

Backup Delivery Point Capacity Agreement

This Backup Delivery Point Capacity Agreement ("Agreement") is made and entered into as of the 1st day of May, 2017 ("Effective Date") by and between Duke Energy Kentucky, Inc. ("Company"), a corporation organized and existing under the laws of the Commonwealth of Kentucky, and **Kenton County Airport Board**, a **Kentucky Municipal** corporation with facilities at **the Cincinnati/Northern Kentucky International Airport ("CVG")** ("Customer") (each a "Party" and collectively the "Parties").

WHEREAS, Customer is currently being provided electric service by Company through electric service connection(s) ("Principal Service(s)") to the Customer's location at the CVG Centre, 77 Comair Boulevard, Erlanger, KY ("Service(s) Location") pursuant to Company's KY.P.S.C Electric No. 2 on file with the Kentucky Public Service Commission ("Commission") and as amended from time to time ("Electric Tariff"), and

WHEREAS, the Customer desires that Company maintain redundant service to Customer and reserve capacity on its distribution facilities with Automatic Throw-Over Capabilities ("ATO") and/ or Customer operated manual tie capabilities ("COMT") that will provide backup electric service in the event of an outage and/or disruption of a Principal Service ("Reserve Capacity Service(s)"); and

WHEREAS, the purpose of this Reserve Capacity Service is to provide an alternate source of electric service, other than the Principal Service to Customer's Service Location in the event of the failure of one of the Principal Service(s);

WHEREAS, the Customer desires reliable Principal Service via Reserve Capacity Service and regular communications with Company in the service, repair, and maintenance of Company electric service connections and infrastructure that directly provides Principal Service to Customer facilities; 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 [REDACTED] of capacity as Reserve Capacity Service on the Company's distribution facilities that are interconnected to the Customer's Service(s) Location in accordance with the terms, conditions and limitations set forth herein ("Reserve Capacity Amount") and pursuant to the Multiple Feed Customer Information and Switching Procedure ("Multiple Feed Customer Information and Switching Procedure") as set forth in Exhibit A.

- a. Reserve Capacity Amount Allotment. The Parties agree that Company provides Principal Service to Customer through [REDACTED] (Distribution Points). Company shall provide Reserve Capacity Service from each

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of the Distribution Points in the event of a loss of only one Principal Service as more fully described in Exhibit A.

- b. Switching Procedures. If a Switching Procedure is not available or agreed to at the time of execution of this Agreement, Company and Customer shall develop and agree upon such Switching Procedure within 180 days of execution of this Agreement and will follow the Interim Switching Procedure described below until such time as the Switching Procedure is completed. Such Switching Procedure shall be part of this Agreement as if fully set forth herein, except that changes to such Switching Procedure shall not be deemed to be amendments to this Agreement. The Parties may mutually agree from time to time to change the Switching Procedure; such changes shall be set forth in a writing signed by each Party and shall thereafter be deemed to be part of this Agreement as if fully set forth herein. Customer understands that the development of the Switching Procedures will require an inventory and analysis of Customer equipment and operations to develop a safe protocol for switching of equipment with ATO and/or COMT, and shall provide Company with access to and information regarding Customer's equipment and operations.
- c. Interim Switching Procedure. Customer and Company shall follow the below interim switching procedure until such time as an actual Switching Procedure is developed and agreed upon:
 - i. Customer may continue to operate equipment in ATO and/or COMT;
 - ii. Customer shall coordinate any planned or restoration switching/transferring between circuits with Company's Large Account Management (LAM) group and/or Distribution Control Center (DCC);
 - iii. Customer shall have responsibility to operate its own equipment.
- d. Company may, at its discretion, install electric monitoring equipment ("Monitoring Equipment") at Customer's facility necessary to allow Company to perform real time monitoring of current, voltage, real and reactive power on each of Customer's service connections. Installation, operation, and maintenance of the Monitoring Equipment will be at Company sole cost and responsibility. Customer shall provide reasonable accommodations necessary to permit Company to install, operate and maintain Monitoring Equipment.
- e. Customer shall be solely responsible for operation of their equipment as set forth in the Switching Procedure. Other than as may be provided in the Switching Procedures, Customer shall at no time operate their equipment in such a manner as to electrically connect or tie one of Company's circuits to another.

