

FILED

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AGREEMENT

PUBLIC SERVICE
COMMISSION

THIS AGREEMENT made and entered into this the 5th day of October, 1987 by and between Delta Natural Gas Company, Inc., a Kentucky corporation ("Delta") and Cumberland College, Inc. of Kentucky, a non-profit educational religious institution of Williamsburg, Kentucky ("Cumberland").

W I T N E S S E T H:

THAT, WHEREAS, Cumberland has agreed to purchase certain quantities of natural gas from Delta Petroleum, Inc. ("Delta Petroleum") and Delta Petroleum has agreed to sell the same to Cumberland; and

WHEREAS, Cumberland desires to have said quantities of natural gas purchased from Delta Petroleum transported and delivered to it in Williamsburg, Kentucky by Delta; and

WHEREAS, Cumberland, subject to the terms and conditions set forth herein, may from time to time require quantities of natural gas in excess of or in addition to the quantities purchased from Delta Petroleum and accordingly desires to purchase same from Delta; and

WHEREAS, Delta, subject to the terms and conditions set forth herein, desires to transport and deliver to Cumberland that quantity of natural gas purchased by Cumberland from Delta Petroleum and delivered by Delta Petroleum to certain designated Delivery Points and Delta likewise desires to sell and deliver to Cumberland those quantities of natural gas in excess of or in addition to the Delta Petroleum quantities that Cumberland may from time to time require during the term hereof,

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NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I. TERM.

Subject to the terms and conditions herein, this Agreement shall commence November 25, 1987 and continue in full force and effect for a period of one year.

ARTICLE II. DEFINITIONS.

Unless this Agreement provides otherwise, the following definitions shall apply:

2.1. "Natural gas" or "gas" shall mean any mixture of hydrocarbons or hydrocarbons and noncombustible gases in a gaseous state, consisting essentially of methane.

2.2. "Delivery Points" shall mean those existing delivery points at the interconnection of the facilities of Delta and Delta Petroleum in Whitley County, Kentucky, and at such other delivery points as may hereafter be agreed to by Delta.

2.3. "Delta Petroleum Contract Quantities" shall mean that amount or quantity of natural gas purchased by Cumberland from Delta Petroleum and delivered by Delta Petroleum to Cumberland (or accepted by Delta on behalf of Cumberland) at the Delivery Points.

2.4. "Excess Quantities" shall mean that amount or quantity of natural gas sold by Delta to Cumberland in excess of or in addition to the Delta Petroleum Contract Quantities.

2.5. "Mcf" shall mean the quantity of gas occupying a volume of one thousand (1,000) cubic feet at a pressure base of 14.73 pounds per square inch absolute (14.73 psia) and a temperature base of 60° Fahrenheit (60° F.).

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ARTICLE III. TRANSPORTATION AND DELIVERY OF DELTA PETROLEUM CONTRACT QUANTITIES.

3.1. Subject to the provisions of Article VIII hereof, Delta shall accept from Delta Petroleum on behalf of Cumberland all daily Delta Petroleum Contract Quantities, up to a daily maximum of 300 Mcf and a maximum of fifty thousand (50,000) Mcf during the term of this Agreement, which are delivered by Delta Petroleum to the Delivery Points. Such Contract Quantities may be increased after written notice of such requested increase is furnished to Delta by Cumberland at least thirty (30) days prior to the date such increase is needed, and then only upon mutual agreement of the parties hereto.

3.2. Delta shall transport and deliver to Cumberland in Williamsburg, Kentucky, natural gas in quantities which are equivalent to the Delta Petroleum Contract Quantities (minus two percent (2%) for line loss).

ARTICLE IV. SALE AND DELIVERY OF EXCESS QUANTITIES.

Delta shall sell and deliver to Cumberland in Williamsburg, Kentucky, Excess Quantities of natural gas which Cumberland may from time to time require.

ARTICLE V. PRICE.

For all quantities of natural gas delivered by Delta to Cumberland under the terms of this Agreement, Cumberland shall pay Delta as follows:

- (a) For all quantities of natural gas transported or delivered by Delta to Cumberland under the terms of this Agreement which are equal to or less than the

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Gas Company, Inc. shall be made by Cumberland by mailing same within fifteen (15) days after receipt of the bill. Cumberland, additionally, agrees to pay a late charge at the rate of one and one half percent (1½%) per month of any outstanding balance which is due Delta under the terms of this Agreement and which is not paid by Cumberland within the time periods previously set forth.

ARTICLE VIII. QUALITY.

8.1. The gas delivered hereunder by Delta Petroleum to Delta shall at all times be merchantable and shall be free from gasoline, oil, water, salt, gum dust and other foreign substances that might interfere with the marketability of the gas. The gas delivered by Delta Petroleum shall contain not less than 1,000 BTU per cubic foot (as determined by calorimeter tests at 60° Fahrenheit and saturated with water vapor), and a utilization factor of 1,300 plus or minus 6% (U.F. = heating value [BTU] divided by the square root of the specific gravity). The gas delivered shall not contain more than:

- (a) Seven (7) pounds of water per million cubic feet measured at 14.7 psi and 60° F on an approved dew point apparatus;
- (b) Three percent (3%) by volume of carbon dioxide;
- (c) Twenty-five hundredths (0.25) grains of hydrogen sulfide per one hundred (100) cubic feet; or
- (d) Ten (10) grains of total sulphur per one hundred (100) cubic feet.

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8.2. The requirement that Delta Petroleum tender natural gas to Delta in conformity with the foregoing specifications is a condition precedent to the performance by Delta of any obligation imposed by this Agreement.

ARTICLE IX. MEASUREMENT.

