

**AGREEMENT FOR THE PURCHASE AND SALE
OF FACILITY FIRM CAPACITY AND FACILITY FIRM ENERGY**

BETWEEN

ILLINOIS POWER MARKETING COMPANY

AND THE

KENTUCKY MUNICIPAL ENERGY AGENCY

JULY 13, 2016

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**AGREEMENT FOR THE PURCHASE AND SALE
OF FACILITY FIRM CAPACITY AND FACILITY FIRM ENERGY
BETWEEN ILLINOIS POWER MARKETING COMPANY AND
KENTUCKY MUNICIPAL ENERGY AGENCY**

This AGREEMENT FOR THE PURCHASE AND SALE OF FACILITY FIRM CAPACITY AND FACILITY FIRM ENERGY (this "Agreement") is made and entered into as of this 13th day of July, 2016 ("Effective Date"), between **Illinois Power Marketing Company** (hereinafter referred to as "Seller"), a limited liability corporation organized in the State of Delaware, and **Kentucky Municipal Energy Agency**, an inter-local agency organized and existing under the laws of the Commonwealth of Kentucky (hereinafter referred to as "Buyer").

WHEREAS, Seller is engaged in the purchase and sale of wholesale electric power;

WHEREAS, Seller's Affiliates own and operate, and Seller has the contractual right to sell Facility Firm Capacity and Facility Firm Energy from, several electric generating resources, including the Electric Energy Inc. Joppa Power Station, a six-unit coal-fired generation facility located near Joppa, Illinois, with a total net generating capacity of approximately 1,002 megawatts; and

WHEREAS, Buyer wishes to purchase from Seller, and Seller wishes to sell to Buyer, Facility Firm Energy and Facility Firm Capacity, as set forth herein;

NOW THEREFORE, in consideration of the foregoing premises, the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. When used in this Agreement, including any Exhibits hereto, the following terms, whether used in the singular or plural, shall have the following definitions. Capitalized terms that are not defined herein shall have the meanings assigned to them in the MISO Tariff.

"AAA" has the meaning set forth in Section 15.3(a).

"Additional Qualifying Letter of Credit" has the meaning set forth in Section 9.2(b)(ii).

"Additional Qualifying Letter of Credit Cost" means the cost (limited to the charge(s) assessed by the issuer of the Additional Qualifying Letter of Credit), negotiated in good faith as if Seller were to pay such cost in full, at which Seller is able to obtain the Additional Qualifying Letter of Credit.

“Additional Qualifying Letter of Credit Deadline” has the meaning set forth in Section 9.2(b)(ii).

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, “control” means the direct or indirect ownership of a majority of the outstanding capital stock or other equity interests having ordinary voting power, or otherwise having the power, directly or indirectly, to direct or cause the direction of the management and policies of a Person.

“Agreement” has the meaning set forth in the preamble.

“Alternate Delivery Point” means the interconnection point between the Facility and the MISO.

“Alternate Delivery Point Credit” has the meaning set forth in Section 5.1(c).

“Balancing Authority” means the entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area and supports interconnection frequency in real time.

“Balancing Authority Area” means an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to, among other things, match at all times the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s) with the load within the electric power system(s).

“Bankruptcy Proceeding” means with respect to a Person, such Person (i) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due, (ii) makes a general assignment, arrangement or composition with or for the benefit of its creditors, (iii) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and solely with respect to any such proceeding or petition that is instituted or presented by a party other than the Party with respect to which such petition or proceeding relates is not dismissed within fifteen (15) days after the filing thereof, (iv) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger), (v) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, (vi) causes or is subject to any event with respect to it which, under applicable Law, has an analogous effect to any of the events specified in clauses (i) through (v), or (vii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Bulk Electric System” means the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher.

“Business Day” means a Day that is not a Saturday, a Sunday or a Day on which banking institutions are not required to be open, or are authorized or required to close, in the Commonwealth of Kentucky.

“Buyer” has the meaning set forth in the preamble.

“Buyer Event of Default” has the meaning set forth in Section 11.2.

“Buyer Investment Grade Rating” means any rating of Buyer’s general credit, or of Buyer’s long-term bonds, of at least BBB- from Fitch, BBB- from S&P, or Baa3 from Moody’s.

“Capacity” means the ability of generating equipment to produce Energy, measured in megawatts.

“Claim Notice” has the meaning set forth in Section 12.4.

“Clean Power Plan” means the “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units” Final Rule issued by the U.S. Environmental Protection Agency, 80 FR 64,661 (2015), and any modified or replacement rules for the regulation of carbon pollution from existing generating facilities.

“Contract Term” has the meaning set forth in ARTICLE II.

“Credit Rating” means with respect to an entity providing a Qualifying Letter of Credit or Additional Qualifying Letter of Credit, on the relevant date of determination, the respective ratings then assigned to such entity’s unsecured, senior long-term debt, or deposit obligations (not supported by third party credit enhancement) by a Rating Agency. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations by any Rating Agency, then “Credit Rating” shall mean the general corporate credit rating or long-term issuer rating assigned by a Rating Agency, as the case may be.

“Day” means a 24-Hour period, commencing at 00:00:00 Central Standard Time or Central Daylight Time, as in effect at a given time, except that a “Day” shall be a 23-hour period on the first Day of daylight savings time each year and shall be a 25-hour period on the first Day following the last full Day of daylight savings time each year.

“Day-Ahead Market Price” means ~~Day-Ahead Ex Ante LMP at the CP Node for the Facility for the relevant Hour.~~

“Day-Ahead Schedule” has the meaning set forth in Section 5.2(b).

“Default Interest Rate” means, for any date, the lesser of (i) the highest rate permitted by Law or (ii) the Interest Rate plus an annual rate of 2% converted to a daily rate.

“Delivered Facility Firm Energy” means the quantity of Facility Firm Energy Scheduled by Buyer and delivered by Seller to Buyer at the Delivery Point or the Alternate Delivery Point, as applicable, in the relevant time period, expressed in MWh.

“Delivery Point” means the point at which the Facility interconnects with the LGE/KU transmission system.

“Demand” has the meaning set forth in Section 15.3(a).

“Designated Network Resource” shall have the meaning given such term in the LGE/KU Tariff.

“Effective Date” has the meaning set forth in the preamble.

“Energy” means real (not reactive) electric energy in the form of three-phase alternating current having a nominal frequency of approximately sixty (60) cycles per second, a harmonic content consistent with the requirements of the Institute of Electrical and Electronic Engineers Standard no. 519, and a voltage content consistent with the guidelines applied by the Balancing Authority Area in which the applicable generating resource resides (measured in kilowatt-hours or megawatt-hours, as the case may be).

“Facility” means coal-fired unit one (1), coal-fired unit two (2), and coal-fired unit three (3) of the Electric Energy Inc. Joppa Power Station located near Joppa, Illinois.

“Facility Firm Capacity” means the quantity of capacity set forth in Section 4.2, as such may have been modified by Buyer’s notice provided pursuant to Section 3.1(b), Section 3.2, or Section 3.4.

“Facility Firm Energy” means Energy associated with the Facility Firm Capacity.

“Facility Firm Energy Price” means the price determined in accordance with Exhibit B.

“Facility Firm Energy Price Projection” has the meaning set forth in Section 7.2(b).

“Facility Forced Outage” has the meaning set forth in Section 5.4(a).

“Facility Operational Limits” means, collectively, limits that would be observed pursuant to Prudent Utility Practices and any limitation that is either defined by the manufacturer(s) of the equipment in the equipment operations manuals provided with such equipment, technical information letters communicated by the manufacturer(s) of the equipment to Seller concerning an operational limitation that has been determined and the recommended operational procedures that need to be followed that may otherwise cause an equipment failure or major damage to the Facility or associated ancillary equipment, or any normal operational limitation not associated with the derating of the Facility.

“FERC” means the U.S. Federal Energy Regulatory Commission or its successor.

“First Qualifying Letter of Credit” has the meaning set forth in Section 9.2(b)(i).

“Fitch” means Fitch Ratings, Inc., or its successor.

“Force Majeure” has the meaning set forth in Section 14.1.

“Forced Outage” means a “Forced Outage” as defined in the NERC Generating Unit Availability Data System Forced Outage reporting guidelines.

“GAAP” means generally accepted accounting principles in the United States of America as in effect from time to time.

“Hour” means a clock hour.

“Indemnitee” has the meaning set forth in Section 12.3.

“Indemnitor” has the meaning set forth in Section 12.3(a).

“Interchange Transaction” means an agreement to transfer Energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries as established by the NERC.

“Interest Rate” means, for any date, the prime rate reported in *The Wall Street Journal's* “Money Rates” column (or any similar column published in *The Wall Street Journal* in replacement thereof) for the immediately preceding Business Day, converted to a daily rate. In the event *The Wall Street Journal* ceases to report the prime rate, the prime rate for purposes of this Agreement shall be the prevailing prime rate (or base rate) charged by major banks in the United States of America.

“kW” means kilowatt (a unit of Capacity).

“kWh” means kilowatt-hour (a unit of Energy).

“KyMEA Member” means any municipal electric utility member of Buyer.

“KyMEA Member AR Agreements” has the meaning set forth in Section 3.2.

“Law” means any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction.

“Letter of Credit Default” means the occurrence of any of the following events with respect to any Qualifying Letter of Credit (including the First Qualifying Letter of Credit, any Additional Qualifying Letter of Credit, and any Transmission Upgrade Letter of Credit):

- (a) The issuer of the Qualifying Letter of Credit fails to maintain a Credit Rating of at least “A-” by S&P and “A3” by Moody’s and total assets of at least \$10,000,000,000 (ten billion dollars);
- (b) The issuer of the Qualifying Letter of Credit fails to comply with or perform its obligations under the Qualifying Letter of Credit;

- (c) The issuer of the Qualifying Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Qualifying Letter of Credit;
- (d) The issuer of the Qualifying Letter of Credit fails to honor the beneficiary Party's properly documented request to draw on such Qualifying Letter of Credit;
- (e) Such Qualifying Letter of Credit fails or ceases to be in full force and effect at any time; or
- (f) The issuer of the Qualifying Letter of Credit becomes subject to a Bankruptcy Proceeding;

provided, however, no Letter of Credit Default shall occur or be continuing in any event with respect to a Qualifying Letter of Credit after the time such Qualifying Letter of Credit is canceled or returned.

"LGE/KU" means Louisville Gas and Electric Company and Kentucky Utilities Company, or a successor thereto.

"LGE/KU Tariff" means the LGE and KU Joint Pro Forma Open Access Transmission Tariff, as it may be amended and approved by FERC from time to time and posted on the LGE/KU Open Access Same-Time Information System.

"Losses" has the meaning set forth in Section 12.1.

"MISO" means the Midcontinent Independent System Operator, Inc., or its successor.

"MISO Tariff" means the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended from time to time and approved by FERC, or any successor tariff.

"Monthly Energy Charge" means Buyer's monthly payment obligation for Delivered Facility Firm Energy in accordance with Section 7.2 and, as applicable, Exhibit B.

"Monthly Reservation Charge" means Buyer's monthly payment obligation for Facility Firm Capacity in accordance with Section 7.1 and Exhibit A.

"Moody's" means Moody's Investor Services, Inc., or its successor.

"MW" means megawatt (one (1) MW equals 1,000 kW).

"MWh" means megawatt-hour (one (1) MWh equals 1,000 kWh).

"NERC" means the North American Electric Reliability Corporation or a successor organization.

"NERC Holidays" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

“NERC Tag” means the form for providing details of an Interchange Transaction.

“Network Resource” has the meaning set forth in the LGE/KU Tariff.

“NITS” means Network Integration Transmission Service as defined in the LGE/KU Tariff.

“Operating Committee” has the meaning set forth in Section 5.7.

“Outage Replacement Period” has the meaning set forth in Section 5.4(c).

“Outage Replacement Purchase” has the meaning set forth in Section 5.4(c).

“Outage Replacement Purchase Terms” has the meaning set forth in Section 5.4(c).

“Party” or “Parties” means one of Seller or Buyer, or both Seller and Buyer, or their permitted assigns and transferees, as the context requires.

“Person” means any natural person, corporation, partnership, limited liability company, firm, association, trust, governmental authority or any other entity, whether acting in an individual, fiduciary or other capacity.

“Planning Year” means the period June 1 through May 31 of each year.

“Prudent Utility Practices” shall mean the practices, methods and acts including but not limited to the generally accepted practices, methods and acts engaged in or approved by the operators of similar electric generating facilities which at the time such practice, method or act is employed, and in the exercise of reasonable judgment in light of the facts known at such time, would be expected to accomplish the desired result in a workmanlike manner, consistent with (a) applicable Laws and governmental requirements, (b) commercially reasonable reliability, safety and environmental protection, and (c) reasonably consistent with manufacturer’s technical advisory recommendations. Prudent Utility Practices shall not require the use of the optimum practice, method or act, but only require the use of acceptable practices, methods or acts generally accepted in the independent power industry in the United States.

“Qualifying Letter of Credit” means an irrevocable standby letter of credit with an initial term of at least one year for the benefit of a Party, issued by a U.S. commercial bank or a U.S. branch of a foreign bank with such bank having (a) a Credit Rating of at least “A-” from S&P and “A3” from Moody’s, and (b) total assets (determined in accordance with GAAP) of at least \$10,000,000,000 (ten billion dollars), and which letter of credit (i) is substantially in the form of Exhibit D or another form of letter of credit reasonably satisfactory to the beneficiary Party, (ii) permits automatic renewal of the relevant Qualifying Letter of Credit (which may be subject to an outside stated expiration date), and (iii) may be utilized by the beneficiary Party to satisfy all present and future payment obligations of the other Party under this Agreement when due.

“Rating Agency” means S&P, Moody’s, Fitch or any other rating agency agreed to by the Parties in writing.

“Real-Time Market Price” means the Hourly Real-Time Ex Post LMP at the CP Node for the Facility for the relevant Hour.