2. Fees.

- a. In accordance with Company's Electric Tariff, Rider Capacity Rider, Customer shall pay a monthly fee equivalent to the Backup Delivery Point Capacity distribution and/ or transmission demand charges s

APPROVED TO SIGN
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Tariff, rate schedule DT08 for the Term of this Agreement or until such time, if any, that Customer or Company determines that additional Reserve Capacity is required. This Reserve Capacity Fee shall begin on the Effective Date and initially be [REDACTED] and shall be subject to change if and when a change in Company's retail electric rates is approved by the Commission. In such event, Company will notify Customer of the new monthly fee thirty (30) days prior to imposing the new fee. The increased Reserve Capacity Fee shall become effective on the date which is thirty (30) days after notice is given to Customer of the proposed increase.

- b. Pursuant to Rider BDP, the Company reserves the right to charge a connection fee to Customer if an additional metering point is required.

3. Additional Reserve Capacity.

- a. If Company reasonably determines that Customer requires additional Reserve Capacity in total or as to any Distribution Point above the Reserve Capacity Amount allotted to such Distribution Points ("Additional Reserve Capacity"), the Company shall notify Customer and after discussion with Customer, may, in its reasonable judgment, increase the Reserve Capacity Amount by the Additional Reserve Capacity. In such event, Company shall provide written notice to Customer that it is increasing the Reserve Capacity Amount by the Additional Reserve Capacity, and this Agreement shall be deemed to be thereby amended to give effect thereto. If Company determines that it cannot reasonably provide Additional Reserve Capacity to Customer without additional system improvements, the Company shall so notify Customer. The Customer shall be responsible for any and all costs necessary to improve the system to provide the Additional Reserve Capacity from the point of entry to the Customer's distribution points. The Company shall provide a written estimate of such costs to Customer and Customer may decide to either proceed with the Additional Reserve Capacity, not proceed with the Additional Reserve Capacity and amend the switching procedures to the satisfaction of the Company so to effectuate a curtailment limiting Customer to the contracted Reserve Capacity Amount in total or as to any Distribution Point, or terminate this agreement.

- b. If Customer determines that it requires Additional Reserve Capacity in total or as to any Distribution Point, Customer may request that Company increase the Reserve Capacity Amount by the Additional Reserve Capacity. Company may, in its sole discretion, increase the Reserve Capacity Amount by the Additional Reserve Capacity. In such event, Company shall provide written notice to Customer that it is increasing the Reserve Capacity Amount by the Additional Reserve Capacity, and this Agreement shall be deemed to be thereby amended to give effect thereto. If Company reasonably determines that it cannot reasonably provide Additional Reserve Capacity to Customer, Company shall so notify Customer. The Customer shall be responsible for any and all costs necessary to improve the system to provide the Additional Reserve Capacity from the point of entry to the Customer's distribution points. The Company shall provide a written estimate of such costs to Customer and Customer may decide to either proceed with the Additional Reserve Capacity, not proceed with the Additional Reserve Capacity and amend the switching procedures to the satisfaction of the Company so to effectuate a curtailment limiting Customer to the contracted Reserve Capacity Amount in total or as to any Distribution Point, or terminate this agreement.

APPROVED BY THE
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Customer's distribution points. The Company shall provide a written estimate of such costs to Customer and Customer may decide to either proceed with the Additional Reserve Capacity or decline the Additional Reserve Capacity.

