CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“**Agreement**”), dated as of December 1, 2015 (“**Effective Date**”), is between Kentucky Municipal Energy Agency. (“**Counterparty**”) and **Proposer 2** (“**P2**”), hereinafter individually referred to as a “**Party**” and collectively referred to as the “**Parties**”.

**WHEREAS**, in connection with the Parties’ interest in a possible business relationship relating to a supply of energy commodities and/or energy commodity related products to one another (the “**Potential Transaction**”), Counterparty and P2 may furnish each other with certain confidential, non-public and/or proprietary information; and

**WHEREAS**, both Parties have agreed to hold the Confidential Information (as hereinafter defined) confidential in accordance with the terms of this Agreement:

**NOW, THEREFORE**, for and in consideration of each Party furnishing the other Party with the Confidential Information and other good and valuable consideration, the Parties hereby agree as follows:

1. The term “**Confidential Information**” as used herein shall mean all information related to the Potential Transaction, including but not limited to financial information, forms of documents, pricing information, business activities and operations, and other technical and business information, as well as the existence or progress of the Potential Transaction, which Counterparty or its Representatives and/or P2 or its Representatives furnishes to the other Party or its Representatives on or after the Effective Date, in whatever form or medium provided (including, without limitation, oral communications), as well as all information generated by either Party or its Representatives that contains, reflects or is derived from the furnished information; *provided, however*, the term “Confidential Information” shall not include information which (i) is or becomes generally available to the public other than as a result of acts by the receiving Party or its Representatives to whom the receiving Party supplies the Confidential Information, (ii) was in the receiving Party’s or its Representative’s possession prior to the date it was disclosed to either Party by the other Party or its Representatives, (iii) is disclosed to the receiving Party by a third party which is not, to the receiving Party’s knowledge, prohibited from disclosing such information by a legal or fiduciary duty to the disclosing Party, or (iv) is independently developed by the receiving Party or any of its Representatives without the use of any Confidential Information.

2. The Confidential Information shall be kept confidential and shall not, without the disclosing Party’s prior written consent, be disclosed by the receiving Party or its directors, officers, partners, affiliates, employees, agents, representatives or advisors (collectively, “**Representatives**”) in any manner whatsoever, in whole or in part, except as provided in this Agreement. Both Parties consent and agree to transmission of the Confidential Information only to such of the receiving Party’s Representatives who need to know the Confidential Information for the sole purpose of evaluating the Potential Transaction and who are informed by the receiving Party of the confidential nature of the Confidential Information. Such Representatives shall agree to be bound by this Agreement, and shall be directed by the receiving Party not to disclose the Confidential Information to any other person. The receiving Party and its Representatives will use the Confidential Information only for the purpose of determining its interest in the Potential Transaction and will not use the Confidential Information for any other purpose whatsoever. The receiving Party shall take all reasonable measures (including, without limitation, court proceedings) to restrain its Representatives from prohibited or unauthorized disclosure or use of the Confidential Information. Without the disclosing Party’s prior written consent, neither the receiving Party nor its Representatives will disclose to any person the fact that they have received any of the Confidential Information or that discussions or negotiations are taking place concerning the possible Potential Transaction, including the status thereof. In no event shall the receiving Party use less than the same degree of care to protect the disclosing Party’s Confidential Information as the receiving Party would employ with respect to its own confidential or proprietary information.

3. The receiving Party shall be responsible for any breach of this Agreement by any of its Representatives. It is understood and agreed by the receiving Party that the disclosing Party may be irreparably and immediately harmed by any breach of this Agreement by the receiving Party or its Representatives and may not be made whole by monetary damages. Accordingly, the receiving Party agrees that, in addition to any other remedy to which the disclosing Party may be entitled at law or in equity, (i) the disclosing Party shall be entitled to an injunction or injunctions (without the posting of any bond and without proof of actual damages) to prevent breaches or threatened breaches of this Agreement and/or to compel specific performance of this Agreement, and (ii) the receiving Party waives any defenses to an equitable remedy, including without limitation the defenses of failure of consideration, breach of any other provision of this Agreement, and availability of relief in damages.

4. If the receiving Party or any of its Representatives are requested or required (by deposition, interrogatory, request for documents, subpoena, civil investigative demand regulatory agency or other governmental entity exercising jurisdiction over the Party or subject matter in question or similar process) to disclose any of the Confidential Information, the receiving Party shall provide the disclosing Party with prompt written notice (to the extent legally permissible) of such request or requirement and shall cooperate with the disclosing Party so it may seek a protective order or other appropriate remedy at the disclosing Party’s sole cost and expense. Subject to the issuance of a protective order or other remedy being obtained, the receiving Party may produce such Confidential Information if, in the opinion of counsel of the receiving Party, the Confidential Information is responsive to discovery requests or demands in the respective proceeding(s), provided that (i) the receiving Party may only furnish that portion of the Confidential Information which is legally required, and (ii) the receiving Party shall exercise commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

5. Each Party to this Agreement reserves the right, in its sole and absolute discretion, to reject any or all proposals, to decline to furnish further Confidential Information, to deny access to its data and to terminate discussions and negotiations at any time without liability to the other Party regarding the Potential Transaction. The exercise of these rights shall not affect the enforceability of any obligation arising under this Agreement before termination. Upon receipt of a notice in writing requesting any such termination of discussions and negotiations, the receiving Party agrees, within fifteen (15) calendar days after receipt of such request by the disclosing Party, to (i) return to the disclosing Party or destroy all Confidential Information delivered by the disclosing Party or its Representatives to the receiving Party or its Representatives, and no copies, extracts or other reproduction shall be retained by the receiving Party or its Representatives, and (ii) destroy all copies of any analyses, compilations, studies, or other documents, records or data prepared by the receiving Party or its Representatives which contain or otherwise reflect or are generated from the Confidential Information; *provided, however*, receiving Party shall not be required to return or destroy copies of Confidential Information that is automatically stored by its computer systems for back-up or disaster recovery purposes so long as the provisions of this Agreement continue to apply to the Confidential Information contained in such computer records. Further, the receiving Party and its Representatives may, upon written notice to the disclosing Party, retain Confidential Information the receiving Party and/or its Representatives are required to retain by law, regulation or good corporate governance. Any retained Confidential Information shall continue to be held confidential by the receiving Party and its Representatives, subject to the terms of this Agreement.

