

Reserve Capacity Agreement

This Reserve Capacity Agreement ("Agreement") is made and entered into as of the 28th day of JUNE, 2004 ("Effective Date") by and between **The Union Light Heat & Power Company ("ULH&P" or "Company")**, a corporation organized and existing under the laws of the Commonwealth of Kentucky, and the **Sanitation District No. 1**, a sanitation district organized pursuant to Kentucky Revised Statutes, Chapter 220 with facilities at 212 Pike Street, Bromley, Kentucky ("Customer") (each a "Party" and collectively the "Parties").

WHEREAS, Customer is currently being provided electric service by Company through a single electric service connection pursuant to Company's KY. P.S.C. Electric No. 4, on file with the Kentucky Public Service Commission (KyPSC) and as amended from time to time ("Electric Tariff"); and

WHEREAS, Customer desires that Company provide Customer with an additional electric service connection of 12,470 Y / 7,200 volts (Supplemental Service); and

WHEREAS, Customer and Company are contemporaneously entering into a Supplemental Service Agreement under which Company shall construct and maintain the facilities to provide such Supplemental Service; and

WHEREAS, the Customer desires that Company reserve **1,000 kilo-Watts (kW)** of capacity on its distribution facilities that will provide such Supplemental Service ("Reserve Capacity Service"); and

WHEREAS, the purpose of the Supplemental Service and Reserve Capacity Service is to provide an alternate source of electric service to Customer's service transformer(s) in the event of the failure of the Company's primary source of supply to said transformer(s); and

WHEREAS, Company is willing to provide such limited Reserve Capacity Service to Customer, subject to the terms and conditions of this Agreement;

NOW THEREFORE, the Parties agree as follows:

1. Reserve Capacity. Company shall reserve on Customer's behalf **1,000 kW** of capacity on its distribution facilities that are interconnected to the Supplemental Service facilities in accordance with the terms, conditions and limitations set forth herein ("Reserve Capacity Amount").
2. Fees The Customer shall pay a one-time charge of **\$ 0.00** for costs associated with the provision of Reserve Capacity Service under this Agreement. The Customer shall also pay a monthly fee (Monthly Fee) equivalent to the Reserve Capacity Amount times the distribution demand charges set forth in Company's Electric Tariff, rate schedule Rate D1 for the Term of this Agreement or until such time, if any, that Customer determines that additional
3. Reserve Capacity is required. This Monthly Fee shall initially be **\$3,250.00** and shall be subject to change if and when a change in Company's retail electric base rates is approved by

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
08/15/2004
PURSUANT TO 397 KAR 5:011

the KyPSC. In such event, Company will notify Customer of the new monthly fee thirty (30) days prior to imposing the new fee. The Monthly Fee shall become effective either on the date that the Supplemental Service meter is installed by the Company or 60 days after the Company has completed the installation of the Supplemental Service facilities, whichever date occurs first.

4. Additional Reserve Capacity. In the event that either Party reasonably determines that Customer requires additional Reserve Capacity above the Reserve Capacity Amount, such Party may terminate this Agreement in accordance with Paragraph 8 herein. In the event of such termination, the Parties shall work in good faith to develop a replacement agreement that reflects the increased level of desired Reserve Capacity and the appropriate facilities required to provide the service.
5. Limitations on Service. Company shall make reasonable provisions to supply Reserve Capacity Service, but does not guarantee a constant or uninterrupted supply of electricity from the primary or Supplemental Service sources. Moreover, Company shall not be liable for any damage or claim of damage attributable to any interruption or reversal of service caused by accident or casualty, extraordinary action of the elements, action of any governmental authority, or by any other cause which Company could not have reasonably foreseen and made provisions against, unless due to the gross negligence or intentional misconduct of Company.
6. Excess Demand. Company does not guarantee or warranty that the Reserve Capacity Service will be available beyond the Reserve Capacity Amount level. If Customer's Supplemental Service demand exceeds the Reserve Capacity Amount, Customer shall immediately implement a curtailment plan to reduce its peak electric demand by curtailing non-essential load or by utilizing some other means to obtain an imposed loading of the Reserve Capacity Amount or less.
7. Limitation of Liability / Indemnification. The Company shall not be held responsible by the Customer for any interruption or damages attributed to the Customer's failure to conform to the Reserve Capacity Amount demand limit. Moreover, the Customer shall be held responsible for damages to Company property in the event Customer fails to conform to the Reserve Capacity Amount limit. Further, Customer shall hold Company harmless and shall indemnify Company from and against any and all damage to adjacent customers' property supplied from the same facilities as Customer, to the extent such damage results from Customer's failure to conform to the Reserve Capacity Amount demand limit. In the event Company finds that Customer is not complying with the terms of this Agreement, Company reserves the right to terminate this Agreement, disable the Reserve Capacity Service and/or remove the Supplemental Service facilities. Company will send written notice twenty-four (24) hours prior to such action being taken.
8. Changes in Facilities. If during the Term of this Agreement, Customer requests Company to temporarily or permanently relocate, rearrange, or alter any or all of the facilities required to provide Reserve Capacity Service, and Company agrees to do so, which agreement shall not

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
08/15/2004
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

be unreasonably withheld, Customer shall reimburse Company for all reasonable, necessary and documented costs associated therewith.

