

MAR 30 1993

**GAS PURCHASE AGREEMENT**

PUBLIC SERVICE  
COMMISSION

THIS AGREEMENT is made and entered into on this the 1<sup>st</sup> day of FEBRUARY, 1993 by and between **JEFFERSON GAS TRANSMISSION COMPANY, INC.**, a Kentucky corporation (hereinafter "Seller"), and **MOUNTAIN PARKWAY ECONOMIC DEVELOPMENT CORPORATION**, a Kentucky corporation (hereinafter "Buyer").

**WITNESSETH:**

**ARTICLE I**

**SUBJECT PREMISES AND RESERVATIONS BY SELLER**

1.1 The Seller hereby agrees to sell and deliver to Buyer natural gas during the period of one (1) year for all of the natural gas necessary to service the Whiting Manufacturing Company.

**ARTICLE II**

**TERM**

2.1 This Agreement shall go into effect upon the day of execution by the parties hereto. All rights hereunder shall continue for a term of one (1) year after the day of the first delivery of gas and for each year thereafter if the option to purchase is extended. Buyer has an option to renew this Agreement on an annual basis for twenty (20) years. The option to renew will be automatic unless Buyer does not take gas at the delivery point for a period of one (1) year, or the Buyer and Seller are unable to agree upon the price to be paid during any renewal term, either of which events shall cause a termination of this Agreement.

**ARTICLE III**

**DELIVERY**

3.1 Seller shall be deemed to be in control and possession of the gas hereunder until it shall have been delivered to Buyer at the delivery point herein designated, after which Buyer shall be deemed to be in control and possession thereof. Seller shall have no responsibility with respect to said gas after its delivery to Buyer or because of anything which may be done, happen, or arise with respect to said gas after delivery of said gas to Buyer, except as hereinafter provided for in Article V, in accordance with the terms and conditions of this Agreement. Seller assumes the full cost and expense, as well as full and complete liability and responsibility, for collecting, gathering, and transporting the gas to the delivery point hereunder at the quality hereafter specified.

**ARTICLE IV**

**WARRANTY; ADVERSE CLAIMS**

4.1 Seller warrants that it will at the time of delivery have good <sup>PUBLIC SERVICE COMMISSION</sup> right and title to the gas <sup>OF KENTUCKY</sup> delivered by it to Buyer, free and clear of all liens, encumbrances, and claims <sup>thereon</sup>; that it will at such time of delivery have good right and title to sell said gas as aforesaid.

APR 29 1993

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

BY: [Signature]  
PUBLIC SERVICE COMMISSION MANAGER

4.2 Neither this Agreement, nor anything herein contained, shall constitute an estoppel or otherwise prevent this Seller, or those under whom it claims, from claiming and maintaining that it or they own, have under lease, or otherwise have a claim to or demand against the gas produced and offered to Buyer for purchase.

## ARTICLE V

### QUALITY

5.1 All gas delivered by Seller to Buyer shall be commercially free from air, dust, gum, gum-forming constituents, harmful or noxious vapors, or other solid or liquid matter which might interfere with its merchantability or cause injury to or interfere with proper operation of the lines, regulators, meters and other equipment of Buyer. Should any of the above substance enter Buyer's facilities and cause damage to metering, regulating, and/or other equipment, Buyer may bill Seller for the cost to repair such damage; and if Seller fails to pay for such damage, such cost may be deducted from payments due Seller for gas delivered.

5.2 The gas delivered shall have a total heating value of not less than 1,000 British Thermal Units (BTU) per standard cubic foot. The total heating value of the gas shall be determined by taking samples of the gas at the delivery point at such reasonable times as may be designated by either party and having the BTU content per cubic foot determined by an accepted type calorimeter (or other suitable instrument) for a cubic foot of gas at a temperature of sixty (60) degrees Fahrenheit when saturated with water vapor and at an absolute pressure of 14.73 p.s.i. The initial and any subsequent BTU determinations shall be made by Buyer. The gas delivered is to be sold and taken in its natural state, without the previous extraction therefrom of any valuable substance.

