**PRELIMINARY TELECOMMUNICATIONS WORK**

**REIMBURSEMENT AGREEMENT**

This Preliminary Telecommunications Work Reimbursement Agreement (“Agreement”) is entered into as of \_\_\_\_\_\_\_\_, 2018 (the “Effective Date”), by and between Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU” and together with LG&E, “LG&E/KU”), and Kentucky Municipal Energy Agency (“KyMEA”). LG&E/KU and KyMEA are sometimes referred to in this Agreement individually as a “Party” and, collectively, as the “Parties.”

**RECITALS**

WHEREAS, LG&E/KU own and operate facilities for the transmission of electric power and energy in interstate commerce in the Commonwealths of Kentucky and Virginia (the “LG&E/KU Transmission System”). LG&E/KU provide non-discriminatory transmission service pursuant to the rates, terms, and conditions of the LG&E/KU Joint Pro Forma Open Access Transmission Tariff, currently on file with the Federal Energy Regulatory Commission (“FERC” or the “Commission”); and

WHEREAS, KyMEA is a joint public agency established pursuant to Sections 65.210 to 65.300 of the Kentucky Revised Statutes, whose current municipal customers include the Barbourville Utility Commission, the City of Bardwell, the City of Berea, the Benham Power Board, the Corbin City Utilities Commission, the City of Falmouth, the Frankfort Plant Board, the City of Madisonville, Owensboro Municipal Utilities, the City of Paris, and the City of Providence; and

WHEREAS, KyMEA has requested that LG&E/KU undertake assessment and testing activities to identify telecommunication equipment and define telecommunications installation or upgrade projects, including the preparation of cost estimates, associated with the transition of the Barbourville Utility Commission, the City of Bardwell, the City of Berea, the Corbin City Utilities Commission, the City of Falmouth, the Frankfort Plant Board, the City of Madisonville, and the City of Providence from wholesale full requirements customers of KU to transmission-only customers taking service under the LG&E/KU Joint Pro Forma Open Access Transmission Tariff; and

WHEREAS, the Parties are entering into this Agreement to memorialize the Parties’ mutual agreement as to the performance of and allocation of costs associated with such preliminary telecommunications work and testing; and

WHEREAS, the Parties agree that any activities beyond the aforementioned preliminary work and testing activities contemplated by this Agreement, including but not limited to the purchase of equipment, the actual implementation of telecommunications solutions, and the installation or upgrade of telecommunications equipment, will be memorialized in future agreements that are outside of the scope of this Agreement (the “Future Agreements”).

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

1. Effective Date; Term.

(a) This Agreement shall become effective on the Effective Date.

(b) The term of this Agreement shall commence on the Effective Date, and shall terminate thirty (30) days after the date of receipt of written notice from either Party indicating that said Party has decided, in its sole and absolute discretion, to terminate this Agreement (the “Termination Date”). The right to terminate this Agreement through provision of the aforementioned written notice may be exercised by either Party at any time, with or without cause.

(c) This Agreement shall automatically terminate on the Termination Date. Upon the termination of this Agreement, this Agreement shall have no further force and effect, except that any rights and remedies that have arisen or accrued to either Party prior to such expiration or termination, or any obligations or liabilities that have arisen or accrued before such expiration or termination and that expressly survive such termination pursuant to this Agreement, shall in each case survive termination of this Agreement. In the event that either Party should terminate this Agreement prior to the completion of the of the preliminary telecommunications work and testing and/or prior to billing and reimbursement activities in Section 2, KyMEA shall reimburse LG&E/KU for any costs incurred in the performance of its obligations under this Agreement within 30 days of receipt of LG&E/KU’s calculation of such costs incurred. Termination of this Agreement does not relieve KyMEA of the obligation to reimburse LG&E/KU its costs incurred in the course of performing its obligations under this Agreement. The rights and obligations set forth in Sections 4 and 6 shall survive in full force and effect the termination of this Agreement.

1. Preliminary Telecommunications Work and Testing Activities and Cost Assignments.

KyMEA has requested LG&E/KU to undertake certain preliminary telecommunications work and testing activities, and LG&E/KU has agreed to perform such activities subject to the Parties mutual agreement that KyMEA shall reimburse LG&E/KU for LG&E/KU’s costs associated with said preliminary telecommunications work and testing activities.

