**Telecommunications Equipment Agreement between**

**Louisville Gas and Electric Company and Kentucky Utilities Company**

**and**

**Kentucky Municipal Energy Agency**

This Telecommunications Equipment Agreement (the “Agreement”) is made and entered into this day of \_\_\_\_, 20\_\_, by and between Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU,” collectively 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 are investor-owned utilities engaged in the transmission of electric energy, operation of its transmission system, and generation and sale of electricity at wholesale; 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 the purchase and installation of telecommunications equipment to facilitate the transition of the Barbourville City 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 KYMEA delivery points taking service under the LG&E/KU Joint Pro Forma Open Access Transmission Tariff (“OATT”) and/or a wholesale distribution service agreement; and

WHEREAS, LG&E/KU has offered, and KYMEA has agreed, to replace the existing supervisory control and data acquisition (“SCADA”) radio equipment with cellular communications at the four Paris delivery points to obtain a standard telecommunication solution for all KYMEA delivery points.

WHEREAS, the Parties are entering into this Agreement to memorialize the Parties’ mutual agreement as to the costs associated with the purchase and installation of telecommunications equipment, and LG&E/KU project management labor associated with the transition initiative.

NOW, THEREFORE, LG&E/KU and KYMEA agree as follows:

1. The work to be performed by LG&E/KU (in accordance with Good Utility Practice) pursuant to this Agreement (referred to herein as the “Work”) is detailed in the Detail of Work provided in the Appendix A to this Agreement. This Work consists of acquiring, installing, testing, documenting, and initial troubleshooting (as necessary) of telecommunications equipment for the twenty-two delivery points and all associated project management labor. LG&E/KU shall plan, schedule, and perform the Work and LG&E/KU shall solely determine the manner and method of the Work’s completion, which may include utilizing contractors to perform all or any part of the Work.
2. As detailed in Appendix A to this Agreement, KYMEA shall pay for all costs associated with the Work at eighteen of the twenty-two delivery points. LG&E/KU shall perform the Work at the four Paris delivery points at LG&E/KU’s expense.
3. LG&E/KU’s initial estimate of the costs to be charged to KYMEA for the Work is one hundred and sixty thousand nine hundred five hundred dollars ($169,500), as reflected in Appendix A. Following execution of this Agreement by both LG&E/KU and KYMEA, LG&E/KU shall submit an invoice to KYMEA for payment of the estimated costs associated with the Work for which KYMEA is responsible. KYMEA shall remit payments to LG&E/KU within thirty (30) days of receipt of an invoice.
4. Within three (3) months of completion of the Work, LG&E/KU will provide KYMEA a detailed summary of the final, actual costs reasonably incurred by LG&E/KU for those items listed in Appendix A which are to be charged to KYMEA. If the final, actual costs are less than the amount previously paid by KYMEA, LG&E/KU will promptly refund the difference between such amounts to KYMEA, together with interest on such refund amount dating back to the date of KYMEA’s initial payment and calculated in accordance with 18 C.F.R. §35.19a. If the final, actual costs are greater than the amount previously paid by KYMEA, LG&E/KU will prepare and forward an invoice to KYMEA for the additional amount owed together with interest on such additional amount dating back to the completion of the Work and calculated in accordance with 18 C.F.R. §35.19a, which KYMEA shall pay within thirty (30) days of receipt of said invoice.
5. LG&E/KU shall use commercially reasonable efforts to promptly commence and diligently pursue completion of the Work to facilitate the transition from wholesale full requirements customers of KU to customers to customers taking service under the OATT and/or a wholesale distribution service agreement.
6. Upon completion of the Work, KYMEA will own the equipment that Appendix A identifies as belonging to KYMEA and will maintain such equipment at KYMEA’s own expense. LG&E/KU will own the equipment that Appendix A identifies as belonging to LG&E/KU and will maintain such equipment at the expense of KYMEA.
7. If KYMEA requests the cancellation or indefinite postponement of the Work, KYMEA agrees to reimburse LG&E/KU for all costs expended or obligated at the time KYMEA gives LG&E/KU written notice of the cancellation or indefinite postponement. This amount will be deducted from any advance payments and the unused portion returned to KYMEA.
8. LG&E/KU shall not be responsible for delays caused by strikes, work stoppage, lockouts, acts of God (including inclement weather), delays attributable to KYMEA or KYMEA’s employees, agents, contractors or affiliates, other public or private utilities, the permitting or escorting authorities, or by any other cause beyond the control of LG&E/KU; nor will LG&E/KU be responsible for delays that LG&E/KU, in their sole discretion, determine to be necessary for reasons of safety, or system requirements, or both.
9. Each Party to this Agreement agrees to fully indemnify and hold the other Party, its members, directors, officers, agents, representatives, employees, affiliates, shareholders and/or assigns, harmless from and against any and all claims, demands, liability, losses, damage, costs or expenses (including reasonable attorneys’ fees and other costs of defense), of any nature or kind whatsoever arising out of or otherwise resulting from the Work unless caused by the negligent or willful acts of the other Party, its members, directors, officers, agents, representatives, employees, affiliates, shareholders and/or its assigns to the extent permitted by law.
10. This Agreement supersedes all previous representations, negotiations, understandings or agreements, either written or oral, between LG&E/KU and KYMEA or their representatives as relating to the Work. This Agreement may not be modified in any manner except by an instrument in writing executed by both LG&E/KU and KYMEA, and, where necessary and applicable, approved by the relevant state or federal regulatory authority. In the event any term, covenant or condition herein contained is held to be invalid or void by any court or regulatory body of competent jurisdiction, the invalidity of such term, covenant or condition shall in no way affect any other term, covenant or condition herein contained. LG&E/KU and KYMEA agree that the court or regulatory body shall attempt to enforce the same as much as legally permissible to effectuate the Parties’ intent.
11. This writing contains the entire agreement and understanding of the Parties with respect to the Work, and all agreements entered into prior to or contemporaneously with the execution of this Agreement are excluded whether oral or written.