“Regional Reliability Council” shall mean one or more of the member councils of the NERC whose purpose is to preserve and enhance service reliability and economy of operation among electric utilities within the member council, and to assess the adequacy and ensure the reliability of the interconnected Bulk Electric System for the benefit of all end-users of electricity and all entities engaged in providing electric services, with due regard for safety, environmental protection and economy of service, through coordination of planning, construction, maintenance and operation of generation and transmission facilities on a regional basis. The current Regional Reliability Council applicable to Seller is the SERC Reliability Corporation.

“Reliability Coordinator” means the entity that is the highest level of authority, which is responsible for the reliable operation of the Bulk Electric System, has the wide area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The current Reliability Coordinator applicable to the Facility is the Tennessee Valley Authority.

“Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases a substantially equivalent replacement for any Scheduled Facility Firm Energy not delivered by Seller (which may include imbalance energy), plus (i) costs reasonably incurred by Buyer in purchasing such replacement product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to deliver such replacement product to the Delivery Point, or, absent a purchase, the Real-Time Market Price for such Hour(s); provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, but will include any penalties incurred under any open access transmission tariff(s) utilized by Buyer.

“Resource Adequacy Program” means any resource adequacy requirement or other form of capacity demonstration obligation applicable in the Balancing Authority Area(s) where Buyer’s load is located, pursuant to tariffs, regulatory requirements, or other binding criteria applicable to Buyer.

“Revised Schedule” has the meaning set forth in Section 5.3.

“Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells any Scheduled Facility Firm Energy not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Facility Firm Energy and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Facility Firm Energy to the third-party purchasers, or absent a sale, the Real-Time Market Price for such Hour(s); provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, but will include any penalties incurred under any open access transmission tariff utilized by Seller. For purposes of this definition, Seller shall be considered to have resold such product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the product from another party at the Delivery Point.

“Schedule” or “Scheduling” or “Scheduled” means Buyer communicating to Seller that a particular amount of Facility Firm Energy is to be delivered to the Delivery Point or the Alternate Delivery Point, as applicable, in compliance with the terms of this Agreement.

“Scheduling Day” means Monday through Friday, excluding NERC Holidays.

“Seller” has the meaning set forth in the preamble.

“Seller Event of Default” has the meaning set forth in Section 11.1.

“Service Commencement Date” means 00:00:00 Eastern Standard Time on June 1, 2019.

“Service Month” has the meaning set forth in Section 7.1.

“S&P” means S&P Global Ratings, a business division of Standard & Poor’s Financial Services, LLC, or its successor.

“Third Party Claims” has the meaning set forth in Section 12.3(a).

“Transmission Provider” means the Person or Persons transmitting Scheduled Facility Firm Energy on behalf of Buyer from the Delivery Point or the Alternate Delivery Point, as applicable.

“Transmission Upgrades” has the meaning set forth in Section 3.1(b).

“Transmission Upgrade Letter of Credit” has the meaning set forth in Section 3.1(b).

ARTICLE II

TERM

The term of this Agreement shall commence on the Effective Date, and shall continue in effect through May 31, 2022 (the “Contract Term”), unless earlier terminated or extended in accordance with the terms of this Agreement. The Capacity and Energy transactions provided for by this Agreement shall begin on the Service Commencement Date and continue in effect through May 31, 2022, unless modified in accordance with the terms of this Agreement.

ARTICLE III

CONTINGENCIES; CAPACITY ADJUSTMENTS

Section 3.1. Transmission Contingency.

(a) The obligations of the Parties pertaining to scheduling, delivery, sale, purchase, and payment for Facility Firm Capacity and Facility Firm Energy under this Agreement are conditioned on Buyer obtaining firm transmission service to support delivery of Facility Firm Energy purchased hereunder from the Delivery Point to Buyer’s loads located within the LGE/KU transmission system. No later than thirty (30) Days after the Effective

Date, Buyer shall submit to LGE/KU an application for NITS on the LGE/KU transmission system (or, if such an application has already been submitted, an application to include this Agreement as a new Network Resource).

(b) Buyer is obligated to utilize commercially reasonable efforts to secure NITS required to support delivery of Facility Firm Energy from the Delivery Point to Buyer's loads located within the LGE/KU transmission system. If Buyer has not been able to make arrangements reasonably satisfactory to Buyer to ensure firm delivery service from the Delivery Point to Buyer's loads located within the LGE/KU transmission system, then Buyer may terminate this Agreement by providing written notice to that effect to the Seller no later than June 30, 2017. Such termination shall be without penalty or further liability on the part of Seller or Buyer. Alternatively, (i) if Buyer has been informed by the Transmission Provider that firm transmission service would be made available at a date later than the Service Commencement Date in an amount sufficient to allow the Facility Firm Capacity to be delivered to Buyer (without requiring Buyer to pay for transmission upgrades identified in one (1) or more Facilities Studies conducted pursuant to the LGE/KU Tariff ("Transmission Upgrades"), Buyer may elect to postpone the Service Commencement Date for up to three hundred sixty five (365) Days, or to the date as of which firm transmission sufficient to deliver the Facility Firm Capacity can be provided, whichever is earlier; or (ii) if Buyer has been informed by the Transmission Provider that firm transmission service would be available for a quantity less than the full Facility Firm Capacity (without requiring Buyer to pay for Transmission Upgrades), Buyer may elect to reduce the Facility Firm Capacity to the higher of fifty megawatts (50 MW) or the quantity of available transmission service; or (iii) if Buyer receives approval of its Network Resource designation of this Agreement that is contingent upon Transmission Upgrades, then the Operating Committee shall meet within five (5) Business Days to discuss the required Transmission Upgrades. In the event that Buyer provides notice of a change in the Service Commencement Date or reduction of the Facility Firm Capacity under clause (i) or (ii) of the preceding sentence, the Parties shall amend this Agreement to formally confirm the revised Service Commencement Date or Facility Firm Capacity; provided, however, that no delay or failure on the part of Buyer and/or Seller to execute such amendment shall affect the effectiveness of Buyer's change to the Service Commencement Date or Facility Firm Capacity as specified in the notice. Seller shall have the right, but not the obligation, in its sole judgment, to pay for Transmission Upgrades that are required as a condition of Buyer's Network Resource designation of this Agreement. Buyer shall be obligated to confirm the Network Resource designation of this Agreement if, at least five (5) Business Days prior to the deadline for Buyer to confirm the Network Resource designation of this Agreement with the Transmission Provider: (i) Seller notifies Buyer that it will pay for such Transmission Upgrades; and (ii) in satisfaction of Buyer's obligations with respect to construction of such Transmission Upgrades, Seller provides to Buyer cash or a Qualifying Letter of Credit ("Transmission Upgrade Letter of Credit") in the amount of the estimated costs of the Transmission Upgrades. Buyer shall have the right to use the cash or draw upon the Transmission Upgrade Letter of Credit to satisfy Buyer's deposit and/or payment obligations to the Transmission Provider for the Transmission Upgrades in accordance with the LGE/KU Tariff. Upon completion of the Transmission Upgrades and Buyer's receipt of a final reconciliation of the cost thereof, if the final cost of the Transmission Upgrades paid by Buyer is greater than the amount of the cash or Transmission Upgrade Letter of Credit provided by Seller, then Buyer shall be entitled to offset its payments hereunder by the amount of the

additional Transmission Upgrade costs charged to Buyer by the Transmission Provider, and if the final cost of the Transmission Upgrades is less than the amount of the cash or Buyer's draws under the Transmission Upgrade Letter of Credit provided by Seller to Buyer, then Buyer shall promptly return to Seller the excess cash or draw amounts and terminate and return to Seller any Transmission Upgrade Letter of Credit.

Section 3.2. Buyer's Sales to Members. The obligations of the Parties pertaining to scheduling, delivery, sale, purchase, and payment for Facility Firm Capacity and Facility Firm Energy under this Agreement are conditioned on the execution, by Buyer and KyMEA Members, of agreements pursuant to which Buyer will sell, and the KyMEA Members will purchase, the full capacity and energy requirements of such KyMEA Members, for a period at least through May 31, 2022 ("KyMEA Member AR Agreements"), where the reasonably projected collective annual peak demand of the KyMEA Members under such executed agreements for calendar year 2019 is at least three hundred megawatts (300 MW). If, within one hundred eighty (180) Days after the Effective Date, KyMEA Member AR Agreements sufficient to satisfy the foregoing condition have not been entered into by Buyer and KyMEA Members, Buyer shall provide notice to Seller of the failure of this condition. Such notice shall state whether (i) Buyer elects to reduce the Facility Firm Capacity, and if so Buyer shall specify the amount of the reduced Facility Firm Capacity, which shall not be less than 75 MW, or (ii) Buyer intends to terminate this Agreement in accordance with Section 3.3. In the event of a reduction of the Facility Firm Capacity under clause (i) of the preceding sentence, the Parties shall amend this Agreement to formally confirm the revised Facility Firm Capacity; provided, however, that no delay or failure on the part of Buyer and/or Seller to execute such amendment shall affect the effectiveness of Buyer's change to the Facility Firm Capacity as specified in the notice. In the event that Buyer's notice expresses its intent to terminate the Agreement, the Parties shall negotiate in good faith to determine whether the Parties can mutually agree to amendments to this Agreement in lieu of termination. If the Parties have not reached agreement on such amendments within thirty (30) Days following Seller's receipt of the notice, Buyer shall be free to terminate this Agreement.

Section 3.3. Deadline for Satisfaction or Waiver of Contingencies. Buyer will deliver written notice to Seller by October 1, 2017, listing each contingency and the extent to which the contingency has been satisfied, not satisfied, or not satisfied but waived. If all contingencies set forth in this ARTICLE III have not been satisfied or waived by Buyer by October 1, 2017, this Agreement may be terminated by either Party providing notice to the other Party on or before October 31, 2017, without penalty or obligation on the part of Seller or Buyer.

Section 3.4. Buyer's Right to Increase Facility Firm Capacity. No later than January 31, 2017, Buyer may, by written notice to Seller, elect to increase the Facility Firm Capacity to be purchased by Buyer under this Agreement; provided, however, the total Facility Firm Capacity to be purchased by Buyer under this Agreement shall not exceed 167 MW. In the event of an increase in the Facility Firm Capacity under this Section 3.4, the Parties shall amend this Agreement to formally confirm the revised Facility Firm Capacity; provided, however, that no delay or failure on the part of Buyer and/or Seller to execute such amendment shall affect the effectiveness of Buyer's change to the Facility Firm Capacity as specified in the notice.

ARTICLE IV**PURCHASE AND SALE**

Section 4.1. Product. Subject to and in accordance with the terms and conditions of this Agreement, during the period from the Service Commencement Date to the end of the Contract Term, Seller shall sell and make available to Buyer at the Delivery Point (or, at Buyer's request and subject to Section 5.1(b), the Alternate Delivery Point), and Buyer shall purchase and pay for, Facility Firm Capacity and Facility Firm Energy in amounts Scheduled by Buyer, from time to time, pursuant to ARTICLE V.

Section 4.2. Facility Firm Capacity. The Facility Firm Capacity shall be one hundred megawatts (100 MW), subject to adjustment under Section 3.1(b), Section 3.2 or Section 3.4. The Facility Firm Capacity shall at all times be stated in megawatts (MW).

Section 4.3. Source of Facility Firm Energy; Reliability of Supply. Except as provided in Section 5.4(b), Facility Firm Energy provided hereunder will be sourced from the Facility. In selling the output of the Facility, Seller shall give first priority to Buyer's Day-Ahead Schedule. Deliveries of Scheduled Facility Firm Energy are not dependent on the operating status of any particular unit of the Facility, and Buyer's Facility Firm Energy Schedules shall be honored as long as the Scheduled Facility Firm Energy can be supplied from any one or more of the designated unit(s) of the Facility. Seller's obligation to deliver Facility Firm Energy consistent with the Schedules provided by Buyer in accordance with ARTICLE V shall be excused only (i) to the extent caused by any action or inaction of Buyer, including Buyer's material failure to perform its obligations under this Agreement, (ii) to the extent necessary, consistent with Prudent Utility Practice, to preserve the integrity of, or prevent or limit any damage to or instability of, the Facility, (iii) to the extent a Balancing Authority, Regional Reliability Council, or Reliability Coordinator declares an emergency condition that prevents or limits Seller from delivering the Scheduled Facility Firm Energy, (iv) by the interruption or curtailment of transmission from the Facility to the Delivery Point or, where applicable, the Alternate Delivery Point other than interruption or curtailment directly resulting from any action or inaction of Seller, (v) to the extent such obligation is conditioned or otherwise specifically limited by the terms of this Agreement (e.g., Scheduled Facility Firm Energy cannot be supplied from any one or more of the designated unit(s) of the Facility because of a Facility Forced Outage), or (vi) by Force Majeure.

Section 4.4. Designated Capacity; Designated Network Resources.

(a) If Buyer is subject to a Resource Adequacy Program, Buyer shall be permitted to identify Capacity from the Facility, up to an amount equal to the Facility Firm Capacity, as being committed solely to Buyer for purposes of satisfying Buyer's obligations under such Resource Adequacy Program.

(b) If, at any time, additional information regarding the Facility is required by the Transmission Provider in order for this Agreement to qualify as a Designated Network Resource, or in order for the Facility Firm Capacity to be accepted as meeting a portion of Buyer's obligations under a Resource Adequacy Program, or is otherwise required in

connection with the obligations of Buyer under an applicable transmission tariff, Seller shall reasonably cooperate with and assist Buyer in providing the required information. Such cooperation shall include commercially reasonable efforts by Seller to obtain permission from third parties to provide information that is subject to confidentiality provisions.

Section 4.5. Title and Risk of Loss. Title to and risk of loss related to Scheduled Facility Firm Energy shall transfer from Seller to Buyer at the Delivery Point (or, where applicable, the Alternate Delivery Point). Seller warrants that it will deliver to Buyer the Facility Firm Energy Scheduled by Buyer free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to delivery at the Delivery Point (or, where applicable, the Alternate Delivery Point).