5.3 If the gas delivered fails to meet the quality specifications set forth herein, then Buyer may either elect to continue to receive such gas or refuse to take all or any portion of such gas until the Seller brings the gas into conformity with such specifications.

## ARTICLE VI

### QUANTITIES

6.1 All quantities of gas which by the terms of this Agreement Buyer agrees to take are conditioned, contingent, and dependent upon the ability of Seller to deliver the required quantities of gas into Hazel Green's line against the varying pressures maintained therein from time to time.

## ARTICLE VII

### MEASUREMENT

7.1 The sales unit of the natural gas deliverable shall be one thousand cubic feet (MCF) of gas on the measurement basis as set forth in subsections 7.2 through 7.14 herein.

7.2 For the purpose of this Agreement, the unit of volumetric measurement shall be a standard cubic foot of gas at a pressure base of fourteen and seventy three hundredths (14.73) pounds per square inch absolute, a temperate base of sixty (60) degrees Fahrenheit (five hundred twenty (520) degrees absolute) and without adjustments for water vapor.

APR 29 1993

- 2 -

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

BY: George D. Hall  
PUBLIC SERVICE COMMISSION MANAGER

7.3 All said gas shall be measured by an orifice, turbine or displacement type meter or other approved measuring device of equal accuracy to be installed and operated by Buyer. The heating value of the natural gas shall be determined by Buyer at the beginning of deliveries and as often thereafter as necessary by using a suitably located and accepted recording calorimeter, calculating from compositional analysis, or by other mutually accepted methods.

7.4 For orifice meter measurements, the methods, of computation shall conform with the recommendations contained in Report No 3 of the Gas Measurement Committee of the American Gas Association, including any revision made thereto, applied in a practical manner. The specific gravity of the gas being measured shall be determined at the beginning of this delivery and as often thereafter as conditions warrant.

7.5 For displacement or turbine meters or other approved measuring device, the meter readings at varying pressures shall be converted to gas quantities at base conditions set forth in section 7.2 hereof.

7.6 In connection with the use of any type of measuring device, an atmospheric pressure of fourteen and four tenths (14.4) pounds per square inch shall be assumed, with no allowance for variation in atmospheric pressure. The flowing gas temperature may be recorded at the Buyer's discretion. In the absence of a flowing gas temperature recorded, sixty (60) degrees Fahrenheit will be assumed.

7.7 The cost of maintaining and operating said measuring station shall be borne by Buyer.

7.8 Seller shall read the meter, furnish, place, and remove any and all recording gauge charts, calculate the deliveries, and perform any other service necessary in connection with the measurement of said gas, without cost to Buyer.

7.9 If, upon any test, any measuring equipment is found to be in error, such errors shall be taken into account in a practical manner in computing deliveries. If the resultant aggregate error in the computed deliveries is not more than two percent (2%), then previous deliveries corrected in such a manner shall be considered accurate. All equipment shall, in any case, be adjusted at the time of test to record correctly. If, however, the resultant aggregate error in computed deliveries exceeds two percent (2%) at a recording corresponding to the average hourly rate of gas flow for the period since the last preceding test, previous recording of such equipment shall be corrected to zero error for any period which is known definitely or agreed upon, but in case the period is not known definitely or agreed upon, such correction shall be for a period extending over one half (1/2) of the time elapsed since the date of the last test, not exceeding a correction period of sixteen (16) days.

7.10 Failure of the Seller to correct promptly conditions within its control contributing to the inaccurate measurement of the gas, shall constitute sufficient grounds for Buyer to temporarily discontinue purchasing gas hereunder until such conditions have been corrected by Seller. Buyer may adjust computed deliveries to correct for inaccurate measurement caused by such conditions, but only where such inaccuracies exceed two percent (2%) of computed deliveries.