6. Although the receiving Party understands that the disclosing Party and its Representatives will include in the Confidential Information certain information that the disclosing Party or its Representatives believe to be relevant for the purpose of the receiving Party’s evaluation of the Potential Transaction, neither the disclosing Party nor its Representatives is making or has made any representation or warranty, express or implied, with respect to the Confidential Information, including but not limited to a warranty against enforcement, accuracy or completeness. the confidential information of the disclosing party is provided “as is”. The disclosing Party and its Representatives shall not have any liability to the receiving Party or any of its Representatives resulting from the use of the Confidential Information by the receiving Party or its Representatives. Only those representations and warranties that are made in a definitive agreement when, as, and if it is executed, and subject to such limitations and restrictions as may be specified in such definitive agreement, will have any legal effect. Notwithstanding the foregoing, the disclosing Party represents and warrants to the receiving Party that it has the right and authority to disclose the Confidential Information. Furthermore, should the disclosing Party’s Confidential Information be provided to the receiving Party by a Representative of the disclosing Party, the disclosing Party represents and warrants to the receiving Party that such Representative has the right and authority to disclose such Confidential Information.

7. The sole purpose of this Agreement is to assist the Parties in assessing their interest in the Potential Transaction, and does not obligate either Party to enter into any future agreements. Unless and until a definitive agreement has been executed, (i) no contract or agreement providing for a transaction with the disclosing Party shall be deemed to exist between the receiving Party and the disclosing Party, and (ii) neither the disclosing Party nor the receiving Party will be under any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement, or of any other written or oral expression by the Parties, except, in the case of this Agreement, for the matters specially agreed to herein. For purposes of this Agreement, the term “definitive agreement” does not include an executed letter of intent or any other preliminary written agreement, nor does it include any written or verbal acceptance of any offer or bid by either Party.

8. This Agreement does not establish a partnership, agency, joint venture or similar relationship, nor does it obligate any Party to enter into such a relationship. At any time prior to the execution of a definitive agreement between the Parties with respect to the Potential Transaction, either Party may voluntarily withdraw for any reason from discussions with the other Party concerning the Potential Transaction by giving the other Party written notice to such effect; *provided, however*, the withdrawing Party shall remain subject to the confidentiality obligations set forth in this Agreement.

9. This Agreement is being entered into solely to facilitate an evaluation by each of the Parties hereto with respect to the Potential Transaction. The Parties expressly recognize and agree that this Agreement does not create any exclusive dealing arrangement between the Parties with respect to the Potential Transaction. The Parties further recognize and agree that both Parties actively participate and compete within the market contemplated by the Potential Transaction and that the provision and receipt of any Confidential Information under this Agreement will not operate to preclude or prevent either Party from continuing to participate and compete with the other within such market or otherwise be construed as an agreement not to compete.

10. This Agreement shall be for sole benefit of the Parties hereto. Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld), and any assignment in violation of this Agreement shall be void. Notwithstanding the above, any assignment which may occur by operation of law in conjunction with a reincorporation, merger, or similar corporate transaction shall not be deemed to be a prohibited assignment hereunder. This Agreement shall benefit and be binding upon the parties to this Agreement and their respective successors and permitted assigns. There are no third party beneficiaries to this Agreement. This Agreement may be modified or waived only by a separate writing signed by Counterparty and P2. If any clause or provision of this Agreement is illegal, or unenforceable, then it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. The failure of either Party to require performance by the other Party of any provision of this Agreement shall in no way affect the full right to require such performance at any time thereafter. This Agreement will be governed and construed in accordance with the laws of the State of Texas. Any dispute relating to, arising out of, or connected with this Agreement shall be filed and maintained in a State or Federal court located in [Insert Address]. Counterparty and P2 expressly agree to waive any right to have any issue relating to this Agreement determined by a jury trial. Each Party (i) certifies that no representative, agent or attorney of the other party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this paragraph.

11. The obligations of the Parties under this Agreement to maintain the Confidential Information as confidential shall take effect as of the Effective Date and shall survive the termination of this Agreement for a period of two (2) years.

12. This Agreement and any counterpart thereof may be delivered via facsimile or other electronic means, it being the express intent of the Parties that such Agreement and any counterpart thereof delivered via facsimile or other electronic means (together with the signatures thereon) shall have the same force and effect as if they were originals.

13. Any notices or other communications contemplated or required under this Agreement, in order to be valid, shall be in writing and shall be given via personal delivery or via overnight mail at the addresses provided below:

If to P2:

[TO BE PROVIDED]

If to Counterparty:

[TO BE PROVIDED]

[*Remainder of page intentionally left blank*]

**IN WITNESS WHEREOF**, the Parties have executed this Confidentiality Agreement effective as of the Effective Date.

**Proposer 2 (P2)**

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Kentucky Municipal Energy Agency (Counterparty)**

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_