ARTICLE V

SCHEDULING; OPERATING COMMITTEE

Section 5.1. Contract Entitlement.

(a) Buyer shall have the right to Schedule Facility Firm Energy, up to the total Facility Firm Capacity, for delivery by Seller at the Delivery Point (or, where applicable, the Alternate Delivery Point) on and after the Service Commencement Date.

(b) In Scheduling the Facility Firm Energy pursuant to Section 5.2 and Section 5.3, Buyer shall specify (i) that quantity of Scheduled Facility Firm Energy to be delivered to the Delivery Point, and (ii) that quantity of Scheduled Facility Firm Energy to be delivered to the Alternate Delivery Point. Seller shall use commercially reasonable efforts to accommodate Buyer's Schedules to the Alternate Delivery Point if they are made on a day-ahead basis pursuant to Section 5.2. If Buyer requests to change deliveries from the Delivery Point to the Alternate Delivery Point (or vice versa) in connection with Schedule changes pursuant to Section 5.3, Seller shall use commercially reasonable efforts to accommodate such requests, subject to MISO approvals, conditions, or restrictions applicable to such changes in deliveries, it being recognized that Seller shall in no event be required to accept any such request that would require Seller to compromise the ability of Seller and/or its Affiliates to implement their previously scheduled deliveries from the Facility to MISO (including NERC Tags for deliveries from the Facility into the MISO real-time market that have already been submitted).

(c) For each hour in which Seller delivers Scheduled Facility Firm Energy to the Alternate Delivery Point in accordance with Buyer's Schedules and receives payment from MISO for the delivered Facility Firm Energy, Seller shall credit Buyer an amount ("Alternate Delivery Point Credit") calculated pursuant to the following formula for each Hour:

$$ADPC = (BDASD \times DAMP) + (SRDI \times RTMP) - (SRDD \times RTMP)$$

where:

ADPC = Alternate Delivery Point Credit;

- BDASD = MWs delivered to the Alternate Delivery Point pursuant to Buyer's Day-Ahead Schedule;
- DAMP = Day-Ahead Market Price;
- SRDI = Increase in MWs delivered to the Alternate Delivery Point pursuant to Buyer's Revised Schedule(s);
- SRDD = Decrease in MWs delivered to the Alternate Delivery Point pursuant to Buyer's Revised Schedule(s); and
- RTMP = Real-Time Market Price.

Buyer shall pay, or reimburse Seller if Seller pays, all costs incurred by Seller directly and solely as a result of delivering Facility Firm Energy to the Alternate Delivery Point rather than to the Delivery Point or from the Alternate Delivery Point to the Delivery Point. If a change in deliveries results in a reduction in the costs Seller would otherwise incur in making delivery to the Delivery Point, Seller shall credit the amount of such reduction to Buyer. In each invoice for a Service Month in which there were deliveries of Facility Firm Energy to the Alternate Delivery Point, Seller shall include reasonably necessary detail and supporting documentation regarding such credits and/or costs.

Section 5.2. Day-Ahead Dispatch.

(a) At least one Business Day prior to the start of each Service Month, Seller shall inform Buyer of any periods in which one (1) or more Facility units are expected to be derated and/or out of service (due to a maintenance outage and/or continuation of a known Forced Outage) during the coming Service Month. At least one Hour prior to the deadline for Buyer's Day-Ahead Schedule under Section 5.2(b) on each Scheduling Day, Seller shall inform Buyer of the expected operational status and operating level of each of the units of the Facility for each Hour of the Day of delivery, and any changes to the Facility Operational Limits that could affect Buyer's Schedule (including the basis for any such change).

(b) Buyer shall submit an energy schedule to Seller in an agreed-to format the Scheduling Day prior to the Day of delivery, in whole megawatts, via email or other mutually agreeable method, no later than one hundred twenty (120) minutes prior to the day-ahead deadlines imposed by the MISO for the day-ahead market, specifying for each Hour of the applicable Day, the amounts of Facility Firm Energy Buyer will purchase from Seller (the "Day-Ahead Schedule"). The Day-Ahead Schedule shall be binding on Seller and Buyer, except as modified pursuant to Section 5.3. The Parties may agree, in writing, to a different Day-Ahead Scheduling procedure at any time.

(c) The Day-Ahead Schedule for Facility Firm Energy in any given Hour: (i) must be either (A) zero megawatts (0 MW) or (B) a quantity, in whole megawatts, not less than forty-seven megawatts (47 MW) nor more than the total Facility Firm Capacity; (ii) unless zero megawatts (0 MW), must be part of a period of at least four (4) consecutive Hours in which the Scheduled Facility Firm Energy for each Hour is at least forty-seven megawatts (47 MW); and (iii) must not require the Facility to violate any Facility Operational Limits. If Buyer's Day-Ahead Schedule requires the Facility to violate any Facility Operational Limit, Seller shall utilize commercially reasonable efforts to communicate such fact and the applicable Facility

Operational Limit to Buyer prior to the deadline for Buyer's Day-Ahead Schedule under Section 5.2(b). In the event that Buyer's Day-Ahead Schedule includes zero megawatts (0 MW) for any Hour after a period in which the Day-Ahead Scheduled amount was equal to or more than forty-seven megawatts (47 MW), then the Scheduled amount in all remaining Hours in the Day-Ahead Schedule shall be zero megawatts (0 MW). Seller may reject any Day-Ahead Schedule that does not comply with the requirements of this Section 5.2(c).

(d) Buyer shall be responsible for providing any NERC Tags required in connection with Facility Firm Energy provided hereunder.

(e) The Parties agree to cooperate and make commercially reasonable efforts to ensure accuracy of NERC Tags required in connection with Facility Firm Energy provided hereunder.

Section 5.3. Intraday Scheduling Changes. During each operating Day, Buyer shall have the right to revise the quantities and/or delivery location(s) specified in Buyer's Day-Ahead Schedule submitted in accordance with the terms of this Agreement (each such revision, a "Revised Schedule"), subject to the provisions set forth in Exhibit F.

Section 5.4. Forced Outages.

(a) Seller shall, as soon as reasonably practicable after the occurrence thereof, report to Buyer the existence, nature and Seller's good-faith estimate of the duration of any Forced Outage of the Facility or any portion thereof that may impact Seller's ability to deliver Facility Firm Energy in accordance with Schedules properly submitted by Buyer hereunder ("Facility Forced Outage"). Seller shall promptly inform Buyer of any changes to Seller's good-faith estimate of the duration of such Facility Forced Outage.

(b) At the time Seller reports a Facility Forced Outage, Seller shall state, in writing, if it has elected to continue to provide Energy at the Delivery Point (or, as Scheduled by Buyer, at the Alternate Delivery Point) from alternative sources throughout the duration of the Facility Forced Outage. During the course of any Facility Forced Outage for which Seller has notified Buyer of such election, Buyer shall continue to submit Schedules in accordance with Section 5.2 and Section 5.3; Buyer shall pay the Facility Firm Energy Price for all such alternative Energy actually delivered by Seller; and Seller's failure to deliver any such alternative Energy in accordance with Buyer's Schedules shall be deemed to be an unexcused failure to deliver Facility Firm Energy giving rise to Seller's payment obligation under Section 6.1(a), except where the failure is due to action or inaction of Buyer. The Facility Forced Outage shall not reduce the MDF under Exhibit A except to the extent Seller fails to deliver the alternative Energy in accordance with Buyer's Schedules.

(c) If, at the time Seller reports a Facility Forced Outage, Seller has not elected to continue to provide Energy from alternative sources throughout the duration of the Facility Forced Outage pursuant to Section 5.4(b), Buyer may make any arrangements it deems suitable to purchase replacement Energy under one or more transactions (including, where applicable, related transmission and ancillary services, all of which together are referred to herein as the "Outage Replacement Purchase"). If Buyer has so elected, Buyer shall inform

Seller, as soon as practicable and in writing, of the essential terms of Buyer's Outage Replacement Purchase, including price, quantity, and start and stop dates/times of Energy purchases and any additional transmission and ancillary services required in connection therewith ("Outage Replacement Purchase Terms"). Upon receipt of Outage Replacement Purchase Terms, Seller may elect to reimburse Buyer for any increased costs incurred by Buyer in connection with such Outage Replacement Purchase for a period not to exceed the original good-faith estimate of the duration of the Facility Forced Outage or, if longer, the duration stated in any subsequently provided good-faith estimate of the Facility Forced Outage (the "Outage Replacement Period"). If Seller so elects, Buyer shall not submit any Schedules to Seller for delivery of Facility Firm Energy during the Outage Replacement Period, even if the Facility Forced Outage has ended before the end of the Outage Replacement Period. For any portion of the Facility Forced Outage duration that is outside of the Outage Replacement Period, (i) Buyer shall submit Schedules for delivery of Facility Firm Energy in accordance with Section 5.2 and Section 5.3, (ii) Seller shall not be liable under Section 6.1(a) for damages for failure to deliver Facility Firm Energy in compliance with such Schedules, to the extent Seller was unable to make such deliveries as a result of the Facility Forced Outage, and (iii) the Facility Forced Outage will result in reduction of the MDF under Exhibit A.

(d) If Seller has not elected to either provide Energy from alternative sources throughout the duration of the Facility Forced Outage pursuant to Section 5.4(b) or reimburse Buyer for any increased costs incurred by Buyer for its Outage Replacement Purchase pursuant to Section 5.4(c), then the following provisions shall apply for the entire period of the Facility Forced Outage: (i) Buyer shall submit Schedules for delivery of Facility Firm Energy in accordance with Section 5.2 and Section 5.3, (ii) Buyer shall inform Seller of the Outage Replacement Purchase Terms, (iii) during the term of any Outage Replacement Purchase, Buyer's Schedules of Facility Firm Energy shall match Buyer's scheduled purchases of replacement Energy for each Hour (not to exceed the Facility Firm Capacity in any Hour), (iv) Seller shall not be liable under Section 6.1(a) for damages for failure to deliver Facility Firm Energy in compliance with such Schedules, to the extent Seller was unable to make such deliveries as a result of the Facility Forced Outage, and (v) the Facility Forced Outage will result in reduction of the MDF under Exhibit A, except as provided in Section 5.4(e).

(e) Where Section 5.4(d) applies, if Seller is able to resume deliveries of Facility Firm Energy to Buyer as of a Day and Hour prior to the termination of any Outage Replacement Purchase due to the Facility returning to operation earlier than had been estimated, Seller shall provide notice to Buyer of such ability as soon as practicable. As soon as practicable after Seller's provision of such notice, Buyer and Seller shall communicate regarding (i) the costs Buyer would incur in connection with early termination of the remaining Outage Replacement Purchase (including any costs, such as transmission service charges, that Buyer cannot avoid paying through early termination) as of a specified Day and Hour, and (ii) Seller's willingness to pay such costs. If Seller offers to pay such costs, Buyer may either accept or decline Seller's offer; in either case the effect of the Facility Forced Outage on the MDF under Exhibit A shall cease as of the specified Day and Hour. If Buyer accepts the offer, Buyer shall take commercially reasonable steps to effectuate such termination and thereafter receive the Facility Firm Energy in accordance with Buyer's Schedules, and Seller shall be obligated to pay Buyer's termination costs. If Buyer declines Seller's offer, Seller shall have no obligation to pay Buyer's termination costs, and Buyer's Schedules of Facility Firm Energy do

not need to match its schedules under its Outage Replacement Purchase and shall be submitted in accordance with Section 5.2 and Section 5.3.

(f) The Parties expressly acknowledge and agree that the remedies set forth in this Section 5.4 and Exhibit A shall be the exclusive remedies with respect to the availability or unavailability of the Facility and that it shall not constitute an Event of Default if the MDF is less than .96 in any Service Month of the Term.

Section 5.5. Transmission Scheduling. The Parties acknowledge and agree that the provisions of this ARTICLE V do not govern transmission scheduling obligations and practices associated with transmission of the Facility Firm Energy beyond the Delivery Point or the Alternate Delivery Point. Such activities, including the timing of providing any NERC Tags and/or other notifications to the applicable Transmission Provider, will be governed by the applicable transmission tariff. For the avoidance of doubt, Seller shall take all commercially reasonable actions to support Buyer's scheduling of transmission service.

Section 5.6. Recording. Buyer and Seller agree that all Scheduling-related telephone conversations between Buyer and Seller may be recorded through means of tape or electronic recording (with or without the use of a warning tone). Buyer and Seller each waives any further notice of such recording, and agrees to notify its relevant officers, employees and agents of such recording and to obtain any necessary consent of such officers, employees and agents as required by applicable Law. Any such recordings (i) shall be retained in confidence for a period of two (2) years from the date of such recording, (ii) shall be secured from access by any persons other than Buyer's and Seller's officers, employees, and agents with a need to know the contents of such recordings, and (iii) may be submitted in evidence in any proceeding or action relating to a dispute regarding Scheduling under this Agreement.

Section 5.7. Operating Committee. The Parties shall form a committee to exchange information and coordinate with respect to matters relating to the performance of this Agreement ("Operating Committee"). Each Party shall appoint one representative to serve on the Operating Committee. The Parties shall notify each other in writing of such appointments and any changes thereto. The Operating Committee shall have no authority to modify the terms or conditions of this Agreement. Meetings of the Operating Committee shall be as scheduled by mutual agreement of the representatives. Matters to be reviewed by the Operating Committee shall include, without limitation, (i) Seller's annual budgets for costs that would affect the Facility Firm Energy Price, (ii) Seller's schedules for planned maintenance of the Facility, and forced or scheduled maintenance outages or deratings of any units of the Facility, and (iii) fuel procurement strategy and implementation. Meetings of the Operating Committee may be conducted in person or by telephone, and each Party may elect to have one or more individuals attend any such meeting on behalf of the Party, in addition to the Party's appointed representative. Within a reasonable time after the conclusion of each meeting of the Operating Committee, the representatives of the Parties shall agree upon a written summary of such meeting, including a description of issues discussed and decisions agreed upon by the Parties, unless the Parties mutually agree to waive such summary.