7.11 If Seller challenges the accuracy of any meter in use under this Agreement and requests to have the meter tested, Buyer shall test the meter in the presence of and to the satisfaction of Seller or a representative if Seller wishes to exercise the right to be present or represented at such test. If the meter on test shall prove to be accurate within

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

APR 29 1993

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

BY: Clay Diller  
PUBLIC SERVICE COMMISSION MANAGER

plus or minus two percent (2%), the cost of testing and repairing same shall be borne by the Seller, but if the meter on test proves to be in error by more than two percent (2%), then the cost of testing and repairing the same shall be borne by Buyer. Any resultant aggregate error exceeding two percent (2%) of computed delivery shall be adjusted, insofar as exact knowledge of such errors or contributing causes is obtainable. Such adjustments are to be made for a period not to exceed thirty (30) days previous to the date of the challenge by Seller.

7.12 In the event any measuring equipment is out of service for test or repair, or is inoperable for any reason, deliveries through such equipment shall be estimated in a practical manner utilizing all information to determine the volume of gas for the delivery period affected.

7.13 Upon written request from Seller, meter charts shall be forwarded to Seller for inspection, subject to return to Buyer within ten (10) days after receipt thereof. Buyer shall keep them on file for two (2) years after the date of delivery, during which time they will be open for inspection by authorized parties at any and all times.

7.14 Considering the possibility of inadvertent errors to measurement of calculation of amounts due and payable or paid, nothing herein contained shall constitute accord and satisfaction, waiver, release, full payment, satisfaction, laches, estoppel, or other defense to a claim by or against the Seller or Buyer for the true and actual amount accurately due and payable, for the full period of one (1) year in arrears. Errors in Buyer's favor shall be rectified in full, without interest, by Buyer within ninety (90) days of notice and substantiation of such inaccuracy. Errors in Seller's favor shall be rectified in full, without interest, by Seller within ninety (90) days of notice and substantiation of such inaccuracy or, at Buyer's option, such error may be rectified by Buyer withholding 100% of emoluments accruing to Seller, or its benefit, under this Agreement until the error is corrected in full.

## ARTICLE VIII

### DELIVERY POINT

8.1 The installation of an additional measuring station or stations may be required for the sale and delivery of gas hereunder for the correct computation of volumes purchased. Buyer or its designee will install, operate, and maintain such stations at its sole cost and expense. The Daysboro plant meter (located near Seller's six inch (6") natural gas pipeline on Highway 191 in Hazel Green, Kentucky) operated by Seller will be tested for accuracy in a mutually acceptable manner.

## ARTICLE IX

### PAYMENTS

9.1 Payments for all gas delivered shall be made monthly to Seller not later than Twenty (20) days after receipt of payment by Buyer from its customer or its designee. There will be a ten percent (10%) penalty for late payment.

9.2 Although the terms of this Agreement extend to and are binding upon all parties to it, their respective heirs, successors, personal representatives and assigns, in no event will Buyer issue, or be required to issue, more than one (1) monthly check in payment of the emoluments hereunder.

APR 29 1993

- 4 -

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

BY: [Signature]  
PUBLIC SERVICE COMMISSION MANAGER

9.3 If, at any time, more than one (1) person, party, or entity becomes entitled to payment hereunder for the emoluments hereunder, Buyer may withhold such payment without interest, unless and until Buyer is furnished by Seller with the necessary documentation (properly executed and acknowledged by all necessary parties) designating an agent to receive such payment, for all parties interested in such payment.

## ARTICLE X

### PRICE

10.1 Except as otherwise herein provided, for each MCF delivered and sold to Buyer hereunder during each calendar month of the first (1st) year of this Agreement, Buyer shall pay to Seller a price of Three and 91/100 Dollars (\$3.91) per MCF. Within ninety (90) days prior to any annual renewal term, Buyer and Seller shall negotiate the price to be paid during said annual renewal term. In the event Buyer and Seller are unable to agree upon the price to be paid, this Agreement shall terminate upon expiration of the then current term.