4. Limitations on service(s). Company shall make reasonable provisions to supply Reserve Capacity Service, but does not guarantee a constant or uninterrupted supply of electricity from the Principal Service(s) or Reserve Capacity Service sources. During such time as Customer is utilizing Reserve Capacity Service due to an outage on its Primary Service(s), Company shall not be obligated to reserve additional capacity to back up the Reserve Capacity Service. Notwithstanding the foregoing, Company shall be entitled to perform maintenance of its facilities during which time Customer may not have access to the Reserve Capacity Service, provided that, with the exception of equipment failure and subject to the further provisions of this paragraph regarding emergencies, Reserve Capacity Service shall not be disabled due to maintenance for more than twenty four (24) consecutive hours, unless agreed to by both parties hereto. Company shall use reasonable efforts to notify Customer 14 days in advance of planned maintenance that would result in the Reserve Capacity Service being disabled. 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. Nothing in this agreement shall be deemed to prevent Company from operating its system in accordance with its Electric Tariff, applicable Commission and other governmental regulations, and good industry practice. Customer acknowledges that Reserve Capacity Amount may not be available during times of Company system emergencies, whether or not such emergencies directly affect the Reserve Capacity or Primary Services. Notwithstanding the service configuration depicted in Exhibit A, Company may in its sole discretion change the circuits serving Customer Principal Service and Reserve Capacity Service provided that it continues to provide Reserve Capacity Service as set forth in this Agreement.
5. Excess Demand. Company does not guarantee or warrant that the Reserve Capacity Service will be available beyond the Reserve Capacity Amount level. If Customer's Service Location demand exceeds the Reserve Capacity Amount, or Customer's demand at any Distribution Point exceeds the Reserve Capacity Amount allotted to such Distribution Point, 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. If Customer fails to implement such curtailment, Company may suspend the Reserve Capacity service, including physically disconnecting the service, until such time as Customer implements such curtailment. If the Customer does not implement such curtailment, or exceeds the Reserve Capacity Amount three times in a single twelve month period and declines the Additional Reserve Capacity, the Company may terminate this Agreement and disconnect the Reserve Capacity.
6. Reduction in Demand. If Customer experiences a long-term demand or otherwise desires to reduce the Reserve Capacity at any Distribution Points, Customer and Company may agree to

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Amount consistent with the purpose hereof and subject to all terms and conditions of this Agreement including without limitation Paragraph 4. Where Customer and Company agree to a new Reserve Capacity Amount, they will amend this Agreement accordingly.

7. Support and Maintenance Related to Customer Facilities.

- a. Service. Company agrees to perform regular system inspection and maintenance of the Principal Service as required under 807 KAR 5:006 Section 26 and the applicable rules and regulations of the Commonwealth of Kentucky (“Inspection and Maintenance Requirements”).
- b. Records and Documentation. At the request of Customer, but no more frequently than on a quarterly basis, Company agrees to provide documentation to Customer of Company’s inspection and maintenance activities on the Principal Service performed in accordance with the Inspection and Maintenance Requirements for the prior quarter.
- c. Future Infrastructure Modifications. Company agrees to provide to Customer documentation of Company’s planned improvements and modifications to the Principal Service at Customer’s Facilities as such plans are developed from time to time.

8. Limitation of Liability. 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 in total or as to any Distribution Point. Customer agrees to bear responsibility for actionable claims for liability or loss which are the result of Customer failing to conform to the Reserve Capacity Amount demand limit in total or as to any Distribution Point or actionable claims for liability or loss that are in any manner in connection with the negligent, willful or wanton conduct of Customer, provided however that Company shall bear responsibility for actionable claims or liability or loss which are caused by the negligent, willful or wanton conduct of Company. In the event Company finds that Customer is not complying with the terms of this Agreement, Company reserves the right to terminate this Agreement, terminate the Reserve Capacity Service and disable or remove, or lock the ATO and/ or COMT service without refund to Customer. Company will send written notice twenty-four (24) hours prior to such action being taken.

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

10. Term and Termination. The initial term of this Agreement shall be five (5) years and shall remain in force, thereafter, on a month-to-month basis, until either Party giving the other Party sixty (60) days written notice of termination.

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Agreement. Upon termination of this Agreement, the Company may, at its sole discretion, remove the Company facilities providing Reserve Capacity Service.

- 11. **Required Rights.** If Company is unable to obtain, without cost, all required permits, rights-of-way and easements or any other documents or approvals necessary for the installation on public or private property of the facilities or Reserve Capacity Service, this Agreement shall be null and void and neither party shall, thereafter, have any obligations whatsoever to the other party.
- 12. **Billing Determinants.** For billing purposes, the kilowatt hours and kilowatts registered on any and all meters providing Primary Service(s) and Reserve Capacity Service to Customer Service Location shall be bulked together in accordance with Company's standard practice for bulking interval meters.
- 13. **Tariffed Electric Service.** Company shall provide electric service to Customer in accordance with Company's Electric Tariff, except as otherwise set forth in this Agreement.
- 14. **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.
- 15. **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. In the event of any conflict between this Agreement and any other agreements between the Parties, this 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 this Agreement 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 this Agreement in reliance upon any representation, statement or promise of the other party except as expressly stated in the Agreements.
- 16. **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.
- 17. **Interpretation.** Both Parties have had the opportunity to have counsel; therefore, neither Party hereto shall be construed as the