ARTICLE VI**FAILURE TO DELIVER OR RECEIVE**

Section 6.1. Seller's Failure. Seller's obligations to sell and deliver shall be excused only as provided in Section 4.3. If Seller fails to deliver to Buyer all or part of the Facility Firm Energy Scheduled by Buyer and such failure is not excused under Section 4.3, then:

(a) Following receipt from Buyer of the information reasonably necessary to make this calculation, Seller shall either pay, or credit Buyer on Seller's next invoice, an amount equal to the positive difference, if any, obtained by subtracting (i) the sum of the Facility Firm Energy charges that would have been payable pursuant to Section 7.2 with respect to the undelivered Facility Firm Energy from (ii) the Replacement Price. The Parties acknowledge and agree that Seller's making the payments required under this Section 6.1(a) shall be Buyer's sole remedy for Seller's failure to deliver Facility Firm Energy and provided that Seller makes such payments such failure shall not constitute an Event of Default;

(b) Seller's failure to deliver all or part of the Facility Firm Energy as Scheduled by Buyer will be taken into account in the determination of the Monthly Reservation Charge pursuant to Exhibit A; and

(c) Buyer shall not be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability.

Section 6.2. Buyer's Failure. Buyer's obligation to receive Scheduled Facility Firm Energy shall be excused only to the extent that, and for the period during which (i) such performance is prevented by Force Majeure, (ii) there is a failure to deliver Facility Firm Energy in accordance with the terms of this Agreement by Seller, or (iii) one or more NERC Tags submitted by Buyer for delivery of the Facility Firm Energy from the Delivery Point is denied, interrupted or curtailed by the Transmission Provider, and replacement NERC Tags are submitted by the Buyer, but are not honored by the Transmission Provider. In the event of any unexcused failure to receive Scheduled Facility Firm Energy, Buyer shall, on the date payment would otherwise be due in respect of the Service Month in which the failure occurred, pay an amount equal to the positive difference, if any, obtained by subtracting (A) the Sales Price from (B) the sum of the Facility Firm Energy charges that would have been payable pursuant to Section 7.2 with respect to the amount not received. Seller shall not be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability.

ARTICLE VII**CHARGES**

Section 7.1. Monthly Reservation Charge. For each calendar month of the Contract Term beginning with the Service Commencement Date (each, a "Service Month"), Buyer's Monthly Reservation Charge shall be determined in accordance with Exhibit A. In accordance with ARTICLE VIII, the Monthly Reservation Charge (and all other monthly charges described

herein) shall be invoiced in the month immediately following the Service Month, with any corrections thereto made as soon as practicable. Notwithstanding the foregoing, if the Agreement is terminated at a time other than at the end of a calendar month, the Monthly Reservation Charge for the final Service Month shall be pro-rated accordingly.

Section 7.2. Monthly Energy Charge.

(a) The Monthly Energy Charge shall be equal to the product of the Delivered Facility Firm Energy in that Service Month and (i) the Facility Firm Energy Price for that Service Month as determined pursuant to Exhibit B, or (ii) if Buyer has elected to accept a fixed price for Facility Firm Energy pursuant to Section 7.2(b), the fixed price for the applicable Service Month.

(b) Starting in 2019, on or before April 1 of each year, Seller will provide to Buyer (i) written notice of Seller's Facility Firm Energy Price projection for the following Planning Year, which projection shall be calculated in the same manner as provided in Exhibit B and expressed in dollars per megawatt-hour (\$/MWh), and (ii) a proposed fixed Facility Firm Energy price, expressed in dollars per megawatt-hour (\$/MWh) for the same Planning Year. Each such projection provided pursuant to clause (i) shall be the "Facility Firm Energy Price Projection" for the applicable Planning Year. Within twenty (20) Business Days, Buyer may elect, in writing, to have the fixed Facility Firm Energy price apply to all Facility Firm Energy purchased in the next Planning Year in lieu of the Facility Firm Energy Price calculated pursuant to Exhibit B. If Buyer does not provide written notice to Seller of Buyer's election within twenty (20) Business Days after receipt of the proposed fixed Facility Firm Energy price, then the Monthly Energy Charge for each Service Month of the next Planning Year shall be determined in accordance with the Facility Firm Energy Price formula set forth in Exhibit B.

(c) If, following the provision of a Facility Firm Energy Price Projection for a Planning Year pursuant to Section 7.2(b), Seller becomes aware of cost changes that would produce a new projected Facility Firm Energy Price (expressed in dollars per megawatt-hour (\$/MWh)) that is five percent (5%) or more lower or higher than the previously provided Facility Firm Energy Price Projection for the current Planning Year, Seller shall promptly provide written notice to Buyer updating the Facility Firm Energy Price Projection. Included with such update Seller shall provide to Buyer a revised fixed Facility Firm Energy price, expressed in dollars per megawatt-hour (\$/MWh), for the remainder of the applicable Planning Year. Within ten (10) Business Days of Buyer's receipt of such revised fixed Facility Firm Energy price, Buyer may elect, in writing, to have such fixed Facility Firm Energy price apply to all Facility Firm Energy purchased during the remainder of the applicable Planning Year in lieu of the pricing previously elected by Buyer (*i.e.*, the Facility Firm Energy Price calculated pursuant to Exhibit B or the fixed Facility Firm Energy price previously accepted by Buyer). If Buyer does not provide written notice to Seller of Buyer's election within ten (10) Business Days after receipt of the revised fixed Facility Firm Energy price, then the Monthly Energy Charge for the remainder of the applicable Planning Year shall be determined in accordance with Buyer's previous election.

Section 7.3. Facility Firm Capacity Price. Irrespective of any change in Law or market conditions affecting Seller or Buyer, and notwithstanding any assertion by Seller that certain costs are not covered, or any assertion by Buyer that the charges payable by Buyer hereunder do not reflect Seller's actual cost of providing Facility Firm Capacity, the Capacity prices set forth in Exhibit A shall not change during the term of this Agreement. Without limiting the foregoing, the Parties acknowledge that the Capacity prices will not be subject to any increase to reflect costs associated with final rules governing the following (as such terms are used or defined by the U.S. Environmental Protection Agency), as such final rules have been issued or may be issued by the U.S. Environmental Protection Agency, the State of Illinois, the Commonwealth of Kentucky, or any applicable local jurisdiction: (i) Mercury and Air Toxics Standards for power plants, (ii) disposal of Coal Combustion Residuals from electric utilities, (iii) Steam Electric Power Generating Effluent Guidelines and Standards, or (iv) the Clean Power Plan.

ARTICLE VIII

BILLING AND PAYMENT

Section 8.1. Billing. On or before the tenth (10th) Day following the end of each Service Month, Seller shall deliver to Buyer an invoice, via electronic mail or other mutually agreeable method, detailing the total Delivered Facility Firm Energy, measured in MWh, for each Day of the Service Month, the Facility Firm Energy Price for the Service Month (unless a fixed Facility Firm Energy price applies to that Service Month pursuant to Section 7.2(b)), and the total charges and credits to be paid by Buyer for the Monthly Reservation Charge, the Monthly Energy Charge, and any other charges properly assessed and credits owed to Buyer pursuant to this Agreement, for such Service Month. For any month in which charges for unexcused failure to receive apply pursuant to Section 6.2, Seller shall also provide with the invoice documentation reasonably supporting the Sales Price for each applicable Hour. In each invoice, any amounts owed by Seller to Buyer (including, without limitation, amounts owed pursuant to Section 5.1(c) and/or Section 6.1) shall be netted against the amounts owed by Buyer to Seller.

Section 8.2. Payment. Buyer shall make payment of the invoice to Seller within thirty (30) Days after Buyer's receipt of the invoice by means of wire transfer of immediately available funds to the account specified in Exhibit C, or other acceptable method agreed to, in writing, by Seller and Buyer. If a net amount is owed to Buyer, Seller shall make payment of such amount to Buyer on the same Day that the invoice is rendered to Buyer for such Service Month.

Section 8.3. Late Payments by Buyer. If for any reason other than as permitted by and in accordance with Section 8.4 below, Buyer pays less than the full amount of the invoice, interest on the unpaid amount shall accrue at the Default Interest Rate for each Day from the due date to the date paid.

Section 8.4. Disputes. If Buyer, in good faith, disputes the amount of any invoice, it shall promptly notify Seller, in writing, of the disputed amount and the reason therefor and shall pay the undisputed amount of such invoice. Buyer may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement within twenty-four (24) months of the date of the invoice or adjustment to an invoice. Any disputes resulting from

this ARTICLE VIII shall be settled in accordance with the provisions of ARTICLE XV. This Section 8.4 shall survive termination of this Agreement for a period of two (2) years from the date on which the last invoice is rendered to Buyer pursuant to this Agreement.

Section 8.5. Adjustments. Any adjustments to amounts invoiced and paid for a given Service Month (e.g., to reflect resolution of any dispute and/or billing corrections) shall be made on the next monthly invoice following the event giving rise to such adjustment. Where the adjustment is to rectify an overpayment, Seller shall provide a credit that includes interest accrued from the original payment date to the date of the credit, at the Interest Rate. If any credit exceeds the amount that would otherwise be due for the current Service Month, or if any credit would be due following Buyer's payment of the final invoice, Seller shall pay the net refund to Buyer no later than when the invoice would otherwise be due for such Service Month (or, if Buyer has paid the final invoice, no later than fifteen (15) Days following calculation of the adjustment). Where the adjustment is to rectify an underpayment, Seller shall provide a revised invoice that identifies the underpayment amount and includes interest accrued from the original payment date to the date of the revised invoice, at the Interest Rate. If any underpayment amount is identified by Seller after Seller has delivered to Buyer the final invoice, Seller shall deliver to Buyer a supplemental invoice for such amount, and Buyer shall pay such supplemental invoice no later than fifteen (15) Days following Buyer's receipt of such supplemental invoice.

Section 8.6. Audit. Buyer has the right with reasonable prior notice, at the sole expense of Buyer, to examine the records of Seller during regular business Hours to the extent reasonably necessary to verify the accuracy of any invoice, or calculations provided with or supporting such invoice, rendered pursuant to this Agreement. If any such examination reveals any inaccuracy in any invoice, or calculations provided with or supporting such invoice, the necessary adjustments in such invoice, or calculations provided with or supporting such invoice, and the payments made pursuant to such inaccurate invoice, or calculations provided with or supporting such invoice, shall be adjusted in the next invoice, provided that Buyer brought it to the attention of Seller within twenty four (24) months after issuance of the inaccurate invoice. This Section 8.6 shall survive termination of this Agreement for a period of two (2) years from the date on which the last invoice is rendered to Buyer pursuant to this Agreement.

Section 8.7. Records. The Parties shall develop, maintain and keep originals or copies of all accounting records, statistical information, and supporting documents relating to the performance of each Party's obligations hereunder in accordance with the longest of the applicable record-retention requirements of the FERC and all other regulatory bodies and taxing authorities having jurisdiction over the Parties; provided that all such applicable accounting records shall be retained for a period of at least two (2) years and, in any event, for as long as any dispute exists regarding such information or payments due under this Agreement. All such records shall be available for inspection by the other Party during regular business Hours, and the Parties shall have the right (at Buyer's or Seller's expense, as applicable) to make copies thereof.

inform Seller that Buyer is willing to pay the Additional Qualifying Letter of Credit Cost only up to five percent (5%) of the value of the Additional Qualifying Letter of Credit, and in such case Seller shall be obligated to pay the remainder of the Additional Qualifying Letter of Credit Cost. If Buyer notifies Seller, in writing, that Buyer will pay such Additional Qualifying Letter of Credit Cost (as same may be limited to five percent (5%) of the value of the Additional Qualifying Letter of Credit), then Seller shall (x) provide the Additional Qualifying Letter of Credit by the later of ten (10) Business Days after receipt of Buyer's notice that it is willing to pay the Additional Qualifying Letter of Credit Cost or June 1, 2017 ("Additional Qualifying Letter of Credit Deadline"), (y) pay all Additional Qualifying Letter of Credit Costs not being paid by Buyer, and (z) be entitled to issue an invoice for (or, if after the Service Commencement Date, add to a monthly invoice) the amount of the Additional Qualifying Letter of Credit Cost being paid by Buyer the month following the month in which Seller incurred such Additional Qualifying Letter of Credit Cost. If Buyer notifies Seller that Buyer will not pay the Additional Qualifying Letter of Credit Cost up to five percent (5%) of the value of the Additional Qualifying Letter of Credit, if applicable, then Seller shall have no obligation to provide the Additional Qualifying Letter of Credit. The Additional Qualifying Letter of Credit may be provided by either (I) an increase in the amount of the First Qualifying Letter of Credit or (II) a separate Qualifying Letter of Credit. In the event that (1) Seller fails to provide the Additional Qualifying Letter of Credit on or before the Additional Qualifying Letter of Credit Deadline (including by failing to pay all Additional Qualifying Letter of Credit Costs not being paid by Buyer), or (2) Seller informs Buyer that it is not able to provide an Additional Qualifying Letter of Credit, such failure or action shall be a Letter of Credit Default under Section 11.1(g). In addition to the remedies otherwise available to Buyer as a result of such Seller Event of Default, Buyer shall be entitled to terminate any Qualifying Letter of Credit that Buyer has provided in favor of Seller under Section 9.2(a) (and such termination shall not be a Buyer Event of Default). Further, if Buyer elects to terminate this Agreement as a result of Seller's Letter of Credit Default under this Section 9.2(b)(ii) or (subsequent to such Letter of Credit Default) in response to any other Seller Event of Default, Buyer shall have the right to draw on and retain the proceeds from the First Qualifying Letter of Credit to the extent of Buyer's damages (and if such damages are less than the remaining value of the First Qualifying Letter of Credit, shall thereafter cancel and return the First Qualifying Letter of Credit to Seller); provided, however, that exercise of such remedy shall not preclude Buyer from seeking recovery from Seller of any damages Buyer incurs that exceed the amount drawn on the First Qualifying Letter of Credit.