10.2 Seller and Buyer shall each pay all taxes of every kind as respectively assessed to or levied on each, without right of contribution by the other. Neither the price to be paid for gas nor any other provision of this Agreement shall be affected by an increase or decrease in the rate or amount or the repeal of an existing tax imposed on either party, by the enactment of a new tax, or by the subsequent application hereto of any existing tax. It is further understood that Seller has the responsibility to make severance tax payments to the Commonwealth of Kentucky pursuant to Chapter 143A of the Kentucky Revised Statutes, and that no right of contribution or reimbursement against Buyer shall arise as a result of failure to make severance tax by the Seller. However, Buyer shall have the duty to withhold said severance tax from the monthly payment from Buyer to Seller and to file and pay from the amount withheld the severance taxes due.

## ARTICLE XI

### COMPRESSION

11.1 Any compression needed to deliver the gas from the wells to the initial point of delivery into the Buyer's lines shall be provided at Seller's expense. Any compression necessary after satisfactory delivery unto Buyer's lines shall be provided by the Buyer or its designee.

## ARTICLE XII

### GOVERNMENTAL REGULATION

12.1 Seller will comply with all governmental regulations to which it may be subject.

## ARTICLE XIII

### FORCE MAJEURE

13.1 In case either party to this Agreement fails to perform any obligation hereunder assumed by it and such failure is due to acts of God or public emergency, riots, injunctions or other interference through legal proceedings, breakage or accident to machinery or lines or pipe, washouts, earthquakes, storms, freezing of lines or wells,

PUBLIC SERVICE COMMISSION

OF KENTUCKY  
EFFECTIVE

APR 29 1993

blowouts, the failure of the well or wells in whole or in part, or the compliance with any statute, either state or federal, or with any order of the federal government or any branch thereof, or of the government of the state wherein the subject well or wells is situated, or to any causes not due to the fault of such party, or machinery or lines of pipe, such failure shall not be deemed to be a violation by such party of its obligations hereunder, but such party shall use due diligence to again put itself in position to carry out all of the obligations which by the terms hereof it has assumed.

#### ARTICLE XIV

#### NOTICES

14.1 Any notice or other communication required or desired to be given to any party under this Agreement shall be in writing and shall be deemed given when deposited in the United States mail, certified or Express Mail postage prepaid, return receipt requested, addressed to that party at the address specified for that party at the beginning of this Agreement or at any other address hereafter designated by that party in notice to the party giving notice.

#### ARTICLE XV

#### PARTIES BOUND

15.1 All the covenants, conditions, and obligations of this Agreement shall extend to and be binding upon the successors and assigns of the parties to it, and shall be in the nature of covenants running with the said dedicated acreage, leases, wells, and pipelines for the full term hereinabove set forth.

#### ARTICLE XVI

#### BUYER'S PLEDGE OF CONTRACT RIGHTS

16.1 It is agreed that all of the Buyer's rights and equities under this contract may be and the same are hereby pledged to the USDA, FmHA as security for a loan FmHA proposes to make to Buyer to finance the construction of a gas distribution line.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto and their seals affixed all as of the date and year first above written.

SELLER

JEFFERSON GAS TRANSMISSION  
COMPANY, INC.

By: Ken Barber  
Its: President

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

APR 29 1993

- 6 -

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

BY: Clayton Sallee  
PUBLIC SERVICE COMMISSION MANAGER

BUYER

MOUNTAIN PARKWAY ECONOMIC  
DEVELOPMENT CORPORATION

Sid Stewart

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

STATE OF KENTUCKY

COUNTY OF Booth

Subscribed, sworn, and acknowledged to before me on this the 31<sup>st</sup> day of January, 1993 by Ken Bahen, President of Jefferson Gas Transmission Company, Inc.

Melissa Strong  
NOTARY PUBLIC

My Commission Expires: 3/2/93

STATE OF KENTUCKY

COUNTY OF MORGAN

Subscribed, sworn, and acknowledged to before me on this the 26<sup>th</sup> day of January, 1993 by Sidney Lewis, \_\_\_\_\_ of Mountain Parkway Economic Development Corporation.

Suedex Seeger  
NOTARY PUBLIC

My Commission Expires: 11-1-96

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

APR 29 1993

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

BY: Sharon Keller  
PUBLIC SERVICE COMMISSION MANAGER