9. Term and Termination. The term of this Agreement shall begin on the Effective Date and be for a period of five (5) years therefrom and shall remain in force, thereafter, until terminated by either Party giving the other Party sixty (60) days advanced written notice of its intent to terminate the Agreement. Notwithstanding the foregoing, this Agreement shall terminate upon the termination, cancellation or expiration of the Supplemental Service Agreement between The Union Light Heat & Power Company and the Sanitation District No. 1 dated June 28, 2004 ("Supplemental Service Agreement"). Upon termination of this Agreement, the Company may remove any affected facilities.
10. Preventative Maintenance and Testing. Company shall continue a reasonable preventive maintenance and testing program to reasonably ensure that all related equipment remains in operating condition.
11. Tariffed Electric Service. Company shall provide electric service to Customer in accordance with ULH&P's Electric Tariff, except as otherwise set forth in this Agreement.
12. Regulatory Approvals. This Agreement is subject to KyPSC jurisdiction and approval. Any petitions and filings shall be the responsibility of the Company. Company shall notify the Customer when Company makes the required filing at the KyPSC, and shall notify the Customer of any KyPSC Order issued with respect to this Agreement.
13. Assignment. Neither Party shall assign any of its rights nor delegate any of its duties under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of any and all successors or assigns of the Parties.
14. Entire Agreement. This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and supersedes all prior or contemporaneous understandings, statements or agreements between the Parties on such subject matter with the exception of the Supplemental Service Agreement (together with this Agreement, the "Agreements"). In the event of any conflict between this Agreement and the Supplemental Service Agreement, the Supplemental Service Agreement shall control. Each Party acknowledges and agrees that no employee, officer, agent or representative of the other Party has the authority to make any representation, statements or promises in addition to or in any way different that those contained in the Agreements, and that it is not entering into the Agreements in reliance upon any representation, statements or promises in addition to or in any way different than those contained in the Agreements, and that it is not entering into the Agreements in reliance upon any representation, statement or promise of the other party except as expressly stated in the Agreements.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
08/15/2004
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By  _____
Executive Director


15. Governing Law. This Agreement, the construction of this Agreement, all rights and obligations between the Parties to this Agreement, and any and all claims arising out of or relating to the subject matter of this Agreement (including tort claims), shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Kentucky without giving any effect to any conflict of law doctrine.
16. Interpretation. Both Parties have had the opportunity to have this Agreement reviewed by counsel; therefore, neither Party hereto shall be construed as the drafter hereof.
17. Amendments. No modification, amendment, supplement to or waiver of this Agreement or any of its provisions shall be binding unless made in writing and duly signed by the Party to be obligated by, or to perform, such modification.
18. No Waiver of Rights. A failure or delay of either Party to exercise any right or remedy under this Agreement shall not operate to impair, limit, preclude, cancel, waive or otherwise affect such right or remedy.
19. Severability. If any provision under this Agreement shall be invalid or unenforceable with respect to either Party, the remainder of this Agreement shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
20. Notices. All notices to be given hereunder, unless expressly provided otherwise herein, shall be given in writing to the Parties at the addresses appearing herein below and will be effective upon actual receipt:

To Customer:
 Sanitation District No. 1
 Attn: General Manager
 1045 Eaton Drive
 Ft. Wright, Kentucky 41017

To Company:
 The Union Light Heat & Power Company
 Attn: Field Customer Service
 7200 Industrial Rd
 Florence, KY 41042

21. Headings. The headings used in the paragraphs in this Agreement are only for the reference of the Parties and shall have no meaning in the interpretation of any of the provisions herein.
22. Alternative Dispute Resolution. If a dispute arises between the Parties relating to this Agreement, the Parties agree to use the following Alternative Dispute Resolution ("ADR") procedure prior to either Party pursuing other available remedies:
 - a) The aggrieved Party shall send a written notice to the other Party describing the dispute.

PUBLIC SERVICE COMMISSION
 OF KENTUCKY
 Bureau ("ADR")
 08/15/2004
 PURSUANT TO 807 KAR 5:011
 SECTION 9 (1)

By 
 Executive Director

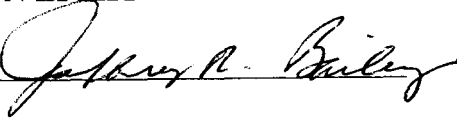
- b) Within fifteen (15) days after receipt of such notice, a meeting, teleconference or videoconference, upon agreement of the Parties, shall be held between the Parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate resolution of the dispute.
- c) If, within thirty (30) days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the Parties to act as a mediator ("Neutral"). If the Parties are unable to agree on the Neutral within ten (10) days after expiration of the thirty (30) day period, they shall seek assistance in such regard from CPR Institute for Dispute Resolution, Inc. ("CPR"). The fees of the Neutral and all other common fees and expenses shall be shared equally by the Parties.
- d) The mediation may proceed in accordance with CPR's Model Procedure for Mediation of Business Disputes, or the Parties may mutually establish their own procedure.
- e) The Parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution of the dispute within twenty (20) days following the mediation, the, upon seven (7) days' written notice to the other Party, either Party may immediately seek other remedies available to it in law and equity.
- f) All ADR proceedings shall be strictly confidential and used solely for the purposes of settlement. Any materials prepared by one Party for the ADR proceedings shall not be used as evidence by the other Party in any subsequent litigation; provided, however, the underlying facts supporting such materials may be subject to discovery, and used as evidence in any subsequent litigation.
- g) Each Party fully understands its specific obligations under the ADR provisions of the 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 proceedings.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
08/15/2004
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

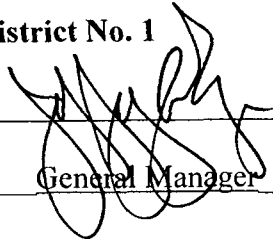
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their respective officers, thereunto duly authorized.

THE UNION LIGHT HEAT & POWER COMPANY

By: 

Title: Manager, Pricing

Sanitation District No. 1

By: 

Title: General Manager

**PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
08/15/2004
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)**

By: 
Executive Director