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18. Amendments. Subject to Paragraph 3, 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.
19. 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.
20. 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.
21. 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:
Kenton County Airport Board
Attn: Vice President, Maintenance
P.O. Box 752000
Cincinnati, OH 45275-2000

To Company:
Duke Energy Kentucky, Inc.
Attn. Regional Director, Large
Account Management
139 East Fourth Street
Cincinnati, Ohio 45202

22. 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.
23. 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.
 - 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 (10) days after expiration of the thirty (30) day period, they shall seek assistance in such regard from CPR Institute for Dispute Resolution. The Neutral shall be selected by the Parties and all other common fees and expenses shall be borne by the Parties.

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- 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.

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

Kenton County Airport Board

By: _____

Candace S. McGraw, CEO

Duke Energy Kentucky, Inc.

By: _____

William H. Fowler

Name: WILLIAM H FOWLER

Title: VP- ENG & TECH CUST RELATIONS

Date: 05-17-2017

Attest:

Sheila R. Hammons

Sheila R. Hammons
Secretary/Treasurer

Approved as to Form and Legality.

R.H.C.
Ziegler & Schneider, PSC

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PUBLIC SERVICE COMMISSION**

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ACTING EXECUTIVE DIRECTOR**

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

Backup Delivery Point Capacity Agreement

This Backup Delivery Point Capacity Agreement ("Agreement") is made and entered into as of the 1st day of May, 2017 ("Effective Date") by and between Duke Energy Kentucky, Inc. ("Company"), a corporation organized and existing under the laws of the Commonwealth of Kentucky, and Kenton County Airport Board, a Kentucky Municipal corporation with facilities at the Cincinnati/Northern Kentucky International Airport ("CVG") ("Customer") (each a "Party" and collectively the "Parties").

WHEREAS, Customer is currently being provided electric service by Company through electric service connection(s) ("Principal Service(s)") to the Customer's location at 3297 Lincoln Rd, Erlanger KY 41018 ("Service(s) Location") pursuant to Company's KY.P.S.C Electric No. 2 on file with the Kentucky Public Service Commission ("Commission") and as amended from time to time ("Electric Tariff"), as further set forth in Exhibit A; and

WHEREAS, the Customer desires that Company maintain redundant service to Customer and reserve capacity on its distribution facilities with Automatic Throw-Over Capabilities ("ATO") and/ or Customer operated manual tie capabilities ("COMT") that will provide backup electric service in the event of an outage and/or disruption of a Principal Service ("Reserve Capacity Service(s)"); and

WHEREAS, the purpose of this Reserve Capacity Service is to provide an alternate source of electric service, other than the Principal Service to Customer's Service Location in the event of the failure of one of the Principal Service(s);

WHEREAS, the Customer desires reliable Principal Service via Reserve Capacity Service and regular communications with Company in the service, repair, and maintenance of Company electric service connections and infrastructure that directly provides Principal Service to Customer facilities; 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 [redacted] of capacity as Reserve Capacity Service on the Company's distribution facilities that are interconnected to the Customer's Service(s) Location in accordance with the terms, conditions and limitations set forth herein ("Reserve Capacity Amount") and pursuant to the Multiple Feed Customer Information and Switching Procedure ("Switching Procedure") as set forth in Exhibit B.

a. Reserve Capacity Amount Allotment. The Parties agree that Company provides Principal Service to Customer through 1 (Distribution Points). Company shall provide Reserve Capacity Service from each

Redacted signature block containing a signature, date stamp (7/22/2017), and official stamp from the Kentucky Public Service Commission. The stamp includes the text: 'KENTUCKY PUBLIC SERVICE COMMISSION', 'John Lyons', 'Acting Executive Director', and 'EFFECTIVE 7/22/2017'.

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of the Distribution Points in the event of a loss of only one Principal Service as more fully described in Exhibit A.