(c) No Margining. No collateral posting will be required for Buyer or Seller for margining on the mark-to-market value of this Agreement. Further, and notwithstanding anything herein to the contrary, Buyer and Seller each hereby irrevocably and unconditionally waives any rights it may have under applicable Law, other than Title 11 of the United States Code, to request "adequate assurances" or other performance assurance or security for the other Party's obligations hereunder other than as provided for in Section 9.2(a) and Section 9.2(b).

ARTICLE X

TRANSMISSION ARRANGEMENTS

Section 10.1. Seller's Obligations. Seller shall arrange and be responsible for transmission service to the Delivery Point and the Alternate Delivery Point, shall schedule or

arrange for scheduling services with the applicable transmission provider(s) to deliver Facility Firm Energy to the Delivery Point and/or the Alternate Delivery Point, and shall be responsible for all costs or charges imposed on or associated with transmission service to the Delivery Point and/or the Alternate Delivery Point that are or could be charged by such transmission provider(s). To the extent permissible under the MISO Tariff, Seller will utilize its current MISO transmission service under reservation numbers 79431891, 79431869 and/or 79431862, to sink in MISO all Facility Firm Energy delivered to the Alternate Delivery Point in accordance with Buyer's Schedules, but shall have no obligation to utilize any other of Seller's current or future MISO transmission service reservation(s) for such deliveries. In addition, Seller shall be responsible for all generator-related MISO charges related to the Facility or any Facility Firm Energy delivered to the Delivery Point or the Alternate Delivery Point. The Parties acknowledge and agree that Seller shall have the right, in its sole and absolute discretion, to cancel reservation numbers 79431891, 79431869 and/or 79431862 at any time.

Section 10.2. Buyer's Obligations. To the extent necessary for Buyer's intended use of Facility Firm Energy, Buyer shall arrange and be responsible for transmission service at and after the Delivery Point, shall schedule or arrange for scheduling services with all applicable Transmission Providers to accept Facility Firm Energy at the Delivery Point, and shall be responsible for all costs or charges imposed on or associated with the transmission service at and after the Delivery Point. For the avoidance of doubt, the Buyer's obligations set forth in the preceding sentence also apply to deliveries at and after the Alternate Delivery Point during periods when Buyer has Scheduled deliveries of Facility Firm Energy to the Alternate Delivery Point. Notwithstanding Buyer's obligations "at" the Delivery Point or "at" the Alternate Delivery Point as specified in this Section 10.2 (or any other provision of this Agreement), Buyer shall have no obligation to pay Seller or any other transmission provider for the use of transmission facilities associated with the Facility that are required to deliver Facility Firm Energy to the Delivery Point or the Alternate Delivery Point. The only transmission service Buyer shall be required to obtain and pay for is service under the LGE/KU Tariff when deliveries of Facility Firm Energy are Scheduled to the Delivery Point. If at any time Seller is no longer able to use reservation numbers 79431891, 79431869 and/or 79431862 to sink Facility Firm Energy Scheduled to the Alternate Delivery Point in MISO, including as a result of Seller's canceling reservation numbers 79431891, 79431869 and/or 79431862, Seller shall promptly provide notice of such change to Buyer. In such event, Buyer shall arrange and pay for any necessary MISO transmission service to the extent it wishes to Schedule Facility Firm Energy to the Alternate Delivery Point.

ARTICLE XI

DEFAULT AND REMEDIES

Section 11.1. Seller Event of Default. The following shall constitute events of default on the part of Seller ("Seller Event of Default"):

- (a) Seller fails to pay or credit any amount due to Buyer under this Agreement and such failure continues for ten (10) Days following receipt of written notice thereof from Buyer.

(b) Seller becomes subject to a Bankruptcy Proceeding.

(c) Any representation or warranty made by the Seller herein is false or misleading in any material respect when made or when deemed made or repeated.

(d) Seller consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity (i) fails to assume all the obligations of the Seller hereunder by operation of Law or pursuant to an agreement reasonably satisfactory to Buyer, or (ii) is not at least as creditworthy as Seller.

(e) The Facility is transferred to another Person, and Seller fails to satisfy its obligations under Section 13.2(c).

(f) Seller commits a breach of its material covenants or obligations under this Agreement not otherwise excused by Force Majeure, other than a payment default as set forth in Section 11.1(a), unless:

(i) Seller commences and diligently proceeds to cure such breach upon delivery of written notice of such breach from Buyer; and

(ii) the breach is cured within ten (10) Days of delivery of such written notice; provided, however, that if (1) such breach is not, by its nature, capable of being cured within such ten (10) Day period, and (2) Seller is diligently and in good faith proceeding to attempt to cure such breach, Seller shall be allowed such additional time, which shall in no event exceed an additional twenty (20) Days, as may reasonably be required to cure such breach.

(g) The occurrence of a Letter of Credit Default where such Letter of Credit Default is not cured within ten (10) Business Days after its occurrence by Seller providing to Buyer a valid Qualifying Letter of Credit.

Section 11.2. Buyer Event of Default. The following shall constitute an event of default on the part of Buyer ("Buyer Event of Default"):

(a) Buyer fails to pay any amount due to Seller under this Agreement and such failure continues for ten (10) Days following receipt of written notice thereof from Seller.

(b) Buyer becomes subject to a Bankruptcy Proceeding.

(c) Any representation or warranty made by Buyer is false or misleading in any material respect when made or when deemed made or repeated.

(d) Buyer consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity (i) fails to assume all the obligations of Buyer under this Agreement by operation of Law or

pursuant to an agreement reasonably satisfactory to the Seller, or (ii) is not at least as creditworthy as Buyer.

(e) Buyer commits a breach of its obligations under this Agreement not otherwise excused by Force Majeure, other than a payment default as set forth in Section 11.2(a), unless:

(i) Buyer commences and diligently proceeds to cure such breach upon delivery of written notice of such breach from Seller; and

(ii) the breach is cured within ten (10) Days of delivery of such written notice; provided, however, that if (1) such breach is not, by its nature, capable of being cured within such ten (10) Day period, and (2) Buyer is diligently and in good faith proceeding to attempt to cure such breach, Buyer shall be allowed such additional time, which shall in no event exceed an additional twenty (20) Days, as may reasonably be required to cure such breach.

(f) The occurrence of a Letter of Credit Default where such Letter of Credit Default is not cured within ten (10) Business Days after its occurrence by Buyer providing to Seller a valid Qualifying Letter of Credit.

Section 11.3. Procedure and Remedies.

(a) Upon the occurrence and during the continuance of a Seller Event of Default, Buyer shall have the right, in its sole and absolute discretion, to do any or all of the following: (i) terminate this Agreement effective upon the provision of written notice to Seller (or upon such later date as may be specified in such notice); (ii) suspend performance during the notice period specified in the notice; and/or (iii) pursue any and all other remedies available at Law or in equity, subject to the dispute resolution procedures set forth in ARTICLE XV and the other limitations set forth in this Agreement.

(b) Upon the occurrence and during the continuance of a Buyer Event of Default, Seller shall have the right, in its sole and absolute discretion, to do any or all of the following: (i) terminate this Agreement, effective upon the provision of at least thirty (30) Days' prior written notice to Buyer; (ii) suspend performance during such notice period; and/or (iii) pursue any and all other remedies against Buyer available at Law or in equity, subject to the dispute resolution procedures set forth in ARTICLE XV and the other limitations set forth in this Agreement.

Section 11.4. Rights of Specific Performance. In addition to the remedies specified hereunder, upon the occurrence of a Seller Event of Default or a Buyer Event of Default, which does not arise from the failure to make a payment of money hereunder, the non-defaulting Party shall have a right to obtain equitable relief, including specific performance of the defaulting Party's obligations hereunder.

ARTICLE XII
INDEMNIFICATION

Section 12.1. Indemnity by Seller. Subject to the terms and conditions set forth in this ARTICLE XII and except to the extent caused by the fraud, gross negligence or the willful misconduct or willful breach of the obligation(s) under this Agreement of any Indemnitee, Seller shall indemnify and hold Buyer and its Affiliates, members, directors, officers, attorneys, employees, subcontractors, agents and assigns harmless for, from and against any and all Third Party Claims, including reasonable attorneys' fees and costs of investigation, litigation, settlement and judgment (collectively "Losses"), which any of them may sustain or suffer as a result of the nonperformance or breach of any covenant or agreement made or undertaken by Seller in this Agreement. For the avoidance of doubt, the Seller will indemnify the Buyer against any and all Third Party Claims related to issues that originate prior to the Delivery Point (or, where applicable, the Alternate Delivery Point).

Section 12.2. Indemnity by Buyer. Subject to the terms and conditions set forth in this ARTICLE XII and except to the extent caused by the fraud, gross negligence or the willful misconduct or willful breach of the obligation(s) under this Agreement of any Indemnitee, Buyer shall indemnify and hold Seller and its Affiliates, members, directors, officers, attorneys, employees, subcontractors, agents and assigns harmless for, from and against any and all Losses which any of them may sustain or suffer as a result of the nonperformance or breach of any covenant or agreement made or undertaken by Buyer in this Agreement. For the avoidance of doubt, the Buyer will indemnify the Seller against any and all Third Party Claims related to issues that originate at or after the Delivery Point (or, where applicable, the Alternate Delivery Point).

Section 12.3. Further Qualifications Respecting Indemnification. The right of a Person listed as being entitled to indemnification in Section 12.1 or Section 12.2 (an "Indemnitee") to be indemnified hereunder shall be subject to the following further qualifications:

(a) Upon receipt of notice of any demand, assertion, claim, action or proceeding, judicial, governmental or otherwise, from any third party (such third party actions being collectively referred to herein as "Third Party Claims"), the Indemnitee shall give written notice thereof to the indemnifying Party (the "Indemnitor") as soon as reasonably practicable, but not later than thirty (30) Days after the date the Indemnitee obtains actual knowledge of the Third Party Claim;

(b) In computing Losses, such amounts shall be computed net of any related recoveries to which the Indemnitee is entitled under insurance policies, or other related payments received from third parties, and net of any tax benefits actually received by the Indemnitee or for which it is eligible, taking into account the income tax treatment of such indemnification; and

(c) The Indemnitee shall use commercially reasonable efforts to mitigate all Losses for which indemnification may be available hereunder, including availing itself of any defenses, limitations, rights of contribution, claims against third parties and other rights at Law

or equity. The Indemnitee's commercially reasonable efforts shall include the reasonable expenditure of money to mitigate or otherwise reduce or eliminate any Loss for which indemnification would otherwise be due, such expenditures being included in indemnified Losses hereunder.

Section 12.4. Procedures Respecting Third Party Claims. In notifying the Indemnitor of any Third Party Claim (the "Claim Notice"), the Indemnitee shall provide the Indemnitor with a copy of such Third Party Claim or other documents received and shall otherwise make available to the Indemnitor all relevant information material to the defense of such claim and within the Indemnitee's possession. The Indemnitor shall have the right, by written notice given to the Indemnitee within fifteen (15) Days after the date of the Claim Notice, to assume and control the defense of the Third Party Claim that is the subject of such Claim Notice, including the employment of counsel selected by the Indemnitor after consultation with the Indemnitee, and the Indemnitor shall pay all expenses of, and the Indemnitee shall cooperate fully with the Indemnitor in connection with, the conduct of such defense. The Indemnitee shall have the right to employ separate counsel in any such proceeding and to participate in (but not control) the defense of such Third Party Claim, but the fees and expenses of such counsel shall be borne by the Indemnitee unless the Indemnitor shall otherwise agree in writing; provided, however, if the named parties to any such proceeding (including any impleaded parties) include both the Indemnitee and the Indemnitor, the Indemnitor requires that the same counsel represent both the Indemnitee and the Indemnitor, and representation of both Parties by the same counsel would be inappropriate due to actual or potential differing interests between them, then the Indemnitee shall have the right to retain its own counsel at the cost and expense of the Indemnitor. If the Indemnitor shall have failed to assume the defense of any Third Party Claim in accordance with the provisions of this Section 12.4, then, as among the Parties, the Indemnitee shall have the absolute right to control the defense of such Third Party Claim, and, if and when it is finally determined that the Indemnitee is entitled to indemnification from the Indemnitor hereunder, the fees and expenses of the Indemnitee's counsel shall be borne by the Indemnitor; provided that the Indemnitor shall be entitled, at its expense, to participate in (but not control) such defense. The Indemnitor shall have the right to settle or compromise any such Third Party Claim for which it is providing indemnity so long as such settlement does not impose any obligations on the Indemnitee (except with respect to (a) obligations to pay money (which amounts, if payable by the Indemnitee, shall constitute Losses) and (b) providing releases of the third party). The Indemnitor shall be liable for any settlement effected by the Indemnitee without the Indemnitor's consent only if the Indemnitee has assumed the defense because the Indemnitor has failed or refused to do so.

ARTICLE XIII

ASSIGNMENT

Section 13.1. Assignment by Buyer.

(a) Buyer may, with prompt notice to but without the need for consent of Seller, assign all of its rights and obligations hereunder to any entity that (i) acquires all or substantially all of Buyer's business and/or assumes Buyer's obligations to provide service under the KyMEA Member AR Agreements, (ii) is of at least equal creditworthiness, and (iii)

assumes, in writing, all of Buyer's obligations hereunder, which assumption shall be materially in the form attached as Exhibit E hereto or otherwise in form and substance reasonably acceptable to Seller.

(b) Unless Seller consents, in writing, to Buyer retaining this Agreement, if Buyer transfers all or substantially all of its business to another party, Buyer shall assign all of its rights and obligations hereunder to the entity that acquires such business.

Section 13.2. Assignment by Seller.

(a) Seller may, with prompt prior notice to, but without the need for consent of Buyer, assign, transfer, pledge or otherwise dispose of its rights and interest under this Agreement to one or more lenders solely for the purposes of financing.