9.1. Meter(s) and other related equipment installed and maintained by or on behalf of Delta shall be the exclusive method and means of determining the quantity of gas delivered to Cumberland or to Delta on behalf of Cumberland. Reading, calibration and adjustment of Delta's meter(s) and related measurement equipment shall be performed solely by Delta using generally accepted procedures. Delta shall read said meters at regular intervals and the cost of reading, calibrating, adjusting and otherwise maintaining said meter(s), excluding repair of damage caused by Cumberland or Delta Petroleum, shall be borne by Delta. Delta shall test the accuracy of any meter in use under this Agreement at regular intervals during the term of this Agreement. Delta shall notify Cumberland of each meter test not less than ten (10) days before said test so that Cumberland, if it wishes, may be present at said test.

9.2. If either Cumberland or Delta challenges the accuracy of any meter in use under this Agreement and requests to have the meter tested, Delta shall test the meter in the presence of Cumberland or its representatives if Cumberland exercises the right to be present or represented at such test. If the meter on test shall prove to be accurate within plus or minus two

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percent (2%), the cost of testing the same shall be borne by the party requesting the test, 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 the party who benefited from the inaccuracy. Meter measurements found to be in error more than two percent (2%) shall be corrected and accounts adjusted accordingly.

ARTICLE X. DELIVERY POINTS AND TITLE.

10.1. Delta Petroleum Contract Quantities. The points of delivery from Delta Petroleum to Cumberland shall be at those Delivery Points herein described in Article II. Title to the Delta Petroleum Contract Quantities shall pass from Delta Petroleum to Cumberland at such Delivery Points; provided, however, that Delta shall be in control and possession thereof from the time the Delta Petroleum Contract Quantities pass such Delivery Points until the time the Delta Petroleum Contract Quantities less 2% retainage are redelivered to Cumberland at the point of interconnection between the facilities of Delta with the metering facilities of Cumberland ("Redelivery Point").

10.2. Excess Quantities. The title to the Excess Quantities of natural gas sold by Delta to Cumberland hereunder shall pass to Cumberland at the Redelivery Point.

10.3. After delivery of the Excess Quantities of natural gas sold by Delta to Cumberland hereunder and the Delta Petroleum Contract Quantities at the Redelivery Point, Cumberland shall be deemed in exclusive control and possession thereof and,

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as between the parties hereto, shall be responsible for any loss of gas or damage, claim, liability or injury caused thereby.

ARTICLE XI. TAXES AND FRANCHISE FEES.

Delta may collect from Cumberland any taxes and franchise fees, including, but not limited to, sales tax, school tax and gross receipts tax, which, by law, may be collected from Cumberland whether such tax is now in existence or hereinafter promulgated or applied and such taxes shall be in addition to the price set forth in Article V of this Agreement, all as set forth in Delta's tariffs on file at the PSC.

ARTICLE XII. FORCE MAJEURE.

In case any party to this Agreement fails to perform any obligations hereunder assumed by it and such failure is due to acts of God or a public enemy, strikes, riots, injunctions or other interference through legal proceedings, breakage or accident to machinery, equipment or pipe, washouts, earthquakes, storms, freezing of lines or wells, blow-outs, 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 Commonwealth of Kentucky, or to any causes not due to the fault of such party, or is caused by the necessity for making repairs or alterations in machinery, equipment or lines of pipe, such failure shall not be deemed to be a violation by such party of its obligations hereunder, but such parties 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.

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ARTICLE XIII. GOVERNMENTAL REGULATION.

13.1. This Agreement shall be subject to all applicable and valid statutes, rules, orders and regulations of any federal, state or local governmental authority or agency having jurisdiction over the parties, or Delta Petroleum, their facilities or gas supply, this Agreement or any provision thereof. The parties agree that should any state, federal or local governmental authority or agency with jurisdiction over this Agreement or transactions herein require approval for the delivery or sale of gas hereunder, then each party shall make all necessary applications or filings and shall submit any records or data required by such governmental authority or agency.

13.2. Delta shall not be liable for failure to perform hereunder if such failure is due to compliance with rules, regulations, laws, orders or directives of any state, federal or local governmental regulatory authority or agency. If at any time during the term of this Agreement, any federal, state or local governmental authority, agency or regulatory body shall take any action whereby Delta will be prohibited or prevented from receiving in full all amounts and moneys which Cumberland has agreed to pay Delta or Delta shall be subject to terms, conditions or restraints that in the judgment of Delta are unduly burdensome, Delta, upon fifteen (15) days written notice to Cumberland, may cancel and terminate this Agreement.

13.3. Nothing in this Agreement shall prevent either party from contesting the validity of any law, order, rule, regulation

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ARTICLE XVII. SUCCESSORS.

Subject to the terms and conditions of this Agreement, this Agreement shall extend to and be binding upon the successors, heirs and assigns of the parties hereto.

ARTICLE XVIII. WAIVER.

A waiver by either party of any one or more defaults by the other in the performance of any provision of this Agreement shall not operate as a waiver of any future default.

ARTICLE XIX. SEVERABILITY.

Except as otherwise provided herein, any provision of this Agreement declared or rendered unlawful by a statute, court of law or regulatory agency with jurisdiction over the parties or either of them shall not otherwise affect the other obligations of the parties under the Agreement.

ARTICLE XX. HEADING.

The headings of the provisions of this Agreement are used for convenience only and shall not be deemed to affect the meaning or construction of such provisions.

ARTICLE XXI. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties and there are no promises, agreements, warranties, obligations assurances or conditions other than those contained herein.

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BY: *B. Jones*

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this the day and year first above written.

DELTA NATURAL GAS COMPANY, INC.

By: Glenn R. Jennings
Title: President

CUMBERLAND COLLEGE, INC. OF KENTUCKY

By: Jan H. [Signature]
Title: President

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BY: [Signature]