- b. Switching Procedures. If a Switching Procedure is not available or agreed to at the time of execution of this Agreement, Company and Customer shall develop and agree upon such Switching Procedure within 180 days of execution of this Agreement and will follow the Interim Switching Procedure described below until such time as the Switching Procedure is completed. Such Switching Procedure shall be part of this Agreement as if fully set forth herein, except that changes to such Switching Procedure shall not be deemed to be amendments to this Agreement. The Parties may mutually agree from time to time to change the Switching Procedure; such changes shall be set forth in a writing signed by each Party and shall thereafter be deemed to be part of this Agreement as if fully set forth herein. Customer understands that the development of the Switching Procedures will require an inventory and analysis of Customer equipment and operations to develop a safe protocol for switching of equipment with ATO and/or COMT, and shall provide Company with access to and information regarding Customer's equipment and operations.
- c. Interim Switching Procedure. Customer and Company shall follow the below interim switching procedure until such time as an actual Switching Procedure is developed and agreed upon:
 - i. Customer may continue to operate equipment in ATO and/or COMT;
 - ii. Customer shall coordinate any planned or restoration switching/transferring between circuits with Company's Large Account Management (LAM) group and/or Distribution Control Center (DCC);
 - iii. Customer shall have responsibility to operate its own equipment.
- d. Company may, at its discretion, install electric monitoring equipment ("Monitoring Equipment") at Customer's facility necessary to allow Company to perform real time monitoring of current, voltage, real and reactive power on each of Customer's service connections. Installation, operation, and maintenance of the Monitoring Equipment will be at Company sole cost and responsibility. Customer shall provide reasonable accommodations necessary to permit Company to install, operate and maintain Monitoring Equipment.
- e. Customer shall be solely responsible for operation of their equipment as set forth in the Switching Procedure. Other than as may be provided in the Switching Procedures, Customer shall at no time operate their equipment in such a manner as to electrically connect or tie one of Company's circuits to another.

2. Fees.

- a. In accordance with Company's Electric Tariff, Ride Capacity Rider, Customer shall pay a monthly fee equivalent to the Backup Delivery Point Capacity distribution and/ or transmission demand charges se

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Tariff, rate schedule **DT04** for the Term of this Agreement or until such time, if any, that Customer or Company determines that additional Reserve Capacity is required. This Reserve Capacity Fee shall begin on the Effective Date and initially be [REDACTED] based on the calculation in Exhibit A, per month and shall be subject to change if and when a change in Company's retail electric rates is approved by the Commission. In such event, Company will notify Customer of the new monthly fee thirty (30) days prior to imposing the new fee. The increased Reserve Capacity Fee shall become effective on the date which is thirty (30) days after notice is given to Customer of the proposed increase.

- b. Pursuant to Rider BDP, the Company reserves the right to charge a connection fee to Customer if an additional metering point is required.

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Customer's distribution points. The Company shall provide a written estimate of such costs to Customer and Customer may decide to either proceed with the Additional Reserve Capacity or decline the Additional Reserve Capacity.

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5. Excess Demand. Company does not guarantee or warrant that the Reserve Capacity Service will be available beyond the Reserve Capacity Amount level. If Customer's Service Location demand exceeds the Reserve Capacity Amount, or Customer's demand at any Distribution Point exceeds the Reserve Capacity Amount allotted to such Distribution Point, 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. If Customer fails to implement such curtailment, Company may suspend the Reserve Capacity service, including physically disconnecting the service, until such time as Customer implements such curtailment. If the Customer does not implement such curtailment, or exceeds the Reserve Capacity Amount three times in a single twelve month period and declines the Additional Reserve Capacity, the Company may terminate this Agreement and disconnect the Reserve Capacity.

6. Reduction in Demand. If Customer experiences a long-term demand or otherwise desires to reduce the Reserve Capacity at any Distribution Points, Customer and Company may agree to

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Amount consistent with the purpose hereof and subject to all terms and conditions of this Agreement including without limitation Paragraph 4. Where Customer and Company agree to a new Reserve Capacity Amount, they will amend this Agreement accordingly.

7. Support and Maintenance Related to Customer Facilities.

- a. Service. Company agrees to perform regular system inspection and maintenance of the Principal Service as required under 807 KAR 5:006 Section 26 and the applicable rules and regulations of the Commonwealth of Kentucky (“Inspection and Maintenance Requirements”).
- b. Records and Documentation. At the request of Customer, but no more frequently than on a quarterly basis, Company agrees to provide documentation to Customer of Company’s inspection and maintenance activities on the Principal Service performed in accordance with the Inspection and Maintenance Requirements for the prior quarter.
- c. Future Infrastructure Modifications. Company agrees to provide to Customer documentation of Company’s planned improvements and modifications to the Principal Service at Customer’s Facilities as such plans are developed from time to time.