(b) Seller may, with prompt notice to, but without the need for consent of Buyer, assign all of its rights and obligations hereunder to any entity that (i) acquires all or substantially all of Seller's business, (ii) is of at least equal creditworthiness as Seller, and (iii) assumes, in writing, all of Seller's obligations hereunder, which assumption shall be materially in the form attached as Exhibit E hereto or otherwise in form and substance reasonably acceptable to Buyer.

(c) If the Facility is transferred to another Person, Seller shall, with prompt notice to, but without the need for consent of Buyer, cause the transferee of the Facility to assume, in writing, all obligations of Seller's Affiliate under such Affiliate's contracts and agreements with Seller that give Seller the contractual right to sell Facility Firm Capacity and Facility Firm Energy from the Facility, which assumption shall be materially in the form attached as Exhibit E hereto or otherwise in form and substance reasonably acceptable to Buyer.

~~Section 13.3. Other Assignments. Except as provided in Section 13.1 and Section 13.2, any proposed assignment by Buyer shall require the prior written consent of Seller, and any proposed assignment by Seller shall require the prior written consent of Buyer. In each case, consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that it shall be reasonable for the non-assigning Party to require as condition(s) to its consent to an assignment of this Agreement to a Person that such Person has creditworthiness, as reasonably determined by the non-assigning Party, at least equal to the assigning Party's, and/or that the Person has the experience, financial wherewithal, and ability to perform all obligations of the assigning Party hereunder (including, if the Seller is the assigning Party, the Person either shall own the Facility or have sufficient rights to the capacity and output of the Facility and other information and rights with respect to the Facility to permit the Person to fulfill the obligations of Seller) on and after the date of the assignment of this Agreement by the assigning Party.~~

Section 13.4. Notice. Notice of any proposed assignment (i) by Seller shall be given to Buyer no later than five (5) Days following public disclosure of the assignment, and (ii) by Buyer shall be given to Seller no later than sixty (60) Days prior to the date of the proposed assignment. Notwithstanding the foregoing, for any assignment by a Party as to which the non-assigning Party's consent is required or in connection with which the form of assignment and assumption must be acceptable to the non-assigning Party, the non-assigning Party must be

provided at least forty (40) Days in which to provide such consent or to review and comment upon the proposed form of assignment and assumption. The Parties acknowledge and agree that, although the non-assigning Party is allowed up to forty (40) Days to review and comment upon the proposed form of assignment and assumption, the non-assigning Party shall use commercially reasonable efforts to review and comment upon the proposed form of assignment and assumption as soon as practicable after receiving same. Any purported assignment made without complying with the requirements of this ARTICLE XIII shall be null and void.

Section 13.5. Effect of Assignment on Party Status. No assignment shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, unless the other Party agrees, in writing, in advance to waive the assignor's continuing obligations pursuant to this Agreement. To the extent an assignment occurs in accordance with the terms of this ARTICLE XIII other than Section 13.2(a), the assignee's creditworthiness and ability to perform this Agreement are at least equal to that of the assignor, and the assignee expressly agrees, in writing, to assume all of the assignor's rights and obligations so assigned, the other Party shall release the assignor from any further liability in respect of the rights and obligations so assigned.

ARTICLE XIV

FORCE MAJEURE

Section 14.1. Force Majeure. The term "Force Majeure" shall mean causes beyond the reasonable control of, and without the fault or negligence (including failure to comply with Prudent Utility Practices) of, the Party claiming Force Majeure, including, but not limited to, acts of God; earthquake; storm; fire; lightning; epidemic; war (declared or undeclared); riot or civil disturbance; or sabotage. Notwithstanding the foregoing, under no circumstances shall Force Majeure include any of the following: (i) changes in market conditions that affect the cost of or demand for power; (ii) change in Law; (iii) any lack of profitability to a Party or other financial consideration of a Party; or (iv) unavailability of the Facility except when such unavailability is due to a Force Majeure event.

Section 14.2. Effect on Performance.

(a) If a Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from whatever performance it is unable to perform due to the Force Majeure to the extent so affected, provided that:

(i) the Party affected by such Force Majeure, as soon as reasonably practical after the commencement of such effect, gives the other Party prompt oral notice, followed by a written notice within forty-eight (48) Hours after such oral notice, fully describing the particulars of the occurrence;

(ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(iii) the Party whose performance is affected by such Force Majeure uses its commercially reasonable efforts to overcome and remedy its inability to perform as soon as possible; and

(iv) the event of Force Majeure must not have been caused by or contributed to by any negligent or intentional act, error or omission of the affected Party or any of its Affiliates, and must not be caused by or contributed to by any failure to comply with any Law by the affected Party or any of its Affiliates, or by any breach or default of this Agreement by the affected Party or any of its Affiliates.

(b) Notwithstanding anything in this ARTICLE XIV to the contrary, no payment obligation arising under this Agreement prior to the date of an event of Force Majeure shall be excused by such event of Force Majeure.

ARTICLE XV

DISPUTE RESOLUTION

Section 15.1. Attempts to Resolve Dispute. Any controversy between Seller and Buyer, arising out of or relating to this Agreement, or any breach hereof or default hereunder may be submitted to binding arbitration upon written agreement of the Parties, or otherwise may be resolved in a court of competent jurisdiction as specified in Section 18.3; provided, however, that neither Party shall seek to arbitrate or litigate a controversy between the Parties without the Party's appropriate senior executive first attempting, in good faith, to resolve the dispute with the appropriate senior executive of the other Party. Such appropriate senior executives shall decide, within ten (10) Business Days of a written notice of the dispute, the negotiation period during which they will attempt to resolve the dispute before a Party may initiate arbitration or litigation. If such appropriate senior executives fail, for any reason, to agree upon a negotiation period during which they will attempt to resolve the controversy, then the negotiation period shall end forty-five (45) Days after the written notice of dispute.

Section 15.2. Jurisdiction. Each of the Parties irrevocably waives, to the fullest extent permitted by law, any objection it may now or hereafter have to the exclusive jurisdiction of the courts as specified in Section 18.3 or the laying of the venue of any such proceeding brought as specified in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. Each of the Parties hereby agrees that its submission to jurisdiction is made for the express benefit of the other Party.

Section 15.3. Voluntary Binding Arbitration. If, following failure of negotiations pursuant to Section 15.1, the Parties agree to binding arbitration of a dispute, the following procedures will be used (absent agreement of the Parties to different procedures):

(a) The dispute shall be finally settled by binding arbitration before a panel of three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect, except as modified herein. The Party seeking relief from the other Party shall prepare and submit a request for arbitration (the "Demand"),

which will include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief. The Demand shall be accompanied by all relevant supporting documents.

(b) Arbitration shall be held in Louisville, Kentucky. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. §§ 1 et seq.

(c) Each Party shall select one arbitrator within ten (10) Days of the receipt of the Demand, or if a Party fails to make such selection within ten (10) Days from the receipt of the Demand, the AAA shall make such appointment upon the written request of the other Party. The two arbitrators thus appointed shall select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators fail to agree on a third arbitrator within thirty (30) Days of the selection of the second arbitrator, the AAA shall make such appointment. Neither the Parties nor the Party-appointed arbitrators shall be limited to selecting arbitrators named on any list of arbitrators provided by AAA. All arbitrators shall be knowledgeable in the subject area of the dispute and recently active by employment or otherwise in the subject area of the dispute.

(d) The award shall be in writing (stating the award and the reasons therefor) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy regarding any claims, counterclaims, issues, or accountings presented to the arbitration panel. The arbitration panel shall be authorized in its discretion to grant pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction as specified in Section 18.3.

(e) This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the award in any arbitration proceeding hereunder.

(f) Unless otherwise ordered by the arbitrators, each Party shall bear its own costs and fees, including attorneys' fees and expenses. The Parties expressly agree that the arbitrators shall have no power to consider or award any form of damages barred by Section 18.1, or any other multiple or enhanced damages, whether statutory or common law.

(g) Each Party understands that, to the extent it agrees to arbitration pursuant to this Section, it will not be able to bring a lawsuit concerning the affected dispute, except as necessary to enforce this Section 15.3 or an arbitration award.

Section 15.4. Standard of Review. Neither Party shall make unilateral application to the FERC under Section 205 of the Federal Power Act for a change in the rates, terms and conditions herein, or seek or support any relief under Section 206 of the Federal Power Act concerning the rates, terms and conditions herein and each of the Parties irrevocably waives all of its rights, under applicable Law, if any, unilaterally to seek or support a change in the rates, charges, classifications, terms or conditions set forth in this Agreement. By this provision, each Party expressly waives its right to seek or support: (i) an order from the FERC finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the Parties are unjust and unreasonable; or (ii) any refund with respect thereto. Each Party agrees not to make or support such a filing or request, and that these covenants and waivers shall be binding notwithstanding any changes in market conditions. Absent the amendment of this Agreement in accordance with

Section 18.10, the standard of review for changes to any Section of this Agreement shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008), or, if such standard is not available as a matter of Law, the most stringent standard of review permissible under applicable Law. The Parties acknowledge and agree that changes in market conditions or economic hardship to a Party will not render the rate(s), charges, classifications, terms or conditions of this Agreement “unjust, unreasonable, unduly discriminatory or preferential” within the meaning of Section 206 of the Federal Power Act.

ARTICLE XVI

REPRESENTATIONS AND WARRANTIES

Section 16.1. Mutual Representations.

- (a) Each Party represents and warrants to the other Party that, as of the Effective Date:
- (i) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization or incorporation;
 - (ii) it has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and has taken all necessary corporate, company, partnership, governmental and/or other actions to authorize such execution and delivery and performance of such obligations;
 - (iii) its execution and delivery of this Agreement and its performance of its obligations under this Agreement do not violate or conflict with any Law applicable to it; with any provision of its charter or bylaws (or comparable constituent documents); with any order or judgment of any court or other agency of government applicable to it or any of its assets; or with any contractual restriction binding on or affecting it or any of its assets;
 - (iv) except as otherwise permitted herein, it has neither initiated nor received written notice of any action, proceeding or investigation pending, nor to its knowledge is any such action, proceeding or investigation threatened (or any basis therefor known to it) that questions the validity of this Agreement, or that would materially or adversely affect its rights or obligations as a Party;
 - (v) all authorizations of and exemptions, actions or approvals by, and all notices to or filings with, any governmental authority that are required to have been obtained or made by it at the time this representation with respect to this Agreement have been obtained or made and are in full force and effect, and all conditions of any such authorizations, exemptions, actions or approvals have been complied with; and
 - (vi) this Agreement constitutes the Party’s legal, valid and binding obligation, enforceable against it in accordance with its terms (subject to applicable bankruptcy,

reorganization, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at Law).

(b) Buyer represents and warrants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from: (i) suit, (ii) jurisdiction of court (including a court located outside the jurisdiction of its organization), (iii) relief by way of injunction, order for specific performance, or recovery of property, (iv) attachment of assets, or (v) execution or enforcement of any judgment.

Section 16.2. Exclusivity of Seller Representations. The representations and warranties made by Seller in this Agreement are in lieu of and are exclusive of all other representations and warranties, including any implied warranties of merchantability, suitability or fitness for any particular purpose or any other implied warranty. Seller hereby disclaims any such other or implied representations or warranties, notwithstanding the delivery or disclosure to Buyer or its directors, officers, employees, agents or representatives of any documentation or other information.

ARTICLE XVII

NOTICES

Except as otherwise specified in this Agreement, any notice, request, demand, statement or other communication provided for in this Agreement shall be in writing and shall be sufficiently given upon delivery thereof if (a) delivered by overnight mail, overnight courier or hand delivered against written receipt, (b) transmitted and received by electronic transmission and confirmed by hard copy delivered by one of the methods specified in part (a), or (c) delivery by one of the specified methods is refused by the receiving Party; and in all cases addressed as set forth in Exhibit C or to such other address as may be designated by a Party from time to time by notice to the other Party in accordance with this ARTICLE XVII.

ARTICLE XVIII

MISCELLANEOUS

Section 18.1. No Consequential Damages. Except to the extent (i) awarded to a third party as a result of a Third Party Claim or (ii) arising out of fraud or criminal conduct, in the event of a Party's breach of this Agreement, such Party shall be liable hereunder solely for direct and actual damages and under no circumstances shall a Party be liable hereunder for any consequential (including, but not limited to, lost profits and business interruption), incidental, special, punitive, exemplary, indirect or other similar damages.

Section 18.2. Entire Agreement. This Agreement, including the exhibits hereto, and any amendments hereof, contain the complete agreement among the Parties with respect to the matters contained herein and supersedes all prior communications, negotiations or agreements, whether written or oral, with respect to the subject matter hereof.

Section 18.3. Governing Law; Venue and Jurisdiction.

(a) This Agreement shall be governed by, construed, interpreted and applied in accordance with the laws of the Commonwealth of Kentucky, without giving effect to any principle regarding conflict of laws that would result in the application of the laws of any other jurisdiction.

(b) The Parties hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Western District of Kentucky (or, if that court refuses jurisdiction, in the Franklin County, Kentucky Circuit Court) for the purposes of any cause of action arising out of or based upon this Agreement or relating to the subject matter hereof or for the enforcement of any arbitration award hereunder.

Section 18.4. Non-Waiver. No delay or failure by a Party to exercise any of its rights, powers or remedies under this Agreement following any breach or default by the other Party shall be construed to be a waiver of any such breach or default, or any acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind on the part of a Party of any breach or default, or any waiver on the part of a Party of any provision or condition of this Agreement, shall be effective only if specifically set forth in a writing signed by the waiving or consenting Party .

Section 18.5. Severability. If an arbitration panel, court or regulatory agency having jurisdiction over the Parties or over this Agreement determines that any of the provisions of this Agreement, or any part thereof, is invalid, void, illegal or unenforceable, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated is not affected in any manner materially adverse to either Party. Upon any such determination of invalidity, the Parties shall, within ten (10) Business Days of such determination, commence to negotiate in good faith new provisions to restore this Agreement as nearly as possible to its original intent and effect.

