary materials, supplies, or permits due to existing or future rules, regulations, orders, laws or proclamations of governmental authorities (either federal or state), including both civil and military, which are not reasonably within the control of the party claiming suspension.

16.03 This agreement shall not subject either party to consequential damages or damages for loss of anticipated profits.

18. REMEDIES OF THE PARTIES

Except as specifically provided for herein, nothing contained in this agreement shall be construed to limit or deprive either party of any means of enforcing any remedy, either at law or equity for the breach of any of the provisions of this agreement. Waiver at any time by either party of rights with respect to a default or any other matter arising in connection with this agreement shall not be deemed to be a waiver with respect to any subsequent default or matter.

19. NOTICES

Any notice, demand or request required or authorized under this agreement shall be served upon the other party in writing and placed in the mail, postage prepaid, or delivered to the other party at the following address:

To the Seller: Henderson Union Electric Cooperative
Post Office Box 18
Henderson, Kentucky 42420
Attention: President

To the Customer: C R Mining Company
3621 Highway 416 East
Henderson, Kentucky 42420

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

20. REPORTS AND INFORMATION

Each party hereto shall furnish to the other such reports and information concerning its operations as the other party may reasonable request from time to time.

21. SUCCESSION AND APPROVAL

This agreement shall be binding upon and inure to the benefit of the successors, legal representatives, and assigns of the respective parties hereto.

22. SURVIVAL

Invalidity of any portion of this agreement shall not affect the validity of the remainder thereof.

23. ENTIRE AGREEMENT AND VENUE

The terms, covenants and conditions herein contained constitute the entire agreement between the parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof, provided, however, that service to the Customer shall be subject to the provisions of Seller's articles of incorporation and bylaws and subject to the lawful orders of the Kentucky Public Service Commission. All respective rights and obligations of the parties hereto shall be governed by the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, as of the date and year first herein written.

HENDERSON UNION ELECTRIC COOPERATIVE

SELLER

BY:

John West
President

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C R MINING COMPANY

CUSTOMER

BY:

Dan G...
President

BY: Jordan C. Neal
FOR THE PUBLIC SERVICE COMMISSION

SURETY BOND

KNOWN ALL MEN BY THESE PRESENTS, THAT CR Mining, as PRINCIPAL, and Cumberland Surety Insurance Company, Inc., a corporation organized and existing under the laws of the State of Kentucky, and duly authorized to conduct and carry on a general surety business in the State of Kentucky, as SURETY, are each held and firmly bound unto the Henderson Union Electric Cooperative, 6402 Old Corydon Road, P.O. Box 18, Henderson, Kentucky 42420, as OBLIGEE, in the full and just sum of ONE HUNDRED THREETHOUSAND THREE HUNDRED AND THIRTY-EIGHT DOLLARS (\$103,338), lawful money of the United States of America, for the payment of obligations under Paragraph 13 not to exceed \$37,000, 15.03 not to exceed \$66,338.00, 16 of the Agreement for Purchase of Power, dated on or about June 30th 1997 by and between Henderson Union Electric Cooperative and CR Mining ("Agreement"), whereof well and truly to be made the said Principal and the said Surety hereby bind themselves, their respective heirs, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

A. WHEREAS Obligee Henderson Union Electric Cooperative caused a 69 kV transmission line to be constructed which serves Principal's facilities and the full investment cost is unamortized, and

B. WHEREAS under the rules and regulations of Henderson Union Electric Cooperative it is necessary for Principal to furnish security for the unamortized investment cost;

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NOW THEREFORE, the condition of this obligation is such that if the same Principal shall well and faithfully perform the obligations herein recited and contained in Paragraphs 13 not to exceed \$37,000, 15.03 not to exceed \$66,338 and 16 of the Agreement, to procure electric power, then the above obligations shall be null and void, otherwise to remain in full force and effect, and the Surety herein agrees to pay, within ten (10) days after written demand for payment by the Henderson Union Electric Cooperative, any amounts owed Henderson Union Electric Cooperative by Principal under the Agreement which are not paid when due.

THIS BOND IS ISSUED AND EXECUTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. That the surety company reserves the right to cancel this bond by giving sixty (60) days written notice by certified mail to the Henderson Union Electric Cooperative and on the effective date of such sixty (60) days cancellation notice, the Surety is discharged and relieved of any liability, it being understood and agreed, however, that the said Principal and said Surety will be liable for any loss occurring up to the effective date of said sixty (60) day cancellation notice, in no event, however, in excess of the penalty of this bond.

