

STORE # 497

INDUSTRIAL POWER AGREEMENT

THIS AGREEMENT, made and entered into this 24 day of October, 1996, by and between SHELBY RURAL ELECTRIC COOPERATIVE CORPORATION, a Kentucky corporation with its principal offices at 620 Old Finchville Road, Shelbyville, Kentucky 40065, hereinafter referred to as the "Cooperative", and WAL-MART STORES, INC., an ~~Arkansas~~ ^{DELAWARE} corporation with its principal offices at 701 South Walton Boulevard, Bentonville, Arkansas 72716, hereinafter referred to as "Customer".

WITNESSETH:

WHEREAS, Cooperative is a rural electric cooperative providing retail electric service in Shelby County, Kentucky, and

WHEREAS, Cooperative is a member of East Kentucky Power Cooperative, Inc., hereinafter referred to as "EKPC" and purchases all of its wholesale electric power and energy from EKPC, and

WHEREAS, Customer is a member of Cooperative and desires to purchase all of its retail electric power and electric energy needs from Cooperative, Under the terms and conditions contained herein, to serve its Shelbyville store (hereinafter referred to as its "plant").

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties agree as follows:

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PURSUANT TO 807 KAR 5.011.
SECTION 9(1)

BY: Stephan D. Bell
SECRETARY OF THE COMMISSION

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P.S.C.
Rates & Research Div.

1. Term. This Agreement shall become effective as of the first opening day of the store, with an expected opening date of 4/1/97, subject to the provisions of Section 13.

This Agreement shall continue in effect for a term of five (5) years from said date and shall continue thereafter unless terminated by either party by providing written notice of such termination at least 90 days prior to the desired termination date.

2. Availability of Power. Subject to the other provisions of this Agreement, Cooperative shall make available to Customer, and the Customer shall take and purchase from Cooperative, all of Customer's requirements for firm power and energy for the operation of Customer's said plant under rate Schedule B1 or Schedule 2.

The "contract demand" under this Agreement for rate Schedule B1 shall be 500 kW up to a maximum of 1500 kW, subject to adjustment by Customer as provided hereinbelow. During periods when Customer is served under rate Schedule B1 only, contract demand may be increased, up to a maximum of 1500 kW, upon one month advance notice to Cooperative.

Customer shall then have the right to decrease said contract demand upon three months advance notice to Cooperative. Contract demand under Schedule B1 shall not be decreased below a minimum of 500 kW.

During periods when Customer is served under rate Schedule 2, the "contract demand" shall be 500 kW. Contract demand shall not be adjusted during such periods.

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SECTION 9 (1)

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The power and energy made available to Customer hereunder shall be delivered, taken, and paid for in accordance with the terms hereof and the tariff of the Cooperative, Schedule B1 or Schedule 2, as approved by the Kentucky Public Service Commission (the "P.S.C.") and as modified from time to time by appropriate authority, a copy of which is attached hereto and hereby made a part hereof. In the event of any conflict between the provisions of this Agreement and said tariff, the latter shall control.

3. **Conditions of Delivery.** The point of delivery for firm power and energy made available hereunder shall be the point at which Customer's facilities connect to Cooperative's facilities. The power and energy made available hereunder shall be in the form of 3-phase alternating current at a frequency of approximately 60 hertz and at a nominal voltage of 277/480Y. Regulation of voltage shall be within such limits as prescribed by the applicable rules and regulations of the P.S.C. Maintenance by Cooperative at said point of delivery of the above-styled frequency and voltage within the above-stated limits shall constitute availability of power for purposes of this Agreement. The power and energy taken by Customer hereunder shall be measured by meters and associated metering equipment to be or caused to be installed, operated, and maintained by Cooperative. None of such electric power and energy shall be resold to third parties.

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Neither Cooperative nor EKPC shall be obligated to provide or be responsible for providing protective equipment for Customer's lines, facilities, and equipment to protect against single phasing, low voltage, short circuits or any other abnormal system conditions, but Cooperative or EKPC, as the case may be, may provide such protective equipment as it deems necessary for the protection of its own property and operations. The electrical equipment installed by Customer shall be capable of satisfactory coordination with any protective equipment installed by Cooperative or EKPC.

4. **Electric Disturbances.** Customer shall not use the energy delivered under this Agreement in such manner as to cause electric disturbances which may be reasonably expected to (a) cause damage to or interference with Cooperative's system, systems connected with Cooperative's system, or facilities or other property in proximity to Cooperative's system, or (b) prevent Cooperative from serving other purchasers satisfactorily.