1. This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky, except to the extent superseded by federal law and requirements imposed by the Federal Energy Regulatory Commission (“FERC”).

IN WITNESS WHEREOF, LG&E/KU and KYMEA have caused this Agreement to be executed by their respective authorized officials.

LG&E/KU

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

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

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

KYMEA

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

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

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

**APPENDIX A – DETAIL OF WORK**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Telecommunications Equipment List for eighteen delivery points** (Barbourville, Bardwell, Berea, Corbin, Falmouth, Frankfort, Madisonville, and Providence) | **Quantity** | **Estimated Unit Price**  | **Estimated Extended Price** | **Owner of Equipment Upon Completion of the Installation** |
| Cellular Modem | 16 |  $750 |  $12,000 | KYMEA |
| Antenna System | 16 |  $250 | $4,000 | KYMEA |
| Coax, Connectors, Etc | 16 |  $200 |  $3,200 | KYMEA |
| Power Supply | 16 | $700 | $11,200 | KYMEA |
| Channel Bank  | 1 |  $11,000 |  $11,000 | LG&E/KU |
| Router | 2 |  $8,000 |  $16,000 | LG&E/KU |
| ASU Module | 3 |  $1,200  |  $3,600 | LG&E/KU |
| AT&T APN | 1 |  $500  |  $500 | LG&E/KU |
| Racking Materials | 1 |  $1,000 |  $1,000 | LG&E/KU |
| **Spare Telecommunications Equipment** | **Quantity** | **Estimated Unit Price** | **Estimated Extended Price** | **Owner of Equipment Upon Completion of the Installation** |
| Spare Modems | 4 | $750 | $3,000 | KYMEA |
| Spare Antennas | 4 | $250 | $1,000 | KYMEA |
| Spare Power Supplies | 4 | $700 | $2,800 | KYMEA |
| **Telecommunications Equipment List for four delivery points** (Paris) | **Quantity** | **Estimated Unit Price**  | **Estimated Extended Price** | **Owner of Equipment Upon Completion of the Installation** |
| Cellular Modem | 4 |  $0 |  $0 | KYMEA |
| Antenna System | 4 |  $0 |  $0  | KYMEA |
| Coax, Connectors, Etc | 4 |  $0  |  $0 | KYMEA |
|  Estimated Telecommunications Equipment Sub-Total | $69,300 |  |
|  Estimated Telecommunications Equipment Taxes and Shipping   | $6,700 |  |
|  **ESTIMATED Telecommunications Equipment TOTAL** | **$76,000** |  |
| Estimated Labor to Acquire, Install, Test, and Troubleshoot (as necessary) Telecommunications Equipment eighteen delivery points | $47,500 |  |
| Labor to Acquire, Install, Test, and Troubleshoot (as necessary) Telecommunications Equipment for the four Paris delivery points | $0 |  |
| Estimated Project Management Labor  | $46,000 |  |
| **Estimated Labor TOTAL** | **$93,500** |  |
| **Estimated Telecommunication Equipment and Labor TOTAL** | **$169,500** |  |