* 1. Specifically, KyMEA has requested and LG&E/KU has agreed to perform the following:

Evaluation and testing of potential telecommunication solutions to support transition of certain municipal customers to transmission customers, including:

* 1. Site visits;
	2. Engineering studies; and
	3. Development of a recommended approach and identification of telecommunication needs associated with the transition from full requirements customers to transmission customers, including identification of appropriate equipment and estimated equipment and labor costs.
	4. The Parties estimate that the costs of said preliminary telecommunications work and testing activities will be $100,000. If the costs of said preliminary telecommunications work and testing activities is expected to exceed $100,000, LG&E/KU shall notify KyMEA as to the revised estimated costs. The Parties agree LG&E/KU will calculate the actual costs of said preliminary telecommunications work and testing activities upon the completion of said activities and that KyMEA shall reimburse LG&E/KU such actual costs within 30 days after receipt of the calculated actual costs from LG&E/KU.
1. Nature of Agreement.

The Parties are entering into this Agreement to memorialize the Parties’ mutual agreement as to the performance of and allocation of costs associated with certain preliminary telecommunications work and testing activities associated with the transition of certain municipal customers of KyMEA from wholesale full requirements customers to transmission only customers under the LG&E/KU Joint Pro Forma Open Access Transmission Tariff. This Agreement is not intended to include any of the essential terms and conditions that may be contained in any Future Agreements and, accordingly, this Agreement is not intended to be a complete and binding agreement as to the terms and conditions of any Future Agreements and the obligations or service contemplated thereunder. No binding agreement will exist between the Parties with respect to the obligations or transactions to be included in any Future Agreements, unless and until the Parties execute the aforementioned Future Agreements and obtain all necessary regulatory approvals associated therewith. Notwithstanding the foregoing sentences in this Section 3, it is expressly agreed by the Parties that the terms and conditions of this Agreement are intended to be legal, valid, and binding obligations of the Parties, enforceable as to the terms and conditions that are specified in this Agreement.

1. Confidentiality.

All information exchanged in connection with this Agreement shall constitute “Confidential Information.” The Parties agree that each shall: (i) treat and cause to be treated as confidential all Confidential Information; (ii) not disclose any Confidential Information to any third party or make available to a third party any reports, recommendations, extracts, summaries, analysis or conclusions based on the Confidential Information; (iii) reveal the Confidential Information only to those employees or contractors who require such access to Confidential Information as is appropriate to perform the respective obligations as provided under this Agreement or in association with Future Agreements.

1. Assignment.

Neither Party shall have the right to assign its interest in this Agreement, including its rights, duties, and obligations hereunder, without the prior written consent of the other Party, which consent may be withheld by the other Party in its sole and absolute discretion. Notwithstanding the foregoing, either Party shall have the right, without the prior consent of the other Party, to assign all of its interest in this Agreement in connection with any sale, merger or other transfer of all or a substantial part of such Party’s electric transmission facilities as an operating entity; provided, however, that the effectiveness of such assignment shall be conditioned upon assignee (i) agreeing in writing to assume all of the rights and obligations of the assignor hereunder as of the assignment date and (ii) having all necessary corporate and regulatory authority and approvals to perform its obligations under this Agreement. Any assignment made in violation of the terms of this Section 5 shall be null and void and shall have no force and effect.