8. Limitation of Liability. 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 in total or as to any Distribution Point. Customer agrees to bear responsibility for actionable claims for liability or loss which are the result of Customer failing to conform to the Reserve Capacity Amount demand limit in total or as to any Distribution Point or actionable claims for liability or loss that are in any manner in connection with the negligent, willful or wanton conduct of Customer, provided however that Company shall bear responsibility for actionable claims or liability or loss which are caused by the negligent, willful or wanton conduct of Company. In the event Company finds that Customer is not complying with the terms of this Agreement, Company reserves the right to terminate this Agreement, terminate the Reserve Capacity Service and disable or remove, or lock the ATO and/ or COMT service without refund to Customer. Company will send written notice twenty-four (24) hours prior to such action being taken.

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

10. Term and Termination. The initial term of this Agreement is _____ years and shall remain in force, thereafter, on a month-to-month basis, either Party giving the other Party sixty (60) days written notice.

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Agreement. Upon termination of this Agreement, the Company may, at its sole discretion, remove the Company facilities providing Reserve Capacity Service.

11. **Required Rights.** If Company is unable to obtain, without cost, all required permits, rights-of-way and easements or any other documents or approvals necessary for the installation on public or private property of the facilities or Reserve Capacity Service, this Agreement shall be null and void and neither party shall, thereafter, have any obligations whatsoever to the other party.
12. **Billing Determinants.** For billing purposes, the kilowatt hours and kilowatts registered on any and all meters providing Primary Service(s) and Reserve Capacity Service to Customer Service Location shall be bulked together in accordance with Company's standard practice for bulking interval meters.
13. **Tariffed Electric Service.** Company shall provide electric service to Customer in accordance with Company's Electric Tariff, except as otherwise set forth in this Agreement.
14. **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.
15. **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. In the event of any conflict between this Agreement and any other agreements between the Parties, this 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 this Agreement 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 this Agreement in reliance upon any representation, statement or promise of the other party except as expressly stated in the Agreements.
16. **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.
17. **Interpretation.** Both Parties have had the opportunity to have counsel; therefore, neither Party hereto shall be construed as the

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- 18. Amendments. Subject to Paragraph 3, 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.
- 19. 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.
- 20. 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.
- 21. 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:
Kenton County Airport Board
Attn: Vice President, Maintenance
P.O. Box 752000
Cincinnati, OH 45275-2000

To Company:
Duke Energy Kentucky, Inc.
Attn. Regional Director, Large
Account Management
139 East Fourth Street
Cincinnati, Ohio 45202

- 22. 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.
- 23. 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.
 - 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. The Neutral shall be selected by the Parties.

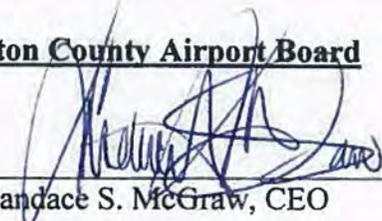
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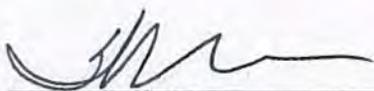
- d) The mediation may proceed in accordance with CPR's Model Procedure for Mediation of Business Disputes, or the Parties may mutually establish their own procedure.
- e) The Parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution 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.

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

Kenton County Airport Board

By: 
Candace S. McGraw, CEO

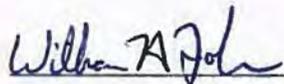
Attest:


Sheila R. Hammons
Secretary/Treasurer

Approved as to Form and Legality.


Ziegler & Schneider, PSC

Duke Energy Kentucky, Inc.

By: 

Name: WILLIAM H FOWLER

Title: VP - ENG & TECH CUST RELATIONS

Date: 05-17-2017

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Exhibit A

Principal and Reserve Capacity Service Configuration

Location	Distribution Point (meter)	Circuit	Reserve Capacity Amount	Capacity Reserved for Circuits
High Voltage Building	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
High Voltage Building	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
High Voltage Building	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
South Switchgear *	[REDACTED]	[REDACTED]	[REDACTED]	
South Switchgear	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Reserve Capacity Amount			[REDACTED]	

Note: reserve capacity is intended to provide back-up power in the event of a loss of only one Distribution Circuit.

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