Cooperative may, at any time during the term of this Agreement, notify Customer of any such electrical disturbances and, before attempting to take any other action, shall afford Customer a reasonable time and opportunity, under the circumstances involved, to correct or suppress the disturbances. If Customer does not so correct or suppress the disturbances, then Cooperative may suspend or discontinue service.

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SECTION 9(1)

BY: Stephan Bee
SECRETARY OF THE COMMISSION

Any interruption of service which may become necessary by reason of this Section shall not relieve Customer from its obligation to pay Cooperative the minimum monthly charge as specified in the attached rate schedule.

5. **Right of Access.** Duly authorized representatives of the cooperative and/or EKPC shall be permitted to enter the Customer's premises at all reasonable times, with reasonable notice exercised in the case of emergencies, in order to carry out the provisions hereof.

6. **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 or by EKPC on or in the premises of the other party shall be and remain the property of the party owning and installing such equipment, apparatus, devices or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement, or any extension thereof, the owner thereof shall have the right to enter upon the premises of the other and shall within a reasonable time remove all or any portion of such equipment, apparatus, devices or facilities, unless otherwise agreed by the parties, or either party and EKPC, as applicable, at the time of such termination, provided the owner shall perform whatever restoration which is required for damage caused by said removal.

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OF KENTUCKY
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APR 01 1997

PURSUANT TO 807 KAR 5.011.
SECTION 9 (1)

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7. **Rates and Charges.** Customer shall pay Cooperative monthly for power and energy made available under this Agreement in accordance with the rates, charges, and provisions of Cooperative's effective standard tariff applicable to consumers of the same class as Customer, Schedule B1 or Schedule 2, as approved by the P.S.C. and as modified, replaced, or adjusted from time to time and approved by the P.S.C.

Customer shall be served under Cooperative's rate Schedule B1 effective on first opening day of store, with expected opening date of 4/1/97, and shall remain on said rate for at least one year. After this period, Customer may choose to move to Cooperative's rate Schedule 2 or to remain on Schedule B1, and may subsequently change from either rate schedule to the other, so long as Customer is still qualified for the chosen rate, gives cooperative at least three (3) months advance written notice of its to move to the other rate schedule, and remains on the chosen rate schedule for at least one year.

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APR 01 1997

8. **Payment of Bills.** Payment for electric power and energy furnished hereunder shall be due and payable at of Cooperative monthly in accordance with the applicable provisions of said Schedule B1 or Schedule 2. If Customer shall fail to pay any such bill as provided in said Schedules, or portion thereof which is not the subject of a good faith dispute, Cooperative may discontinue delivery of electric power and energy hereunder upon fifteen (15) days'

PURSUANT TO 807 KAR 5.011,
SECTION 9(1)
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written notice to Customer of its intention to do so, and Customer's failure to pay. Such discontinuance for non-payment shall not in any way affect the obligations of Customer to pay the minimum monthly charge provided in the attached rate schedule. All amounts unpaid when due and not subject to a good faith dispute shall be subject to a charge for late payment, as provided in the attached rate schedules, **as** applicable.

9. **Reduction in Cost of Service.** Cooperative is a non-profit Kentucky corporation and Customer will benefit from any savings or reductions in cost of service in the same manner as any comparable customer as authorized by the Kentucky Revised Statutes, and by Cooperative's Articles of Incorporation and Bylaws as now in effect; provided, however, the Cooperative's board of directors may defer retirement of so much of the capital credited to patrons for any year which reflects capital credited to the Cooperative by EKPC until EKPC shall have retired such capital credited to the Cooperative. Customer shall participate in capital credits in accordance with the Kentucky Revised Statutes and Cooperative's Articles of Incorporation and Bylaws.

10. **Notices.** Any written notice, demand or request required or authorized under this Agreement shall be deemed properly given to or served on Cooperative if mailed to:

Mr. Dudley Bottom, Jr.
Shelby RECC
620 Old Finchville Road
Shelbyville, KY 40065

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APR 01 1997

PURSUANT TO 807 KAR 5.011,
SECTION 9 (1)

BY: Stephan O'Beirne
SECRETARY OF THE COMMISSION

Any such notice, demand or request shall be deemed properly given or served on Customer if mailed to:

Ms. Mary Ricketts
Wal-Mart Stores, Inc.
701 South Walton Boulevard
Dept. 8042
Bentonville, AR 72716 Box 8702

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

11. Successors in Interest. The terms and conditions of this Agreement shall inure to and be binding upon the parties, together with their respective successors in interest.