1. Limitation of Liability.
	1. EACH PARTY HERBY WAIVES ANY RIGHT TO RECOVER SPECIAL, PUNITIVE, CONSEQUENTIAL, INCIDENTAL, STATUTORY, TREBLE, OR EXEMPLARY DAMAGES (INCLUDING CLAIMS FOR LOST PROFITS OR LOSS OF BUSINESS OPPORTUNITY) IN CONNECTION WITH THIS MOU.
	2. Each of the Parties acknowledges and agrees that (i) the other Party’s decision to proceed or not to proceed with any Future Agreements, and any other decision with respect to any Future Agreements, is within the other Party’s sole and absolute discretion and that the other Party may terminate this Agreement at any time for any reason whatsoever or for no reason; and (ii) except as provided in paragraph 1(c) above, the other Party shall not be liable to it for any claim, loss, cost, liability, damage or expense, including any direct damage or any special, indirect, exemplary, punitive, incidental or consequential loss or damage (including any loss of revenue, income, profits or investment opportunities or claims of third party customers) (collectively, “Damages”), arising out of or directly or indirectly related to the other Party’s decision to terminate this Agreement.
	3. The rights and obligations under this Section 6 shall survive the expiration and termination of this Agreement.
2. General Provisions.
	1. This Agreement represents the entire agreement between the Parties and supersedes any prior written or oral agreements or understandings between the Parties relating to the subject matter of this Agreement. Nothing in this Agreement shall limit, repeal, or in any manner modify the existing legal rights, privileges, and duties of each of the Parties as provided by agreement, statute or any other law or applicable court or regulatory decision.
	2. This Agreement may not be amended except in writing signed by both of the Parties.
	3. Any waiver on the part of a Party to this Agreement of any provision or condition of this Agreement must be in writing signed by each Party to be bound by such waiver, shall be effective only to the extent specifically set forth in such writing and shall not limit or affect any rights with respect to any other or future circumstance. No delay or forbearance by a Party in exercising any right or remedy accruing to such Party upon the occurrence of any breach or default by the other Party under this Agreement shall impair any such right or remedy of such Party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein.
	4. This Agreement is for the sole and exclusive benefit of the Parties and shall not create a contractual relationship with, or cause of action in favor of, any third party.
	5. In the event that any provision of this Agreement is determined to be invalid or unenforceable for any reason, in whole or part, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law, and such invalid or unenforceable provision shall be replaced by the Parties with a provision that is valid and enforceable and that comes closest to expressing the Parties’ intention with respect to such invalid or unenforceable provision.
	6. The Parties agree to cooperate with respect to any filing of this Agreement for regulatory approval.
	7. Whenever this Agreement requires or provides that (i) a notice be given by a Party to the other Party or (ii) a Party’s action requires the approval or consent of the other Party, such notice, consent, or approval shall be given in writing and shall be given by personal delivery, by recognized overnight courier service, or by registered mail (return receipt requested), postage prepaid, to the recipient thereof at the address given for such Party as set forth below, or to such other address as may be designated by notice given by any Party to the other Party in accordance with the provisions of this Section 7(f):

If to LG&E/KU:

Chris Balmer

Director, Transmission Strategy & Planning

220 W Main St.

Louisville, KY 40202

(502) 627-4578

If to KyMEA:

Doug Buresh

President and CEO

Kentucky Municipal Energy Agency

1700 Eastpoint Parkway, Suite 220

Louisville, Kentucky 40223

(502) 693-3790

Each notice, consent or approval shall be conclusively deemed to have been given (A) on the day of the actual delivery thereof, if given by personal delivery or overnight delivery, (B) on the fifth (5th) calendar day following the deposit thereof in the mail, if given by registered mail and (C) in the case of a notice, consent or approval sent by facsimile communication, on the day of actual receipt if a Business Day and received prior to 4:30 p.m. at the place of receipt, or if not so received, on the next following Business Day in the place of receipt.

* 1. This Agreement may be executed in one or more counterparts (including by facsimile or a scanned image), each of which when so executed shall be deemed to be an original, and all of which shall together constitute one and the same instrument.
	2. Nothing contained in this Agreement shall be construed as creating a corporation, company, partnership, association, joint venture or other entity, nor shall anything contained in this Agreement be construed as creating or requiring any fiduciary relationship between the Parties. No Party shall be responsible hereunder for the acts or omissions of the other Party.
	3. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply: (A) any reference in this Agreement to gender includes all genders, and the meaning of defined terms applies to both the singular and the plural of those terms; (B) the insertion of headings are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Agreement; (C) all references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified; (D) words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires; (E) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it; (F) the Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof favoring or disfavoring any Party will exist or arise by virtue of the authorship of any provision of this Agreement; and (G) “Business Day” means any day other than Saturday, Sunday, and any day which is a legal holiday or a day on which banking institutions in Louisville, Kentucky are authorized or obligated by law to close.
1. Governing Law; Venue.

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Kentucky without regard to its principles of conflicts of laws.

IN WITNESS WHEREOF, each of the Parties has caused its duly authorized officer to execute this Agreement as of the date first above written.

**LG&E/KU**

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

 Name:

 Title:

**KyMEA**

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

 Name: Doug Buresh

 Title: President and CEO