Section 18.6. Interpretation; Headings; Presumption; Reference to Account Numbers. In this Agreement, unless a different intention clearly appears:

(i) all pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the context may require;

(ii) unless otherwise expressly provided, the words "include," "includes" and "including" do not limit the preceding words or terms and shall be deemed to be followed by the words "without limitation";

(iii) the headings herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement;

(iv) reference to any Section or Exhibit means such Section of this Agreement or such Exhibit to this Agreement, as the case may be, and references in any Section

or definition to any clause or paragraph means such clause or paragraph of such Section or definition;

(v) “hereunder”, “hereof”, “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(vi) all terms defined and/or used in this Agreement shall be interpreted without regard for how such terms may be defined and/or used in other agreements between the Parties and/or their Affiliates;

(vii) the Parties have jointly participated in the drafting of this Agreement and have had the opportunity to engage counsel of their own choosing in connection therewith. Any rule of construction or interpretation requiring this Agreement to be construed or interpreted for or against any Party shall not apply to the construction or interpretation hereof; and

(viii) to aid the Parties in their determination of certain costs utilized to price services under this Agreement, references to specific Seller account numbers have been made in this Agreement. The Parties have made commercially reasonable efforts to ensure the accuracy of the account numbers referenced hereunder. However, if, at any time during the Term, the Parties determine that an account number referenced in this Agreement has been included in error or that an account number has been erroneously omitted, the Parties agree to properly amend this Agreement to correct such error.

Section 18.7. No Partnership or Joint Venture. This Agreement does not establish and should not be construed as establishing any partnership or joint venture by and between the Parties, and neither of the Parties shall have any duties, obligations or liabilities arising under such a relationship.

Section 18.8. Confidentiality.

(a) Without prior written consent, which shall not be unreasonably withheld or delayed, neither Party shall disclose the terms of this Agreement to a third party (other than such Party’s and its employees, officers, directors, members, partners, lenders, potential lenders, potential equity investors, counsel, accountants, financial advisors or consultants) except in order to comply with any applicable Law; provided, however, that, except in connection with disclosures required under applicable Laws or if such notification is prohibited by Law, each Party shall notify the other Party of any proceeding of which it is aware that may result in such disclosure, and the Party subject to such proceeding shall use commercially reasonable efforts to prevent or limit the disclosure; provided, however, such Party shall not be required to seek a protective or other similar order to comply with its obligations under this Section 18.8.

(b) The Parties shall be entitled to all remedies available at Law or in equity to enforce, or seek relief in connection with, the confidentiality obligations set forth in this Section 18.8; provided, however, that all monetary damages shall be limited to actual direct damages and shall not include consequential damages.

Section 18.9. No Third-Party Benefits. This Agreement shall not impart any rights enforceable by any third party (other than permitted successors or assignees bound by this Agreement). Nothing in this Agreement, express or implied, shall be construed to create any interest, beneficial or otherwise, for any third party.

Section 18.10. Amendment. This Agreement may not be amended or modified except by a written instrument signed by Seller and Buyer.

Section 18.11. Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary to effect the purpose and intent of this Agreement.

Section 18.12. Counterparts; Electronic Copies. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Any electronic copies hereof or signature hereon shall, for all purposes, be deemed originals.

Section 18.13. Expenses. Each Party shall pay its own costs and expenses, including the fees and expenses of its agents, representatives, advisors, counsel and accountants, necessary for the negotiation, preparation, execution and delivery of this Agreement.

[Signatures begin on next page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

ILLINOIS POWER MARKETING COMPANY

ces

By: Robert C. Fleroy
Name: Robert C. Fleroy
Title: Chief Executive Officer

KENTUCKY MUNICIPAL ENERGY AGENCY

By: Rowland W. Herd
Name: Rowland W. Herd
Title: CHAIRMAN

MONTHLY RESERVATION CHARGE

Definitions

MDF means the monthly delivery factor for the Service Month, which shall be equal to the total megawatt-hours of Scheduled Facility Firm Energy delivered by Seller to Buyer in the Service Month divided by the total megawatt-hours of Facility Firm Energy Scheduled by Buyer in the Service Month, including Schedules submitted by Buyer pursuant to Section 5.4. In the event Buyer's Scheduled Facility Firm Energy was zero MWs for all Hours of an entire Service Month, the MDF for such Service Month shall equal one (1).

MCP means the monthly Capacity price for the applicable Service Month.

For the first 12 Service Months following the Service Commencement Date, the MCP shall be /MW-month.

For the second 12 Service Months following the Service Commencement Date, the MCP price shall be /r MW-month.

For the third 12 Service Months following the Service Commencement Date, the MCP shall be MW-month.

Calculation

For each Service Month, the Monthly Reservation Charge shall be calculated as follows.

I. For any Service Month in which the MDF is greater than or equal to .96, the Monthly Reservation Charge shall be equal to the Facility Firm Capacity multiplied by the MCP as represented by the following formula:

$$\text{Monthly Reservation Charge} = \text{Facility Firm Capacity} \times \text{MCP}$$

II. For any Service Month in which the MDF is less than .96, the Monthly Reservation Charge shall be equal to the Facility Firm Capacity multiplied by the MCP multiplied by the MDF as represented by the following formula:

$$\text{Monthly Reservation Charge} = \text{Facility Firm Capacity} \times \text{MCP} \times \text{MDF}$$

III. If an event of Force Majeure occurs and is continuing that prevents Seller from providing Facility Firm Capacity and/or Facility Firm Energy and/or Energy in accordance with Buyer's Day-Ahead Schedules and/or Buyer's Revised Schedules for a period of ninety (90) Days or longer, then (a) the Monthly Reservation Charge for the Service Month in which the ninety-Day period ends shall be pro-rated, (b) for each full Service Month thereafter in which the Force Majeure remains in effect, the Monthly Reservation Charge shall be zero dollars (\$0), and (c) the Monthly Reservation Charge for the Service Month in which the event of Force Majeure ends shall be pro-rated. The pro-rated Monthly Reservation Charge under clause (a) shall be the

product of the Facility Firm Capacity, the applicable MCP, and the ratio of the number of Days within the Service Month that fell within the ninety-Day period to the total number of Days in the Service Month. The pro-rated Monthly Reservation Charge under clause (c) shall be the product of the Facility Firm Capacity, the applicable MCP, and the ratio of the number of Days within the Service Month following the end of the Force Majeure event and in which Facility Firm Capacity and Facility Firm Energy were again made available to the total number of Days in the Service Month.

FACILITY ENERGY PRICE

Buyer shall be responsible to pay for Facility Firm Energy in accordance with the provisions below.

Other than with respect to a Service Month for which Buyer has elected a fixed Facility Firm Energy price pursuant to Section 7.2 of this Agreement, the Facility Firm Energy Price for each Service Month, as expressed in dollars per megawatt-hour (\$/MWh), shall be calculated in accordance with the following formula:

FTHEA / JCE

Where:

FTHEA = Fuel, transportation, handling, and emission allowances (excluding any emission allowances required pursuant to the Clean Power Plan), which shall mean those expenses or credits, expressed in U. S. dollars (\$), that are chargeable to the following plant accounts for the six coal-fired generating units at the Joppa plant ("Joppa Coal Units") and that comply with the criteria in the paragraph that follows the definition of JCE:

1. Seller Account 500040 – Gas Expense (reference FERC Account 501 and 547)
2. Seller Account 500041 – Oil Expense (reference FERC Account 501 and 547)
3. Seller Account 500042 – Coal Expense (reference FERC Account 501 and 547)
4. Seller Account 500055 – NOx Expense (reference FERC Account 509)
5. Seller Account 500056 – SO₂ Expense (reference FERC Account 509)
6. Seller Account 500200 – Coal and Other Fuel Handling Expense (reference FERC Account 501)
7. Seller Account 500109 – Rail Expense (reference FERC Account 501)

The Parties acknowledge and agree that the charges and credits in the above accounts will vary with the output of the Joppa Coal Units.

JCE = the total net output of the Joppa Coal Units.

The costs specified above shall include only variable costs actually incurred in connection with the production of Energy by the Joppa Coal Units during the applicable Service Month, and shall be net of any credits, discounts, incentives, rebates, or other monetary consideration received by Seller or its Affiliates related to such costs. No

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opportunity costs, accruals of future costs, or amortization of fixed costs shall be included. Adjustments related to prior Service Months shall be included if and to the extent the adjustments are to costs charged or that could have been charged with respect to the applicable prior Service Months.

PARTY CONTACT INFORMATION

ILLINOIS POWER MARKETING COMPANY

All Notices

Attn: Manager, Account Management
Illinois Power Marketing Company
Street: 1500 Eastport Plaza Drive
City: Collinsville, IL 62234
Phone: (217) 971-6208
Email: Jeffrey.Vance@Dynergy.com

And for notices of defaults and disputes:

Attn: Legal Department
Illinois Power Marketing Company
Street: 601 Travis St. Suite 1400
City: Houston, TX 77002
Phone: (713) 507-6955
Email: Clay.L.Smith@Dynergy.com

Contract Administration

Attn: Jeff Vance
Phone: (217) 971-6208
Fax: (217) 753-8914
E-mail: Jeffery.Vance@dynergy.com

Account Management

Attn: Jeff Vance
Phone: (217) 753-8908
Cell: (217) 971-6208
Fax: (217) 753-8914
E-mail: Jeffery.Vance@dynergy.com

Metering

Attn: Jeff Vance
Phone: (217) 753-8908
Cell or 24 hr. #: (217) 971-6208
Email: Jeffery.Vance@dynergy.com

Scheduling

Attn: Jinna Hopson
Phone: (713) 767-4717
Cell or 24 hr. #:
Email: Jinna.Hopson@dynergy.com

or

Attn: Jason Anderson
Phone: (713) 767-0117
Cell or 24 hr. #:

KENTUCKY MUNICIPAL ENERGY AGENCY

All Notices

Kentucky Municipal Energy Agency
c/o Rubin & Hays
Street: 450 South Third Street
City: Louisville, KY 40202
Phone: (502) 569-7525
Email:

Attn: Charles S. Musson
Rubin & Hays
Street: 450 South Third Street
City: Louisville, KY 40202
Phone: (502) 569-7525
Email: csmusson@rubinhays.com

Contract Administration

Attn:
Phone:
Fax:
E-mail:

Account Management

Attn:
Phone:
Cell:
Fax:
E-mail:

Metering

Attn:
Phone:
Cell or 24 hr. #:
Email:

Scheduling

Attn:
Phone:
Cell or 24 hr. #:
Email:

Attn:
Phone:
Cell or 24 hr. #:

Email: Jason.Anderson@dynegv.com

Email

and

Attn: Real Time Desk
Phone: (713) 767-8300

Attn:
Phone

Credit

Attn: Jeff Vance
Phone: (217) 753-8908
Cell: (217) 971-6208
E-mail: Jeffery.Vance@dynegv.com

Credit

Attn:
Phone:
Fax:
E-mail:

Invoices

Attn: Jeff Vance
Phone: (217) 971-6208
Fax: (217) 753-8914
E-mail: Jeffery.Vance@dynegv.com

Invoices

Attn:
Phone:
Fax:
E-mail:

Wire Payments to Illinois Power Marketing Company to:

Bank Name: JPMorgan Chase Bank
ABA Number: 071000013
Bank Acct. Number: 771057304

Send Payments for Kentucky Municipal Energy Agency To:

Kentucky Municipal Energy Agency
Attn:

Or

Wire Payments to the Kentucky Municipal Energy Agency to:

Bank Name:
ABA Number:
Bank Acct. Number:

FORM OF QUALIFYING LETTER OF CREDIT

[Date]

[Issuing Bank Letterhead]

Irrevocable Standby Letter of Credit No. _____

Issue Date: _____, 20__

Initial Expiry Date: _____, 20__

Beneficiary:

Ladies and Gentlemen:

At the request of and based on instructions from our customer, [_____] a [_____] ("Account Party"), we hereby establish this Irrevocable Standby Letter of Credit ("Letter of Credit") in your favor as [Buyer/Seller] under the Power Purchase Agreement dated as of [_____] between Illinois Power Marketing Company, as Seller, and Kentucky Municipal Energy Agency as Buyer (as heretofore or hereafter amended and/or restated at any relevant time the "Contract") for drawings up to a total of [_____] Dollars (US\$[_____]).

As used in this Letter of Credit: (a) each of "Dollars" and "US\$" mean lawful currency of the United States of America; (b) "ISP98" means the International Standby Practices, International Chamber of Commerce Publication No. 590; and (c) "Business Day" means a Day that is not a Saturday, a Sunday or any other Day on which banking institutions are not required to be open, or are authorized or required to close, in the State of our office location set forth below.

Drawings may be made by you from time to time by presentation of your certificate in the form of Appendix A hereto appropriately completed (a "Certificate") to us at our office in the United States located at:

[_____]
[_____]
[_____]
[_____]

Attn: [_____]
Telephone No: [_____]
Telecopy No: [_____]

or at another office in the United States designated by us with at least fifteen (15) Business Days prior written notice to and received by you.

In the alternative, presentation of any Certificate may be transmitted to us: (a) by telecopy to our telecopy number set forth above; or (b) in another electronic medium pursuant to any written permission which has been provided by us to you in our sole discretion. To the extent a presentation is made by telecopy transmission or in another permitted electronic medium, you must: (a) provide telephone notice thereof to us at our telephone number set forth above prior to or substantially simultaneously with such transmission; and (b) send the original Certificate by overnight courier to us at our office address set forth above. However, our receipt of such telephone notice or original Certificate will not be a condition to payment of the drawing described in the Certificate. Items delivered by telecopy transmission or in another permitted electronic medium will be the equivalent of originals of such items for purposes of this Letter of Credit.