Neither party may assign this Agreement to any other party, except that Cooperative may assign the Agreement to its rural Electrification Administration and/or any other lenders to Cooperative without such consent.

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APR 01 1997

12. Force Majeure. The obligations of either party to this Agreement shall be suspended during the continuance of any occurrence, beyond the affected party's control (a "force majeure"), which wholly or partially prevents the affected party from fulfilling such obligations, provided that the affected party gives notice to the other party of the reasons for its inability to perform within a reasonable time from such occurrence, is diligently seeking to cure said force majeure, and gives notice to the other party within a reasonable time after said cure. As used in this

PURSUANT TO 807 KAR 5.011.
SECTION 9 (1)
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section, the term force majeure shall include, but is not limited to: acts of God; strikes; wars; acts of a public enemy; riots; storms; floods; civil disturbances; explosions; failures of machinery or equipment; interruptions in power deliveries from Cooperative's power supplier; or actions of federal, state or local governmental authorities, which are not reasonably within the control of the party claiming relief.

Notwithstanding the above provisions, no event of force majeure shall relieve Customer of the obligation to pay the minimum monthly charge provided herein in the attached rate schedules.

13. **Approvals.** This Agreement is subject to any necessary approvals of EKPC, the Rural Utilities Service, any lenders to Cooperative and the P.S.C. PUBLIC SERVICE COMMISSION
OF KENTUCKY
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14. **Modifications.** Any future revisions or modifications of this Agreement shall be in writing signed by the parties hereto and also require the advance approval of any necessary approvals by the Rural Utilities Service, any supplemental lenders to the Cooperative, and the P.S.C. APR 01 1997
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SECTION 9 (1)
BY: Stewart D. Bue
SECRETARY OF THE COMMISSION
15. **Indemnification.** Without limiting any of Customer's obligations under the Agreement and to the fullest extent permitted by applicable law, Customer shall indemnify, defend and hold harmless Cooperative and its agents and employees, from and against any and all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of, resulting from or in

connection with (i) Customer's and its agents and employees acts or omissions and (ii) a breach of the Agreement by Customer. Without limiting any of Cooperative's obligations under the Agreement and to the fullest extent permitted by applicable law, Cooperative shall indemnify, defend and hold harmless Customer and its agents and employees, from and against any and all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of, resulting from or in connection with (i) cooperative 's and its agents and employees acts or omissions and (ii) a breach of the Agreement by Cooperative.

Notwithstanding anything to the contrary, neither party shall be responsible for consequential or incidental damages.

16. **Entire Agreement.** This Agreement sets forth the entire agreement of the parties with respect to the transaction contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

17. **Severability.** In the event that any provision in this Agreement is deemed to be void and/or unenforceable for any reason,, the balance of this Agreement shall remain valid and in full force and effect.

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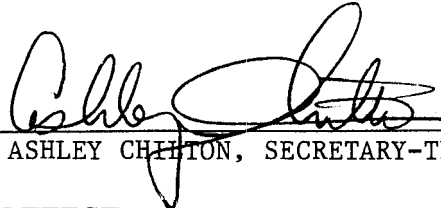
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PURSUANT TO 807 KAR 5:011.
SECTION 9(1)

BY: Stephan O Bell
SECRETARY OF THE COMMISSION

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, in six original counterparts, by their respective officers, thereunto duly authorized, as of the day and year first above written.

ATTEST:


ASHLEY CHILTON, SECRETARY-TREASURER

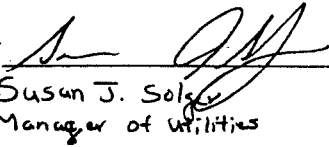
SHELBY RURAL ELECTRIC
COOPERATIVE CORPORATION

By 
JOE BUTLER, CHAIRMAN

ATTEST:


UTILITY COORDINATOR

WAL-MART STORES, INC.

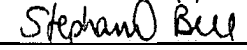
By 
Susan J. Solger
Manager of Utilities

(wal-mart)

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APR 01 1997

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SECTION 9(1)

BY: 
STEPHAN BUE
SECRETARY OF THE COMMISSION