2. The Agreement is executed by Henderson Union Electric Cooperative and CR Mining and this bond shall be effective from and after the Agreement is executed, and shall remain in force until canceled as aforesaid, or until released in writing by the Obligee.

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BY: Jordan C. Noel
FOR THE PUBLIC SERVICE COMMISSION

IN WITNESS WHEREOF, the said Principal and the said Surety have duly executed or caused to be executed this bond the 30th day of June, 1997.

CR MINING COMPANY

BY: *DMG*
ITS: President

CUMBERLAND SURETY INSURANCE CO., INC.

BY: *Deborah A. Murphy*
ITS: Attorney-in-Fact
367 West Short Street
Lexington, Kentucky 40507

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BY: *Jordan C. Neil*
FOR THE PUBLIC SERVICE COMMISSION

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Cumberland Surety Insurance Company, Inc.

Lexington, Kentucky

16-004

POWER OF ATTORNEY

KNOW ALL OF THESE PRESENTS, the CUMBERLAND SURETY INSURANCE COMPANY, INC., a Kentucky Corporation, having its principal office in the City of Lexington, County of Fayette, State of Kentucky, does hereby make, constitute and appoint:

Craig H. Herbert, Sue H. McMillen, Deborah A. Murphy, Lucy Jayton Parks, William H.M. Patterson, Ernestine Stapleton

of Lexington, KY its true and lawful Attorney(s)-in-fact in their separate capacity if more than one is named above to make, execute, sign, seal and deliver for and on its behalf as surety and its act and deed (without power of redelegation) any and all bonds and undertakings and other writings obligatory in the nature thereof (except bonds guaranteeing the payment of principal and interest of notes, mortgage bonds and mortgages) provided the amount of no one bond or undertaking exceeds

***** One Million Two Hundred Fifty Thousand & No/100 ***** Dollars (\$ 1,250,000.00*****).

The execution of such bonds and undertakings shall be as binding upon said Cumberland Surety Insurance Company, Inc. as fully and to all intents and purpose as if the same had been duly executed and acknowledged by its regularly elected officers at its Home Office in Lexington, Kentucky.

In Witness Whereof, Cumberland Surety Insurance Company, Inc., has caused these presents to be signed by its Authorized Officer, this the 1st day of November, 1994.

CUMBERLAND SURETY INSURANCE COMPANY, INC.

State of Kentucky)
ss:
County of Fayette)



[Signature]

On this 1st day of November, 1994 before me, a Notary Public in and for the State of Kentucky, personally came William S. Patterson to me known, who acknowledged execution of the preceding instrument and being by me duly sworn, did depose and say, that he is President and Secretary of Cumberland Surety Insurance Company, Inc., that the seal affixed to said instrument is the corporate seal of Cumberland Surety Insurance Company, Inc.; that said corporate seal is affixed and their signatures subscribed to said instrument by authority and order of the Board of Directors of said Corporation.

In Testimony Whereof, I have hereunto set my hand at Lexington, Kentucky, the day and year first above written.



[Signature]
Notary Public
Kentucky State-at-Large
My Commission Expires: 11-21-98

This Power of Attorney is granted under and by authority of the following resolution adopted by the Directors of Cumberland Surety Insurance Company, Inc. on the 10th day of July, 1985.

Resolved, the President or Vice-President, in conjunction with the Secretary or any Assistant Secretary, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the company in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly acknowledged by the regularly elected Officers of the Company in their own proper person.

Now Therefore, the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney by a facsimile and any such Power of Attorney bearing such facsimile signatures or seal shall be valid and binding upon the Company

State of Kentucky)
ss:
County of Fayette)



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I, William S. Patterson of the Cumberland Surety Insurance Company, Inc. do hereby certify that the foregoing is a true and correct copy of a Power of Attorney, executed by said Cumberland Surety Insurance Company, Inc., which is still in full force and effect.

BY: [Signature]
FOR THE PUBLIC SERVICE COMMISSION

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Corporation at Lexington, Kentucky, this

day of June, 1997

CUMBERLAND SURETY INSURANCE COMPANY, INC.

[Signature]

SECRETARY