We will honor each drawing made in compliance with this Letter of Credit by wire transfer of immediately available funds in the amount specified in the Certificate provided to us in connection with such drawing to the account specified in that Certificate. If any such drawing is presented by you on a Business Day at or before 12:00 noon local time at our address or telecopy number set forth above, such payment will be made not later than the close of business on the first Business Day after such presentation; drawings presented after 12:00 noon will be paid not later than close of business on the second Business Day after such presentation.

This Letter of Credit is effective immediately and will expire on the first to occur of the: (a) above Initial Expiry Date, subject to extension as described below (as so extended the "Expiry Date"); or (b) surrender by you to us of the original of this Letter of Credit, with any amendment(s) hereto, with your written consent to cancellation thereof (a "Cancellation Date"). The earliest to occur of the final extended Expiry Date or a Cancellation Date will be the "Termination Date." ~~The Initial Expiry Date and each subsequent Expiry Date will be automatically extended for an additional consecutive period of one year unless we notify you in writing by nationally recognized overnight courier service, at least sixty (60) Days prior to the then applicable Expiry Date, of our decision that the then applicable Expiry Date will not be automatically extended. Subject to the provisions herein, we authorize you to make drawings hereunder in an aggregate sum not in excess of the above amount from the date hereof through our close of business on the Termination Date. If this Letter of Credit expires during an interruption of business as described in Rule 3.14 of ISP98, we specifically agree to effect payment if you draw on this Letter of Credit within thirty (30) Days after the resumption of business.~~

Communications with respect to this Letter of Credit, including delivery of Certificates, shall, except as otherwise expressly provided above, be in writing and provided to you and us at our respective addresses and numbers set forth above by delivery in person or facsimile transmission at such address, as provided in this Letter of Credit, or as and in the medium otherwise permitted in writing by the recipient.

This Letter of Credit, except as otherwise expressly stated herein, is subject to ISP98, and as to matters not addressed by ISP98 the Laws of the [State/Commonwealth of _____], including the Uniform Commercial Code as in effect in such State, will control.

This Letter of Credit sets forth in full our undertaking, which will not in any way be amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except for the preceding paragraph and appendices hereto, and any such reference will not incorporate herein by reference any document, instrument or agreement except as set forth above. Our obligations under this Letter of Credit are our individual obligations and not contingent on any reimbursement of us with respect thereto. Any drawing under this Letter of Credit will be paid from our general funds and not directly or indirectly from funds or collateral deposited with us or for our account by the Account Party or any other person or entity.

Very truly yours,

By
Authorized Signator

Appendix A to Qualifying Letter of Credit

[Beneficiary Letterhead]

DRAWING CERTIFICATE
LETTER OF CREDIT NO. _____

_____, 20__

[_____]
[_____]
[_____]
[_____]

Attn: [_____]
Telephone No: [_____]
Telecopy No: [_____]

The undersigned authorized signator of _____, as [Buyer/Seller] ("Beneficiary"), hereby certifies to _____ Bank ("Issuing Bank"), with reference to Irrevocable Standby Letter of Credit No. _____ (the "Letter of Credit") issued by Issuing Bank and now in favor of Beneficiary (except as otherwise set forth herein, capitalized terms used and not defined herein have the meanings set forth in the Letter of Credit or, if not defined therein, in the Contract), that:

1. Beneficiary is making this drawing under the Letter of Credit in the amount of _____ Dollars (US\$ _____) (the "Drawing Amount").

2. The Drawing Amount does not exceed US\$[insert face amount of letter of credit] minus the amount of all payments of any previous drawings made under the Letter of Credit.

3. Beneficiary is entitled to make this drawing because [Check one]:

[] [Seller/Buyer] has failed to pay one or more amounts due and payable to one or more Buyer under the Contract ("Required Payments"), all applicable grace periods for the Required Payments have expired, and the sum of such unpaid Required Payments is not now less than the sum of (a) the Drawing Amount plus (b) any amounts that are being drawn from one or more other Qualifying Letters of Credit in respect of such Required Payments; or

[] The Letter of Credit is not now a Qualifying Letter of Credit and has not been replaced with a Qualifying Letter of Credit for a period of ten (10) consecutive Business Days (as defined in the Contract) after the Letter of Credit no longer constituted a Qualifying Letter of Credit; or

[] The now effective Expiry Date of the Letter of Credit is less than thirty (30) days after the date of this Certificate.

4. You are hereby directed to make payment of the requested Drawing Amount to _____ Bank, at _____ ABA No. _____ for further credit to _____ Account No. _____ Re: [_____], Attention: _____.

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IN WITNESS WHEREOF, Beneficiary has executed and delivered this Certificate.

[Beneficiary]

By: _____

Name: _____

Title: _____

FORM OF INSTRUMENT OF ASSIGNMENT AND ASSUMPTION

This Instrument of Assignment and Assumption (this "Assignment"), dated as of [____], 20[___] (the "Effective Date"), is entered into by and between [*Assignor*], a [____] ("Assignor"), and [*Assignee*], a [____] ("Assignee").

WHEREAS, Assignor and [Buyer/Seller] are parties to that certain Agreement for the Purchase and Sale of Facility Firm Capacity and Facility Firm Energy, dated as of [____] (as amended through the date hereof, the "Contract").

WHEREAS, Assignor intends to assign to Assignee all of Assignor's rights and interests under the Contract, and Assignee intends to assume all of Assignor's obligations arising from and after the Effective Date, and the parties intend Assignor to be released from any further liability thereunder to the extent arising from and after the Effective Date.

WHEREAS, the parties hereto desire to execute and deliver this Assignment for the purpose of effecting the assignment and transfer by Assignor to Assignee, and the acceptance and assumption by Assignee, of the Contract and all rights, liabilities and obligations of "[Seller/Buyer]" (as defined in the Contract) thereunder.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee, intending to be legally bound, agree and covenant as follows:

1. Assignor hereby assigns and transfers to Assignee, and Assignee hereby accepts and assumes and agrees to perform the Contract, and all of Assignor's rights, liabilities and obligations thereunder, to the extent arising from and after the Effective Date. Assignee hereby assumes and agrees to pay, discharge, perform and be responsible for all liabilities and obligations arising or accruing under or in respect of the Contract to the extent arising from and after the Effective Date.

2. Nothing in this Assignment, express or implied, is intended or shall be construed to confer upon or give to any Person, other than Assignor and Assignee, and their respective successors and assigns, any remedy or claim under or by reason of this Assignment or any term, covenant, condition, promise or agreement hereof, and all of the terms, covenants, conditions, promises and agreements contained in this Assignment shall be for the sole and exclusive benefit of Assignor and Assignee, and their respective successors and assigns.

3. This Assignment shall be governed by and construed and enforced in accordance with, and this Assignment and all matters arising out of or relating in any way whatsoever (whether in contract, tort or otherwise) to this Assignment shall be governed by, the laws of the Commonwealth of Kentucky.

4. This Assignment may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall, taken together, be considered one and the same agreement. Delivery of an executed signature page of this Assignment by facsimile or other electronic image scan transmission shall be effective as delivery of a manually executed counterpart of this Assignment.

IN WITNESS WHEREOF, the parties hereto have executed this Instrument of Assignment and Assumption as of the date first written above.

_____ [Assignor]

By: _____

Name: _____

Title:

_____ [Assignee]

By: _____

Name: _____

Title:

REQUIREMENTS APPLICABLE TO BUYER'S REVISED SCHEDULES

1. All Revised Schedules are subject to the following requirements and/or restrictions:
 - a. If, pursuant to Article III, Buyer has reduced the Facility Firm Capacity to less than ninety megawatts (90 MW) for the Contract Term, Buyer may not submit a Revised Schedule at any time during the Contract Term.
 - b. Buyer shall submit a Revised Schedule to Seller in an agreed-to format, in whole megawatts, via email or other mutually agreeable method, no later than one hundred and twenty (120) minutes prior to the Hour for which Buyer is requesting a change in the Day-Ahead Schedule.
 - c. Buyer may exercise its right to submit a Revised Schedule for a particular Day no more than two (2) times following Buyer's delivery to Seller of Buyer's Day-Ahead Schedule for that Day.
 - d. Upon request, Seller shall inform Buyer of the expected operational status of each of the units of the Facility for each Hour of the operating Day. Seller shall use commercially reasonable efforts to accommodate Buyer's Revised Schedules that comply with the criteria set forth in this Exhibit F and that can be accommodated through increasing or decreasing output (consistent with the Facility Operational Limits) of one or more units of the Facility that are operating or scheduled to be operating, *i.e.*, when a unit of the Facility is in operation at least at the minimum load of 47 MW.
 - e. In no event shall Seller be required to start any unit of the Facility solely for purposes of honoring any Revised Schedule.
 - f. ~~Seller shall have no obligation to honor a Revised Schedule that includes megawatts greater than zero (0) for any Hours after the entire Facility is expected to have reached zero megawatts (0 MW), taking into account Buyer's Day-Ahead Schedule, any previous Revised Schedule, and Seller's other scheduled or expected sales.~~
 - g. Seller shall have no obligation to honor a Revised Schedule that would require Seller to violate the MISO Tariff (including ramp limitations) or compromise the ability of Seller and/or its Affiliates to implement their previously scheduled deliveries from the Facility (including NERC Tags for deliveries from the Facility into the MISO real-time market that have already been submitted).
2. The following provisions apply to Buyer's Revised Schedule with respect to Hours in which Buyer's Day-Ahead Schedule was not zero (*i.e.*, was at least 47 MW):
 - a. The Scheduled quantity of Facility Firm Energy in the Revised Schedule may be higher than, lower than, or equal to the amount specified for such Hour in the Day-Ahead Schedule (or a previous Revised Schedule).
 - b. The Revised Schedule for such Hours must comply with Section 5.2(c)(i) and Section 5.2(c)(ii).

- c. The Revised Schedule shall not increase or decrease Scheduled Facility Firm Energy in any such Hour by more than fifteen (15) megawatts as compared to the Facility Firm Energy amount Scheduled for the preceding Hour as reflected in the same Revised Schedule, **except** where the Scheduled Facility Firm Energy in an Hour is less than 47 MW, at which point the Schedule must be zero as provided in Section 5.2(c)(i).
3. The following provisions apply to Buyer's Revised Schedule with respect to Hours in which its Day-Ahead Schedule was zero:
- a. The Facility Firm Energy amount in an Hour may be greater than zero and less than 47 MW, but only for the Hours during which the Revised Schedule ramps up to 47 MW.
 - i. The Revised Schedule amount for the first such Hour shall not exceed 15 MW.
 - ii. The Revised Schedule amount for each subsequent Hour shall neither (A) exceed the Facility Firm Energy amount Scheduled for the preceding Hour as reflected in the same Revised Schedule by more than 15 MW, nor (B) be less than the Facility Firm Energy amount Scheduled for the preceding Hour as reflected in the same Revised Schedule.
 - b. All Hours in the Revised Schedule for which the Facility Firm Energy amount is not zero must be part of a period of at least four (4) consecutive Hours in which the Scheduled Facility Firm Energy for each Hour is greater than zero.
 - i. Buyer's Revised Schedule may include a period of four or more consecutive Hours that is separate from any such period that was included in the Day-Ahead Schedule.
 - ii. Buyer's Revised Schedule may extend a period of four or more consecutive Hours that was included in the Day-Ahead Schedule by adding Hours to the beginning or end of such period, or both, so long as the Revised Schedule meets all other requirements of this Exhibit F.
 - iii. This requirement relaxes Section 5.2(c)(ii) only by permitting inclusion in the period of four or more consecutive Hours those Hours for which the Schedule is less than 47 MW (for the ramp-up period only, and in compliance with Section 3.a of this Exhibit F).
 - c. In each Hour of the Revised Schedule that follows an Hour with an amount of Facility Firm Energy of at least 47 MW, the Revised Schedule shall not increase or decrease Scheduled Facility Firm Energy for such Hour by more than fifteen (15) megawatts as compared to the Facility Firm Energy amount Scheduled for the preceding Hour as reflected in the same Revised Schedule, **except** where the Scheduled Facility Firm Energy for such Hour is less than 47 MW, at which point the Schedule must be zero as provided in Section 5.2(c)(i).
 - d. Buyer is responsible for any difference between the Day-Ahead Market Price and the Real-Time Market Price for any Facility Firm Energy that is Scheduled to be delivered, and is delivered, to the Alternate Delivery Point.

4. Even if (A) Buyer did not submit a Day-Ahead Schedule, or (B) Buyer's Day-Ahead Schedule failed to comply with the requirements of the Agreement, Buyer may, nevertheless, submit a Revised Schedule in compliance with this Exhibit F.

For illustration purposes, the following examples show a hypothetical Revised Schedule that would comply with this Exhibit F, and a hypothetical Revised Schedule that would not comply with this Exhibit F, both with reference to the same hypothetical Day-Ahead Schedule.

Table 1 (Hypothetical Day-Ahead Schedule)

Hour Ending ("HE")	0100	0200	0300	0400	0500	0600	0700	0800	0900	1000	1100	1200
MW	47	50	55	60	80	90	100	100	90	80	0	0
HE	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	2400
MW	0	0	0	0	0	0	0	0	0	0	0	0

Table 2 (Hypothetical compliant Revised Schedule)

Hour Ending ("HE")	0100	0200	0300	0400	0500	0600	0700	0800	0900	1000	1100	1200
MW	47	50	55	60	80	90	100	100	90	75	15	30
HE	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	2400
MW	45	47	60	75	75	62	60	47	0	0	0	0

Table 3 (Hypothetical non-compliant Revised Schedule)

Hour Ending ("HE")	0100	0200	0300	0400	0500	0600	0700	0800	0900	1000	1100	1200
MW	47	50	55	60	80	90	100	100	90	80	15	30
HE	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	2400
MW	45	47	45	30	45	60	0	0	0	0	0	0

The hypothetical Revised Schedule represented in Table 3 of this Exhibit F fails to comply with Section 3.a.ii(B) of this Exhibit F.