



Kenton County School District | It's about ALL kids.

**THE KENTON COUNTY BOARD OF  
EDUCATION**

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY  
41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: [www.kenton.kyschools.us](http://www.kenton.kyschools.us)

Dr. Henry Webb, Superintendent of Schools

**KCSD ISSUE PAPER**

**DATE:**

9/26/19

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve Natural gas two year purchase agreement with Stand Energy Corporation to purchase natural gas for the following schools: Simon Kenton, Dixie, Summit View, and River Ridge.

**APPLICABLE BOARD POLICY:**

Fiscal Management 04.32 AP1

**HISTORY/BACKGROUND:**

In April of 2019 Duke Energy increased natural gas rates. This rate increase enables the district to reduce energy costs for our high usage schools by purchasing natural gas from a third party vendor.

**FISCAL/BUDGETARY IMPACT:**

Estimated savings of \$20,000 annually or 13% for applicable schools.

**RECOMMENDATION:**

Approval of Natural gas two year purchase agreement with Stand Energy Corporation to purchase natural gas for the following schools: Simon Kenton, Dixie, Summit View, and River Ridge.

**CONTACT PERSON:**

Chris Baker, Energy Systems Coordinator

Principal

District Administrator

Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

**Kenton County Board of Education**

Board Members: Carl Wicklund, Chairperson Karen L. Collins, Vice Chairperson Carla Egan Shannon Herold Jessica Jehn  
"The Kenton County Board of Education provides Equal Education & Employment Opportunities."

# STAND ENERGY CORPORATION

## NATURAL GAS PURCHASE AGREEMENT

<b>BUYER</b> The Kenton County School District 1055 Eaton Drive Ft. Wright, KY 41017 Phone: (859) 344-8888 FAX: (859) 344-1531		<b>SELLER</b> Stand Energy Corporation 1077 Celestial Street Suite #110 Cincinnati, OH 45202 Phone: (513) 621-1113 FAX: (513) 621-3773	
QUANTITY	One hundred (100%) percent of Buyer's total natural gas requirements.		
TERM	This Agreement shall be effective for a period of two (2) years from the effective date of first flow which shall be the anniversary date of the Agreement. Buyer understands that Seller will need to contract for supplies and transportation each year in advance of Buyer's anniversary date.  <i>To be completed by Stand Energy Corporation:</i> The effective date of this Agreement is _____, 2019.		
DELIVERY & TITLE	Delivery and title transfer will take place at the city gate of Buyer's gas utility or at the natural gas storage field, as appropriate.		
PRICE per MMBtu (Dth)	As specified on any Exhibit or Addendum attached hereto and incorporated herein by reference.		
BILLINGS	<b>BILLING ADDRESS:</b> See Exhibit "B"	<b>SERVICE ADDRESS:</b> See Exhibit "B"	
REMITTANCE	<b>TO:</b> Stand Energy Corporation By check: PO Box 632712, Cincinnati, OH 45263-2712  By wire: Fifth Third Bank, Cincinnati, OH ABA #042100230 ACCT #999-77662 <i>Invoices exceeding \$100,000 to be paid by wire transfer.</i>		
This SALE is subject to the TERMS AND CONDITIONS attached hereto and incorporated herein by reference.			
I acknowledge that this represents the entire agreement reached between BUYER and SELLER	BUYER	AUTHORIZED SIGNATURE	
		PRINTED NAME	
		TITLE	DATE
	SELLER	SIGNATURE	
		PRINTED NAME JUDITH A. PHILLIPS	
		TITLE PRESIDENT	DATE

## TERMS AND CONDITIONS

**ESTABLISHMENT:** Seller will use reasonable efforts to establish Buyer under this Agreement, but actual establishment is dependent upon Buyer meeting necessary approvals of the state regulatory commission, credit requirements, and obtaining Buyer's Utility's approval.

**DISCLAIMER:** Seller will purchase natural gas and title to the gas will be free from all liens and adverse claims. This entire Agreement is subject to Seller obtaining necessary transportation contracts with necessary pipelines.

**ASSIGNMENT:** Seller may transfer this Agreement to a successor or assignee capable of meeting its requirements. Buyer may assign this Agreement with Seller's consent, which shall not be unreasonably withheld. This Agreement shall inure to the benefit of and shall be binding on all parties to this Agreement and their respective heirs, successors and assigns.

**FULL REQUIREMENTS:** Full requirements shall mean Buyer's most recent historic usage profile. Buyer will not purchase natural gas from anyone else unless Seller is unable to secure delivery of Buyer's full requirements and gives Buyer notice of same. Buyer agrees to purchase gas supplied by Seller before obtaining gas from another supplier to meet Buyer's full requirements. Seller will use best efforts to supply or sell additional volumes above Buyer's historic usage profile at the then current market rate plus additional applicable charges.

**AGENCY:** Buyer appoints Seller as Buyer's agent. Seller accepts such appointment. Buyer authorizes Seller to use best efforts to obtain Buyer's usage data from Buyer's Utility; obtain Buyer's payment and credit history; make nominations; aggregate Buyer's natural gas supply, balancing, banking, storage and pooling thresholds, whichever is applicable, with those of Seller's other customers, and to perform all other tasks reasonably necessary and appropriate to establish, maintain and operate under this Agreement. Seller shall also have the right of first refusal to supply electric energy and/or services on the same terms as proposed by any other potential electric supplier.

**CHANGES IN USAGE:** Buyer will promptly advise Seller of any event that may impact the Facility's historic usage including, without limitation, equipment outages, shutdowns or replacements, additions, alterations, openings or closings of a Facility or material changes in Buyer's operating hours. Buyer indemnifies Seller against and agrees to reimburse Seller, upon receipt of invoice, for any and all (a) penalties or losses incurred and which cannot be mitigated, resulting from Buyer's failure to advise Seller of a material changes to Buyer's usage and (b) damage or injury caused as a result of the purchase or delivery of the natural gas that results from Buyer's negligence.

**RENEWAL:** This contract will automatically renew for continual like terms unless cancelled by either Buyer or Seller upon sixty (60) days written notice prior to the anniversary date of the effective date of first flow. In the event of automatic renewal the price of all natural gas delivered by Seller to Buyer shall be at a variable rate based upon a recognized index plus Seller's applied pipeline charges, including shrinkage, and other changes.

**UTILITY NOTIFICATIONS:** Buyer will immediately provide Seller with copies of operational flow orders, operational matching orders or similar notices received from utility, by facsimile, and indemnify Seller from any costs associated with Buyer's failure to comply with these orders/notices within the time prescribed therein.

**TAXES:** Buyer shall pay or cause to be paid all taxes, assessments, fees, levies, duties, penalties, licenses, charges or withholdings of any kind whatsoever and all penalties, fines, additions to tax, or interest thereon imposed by any government authority ("Taxes") arising from the service rendered, commodities delivered or revenues received under this Contract.

**FINANCIAL ASSURANCES:** If reasonable grounds for insecurity of payment arise, Seller may request from Buyer, adequate assurances of payment. Adequate assurance shall mean sufficient security including, without limitation, the following: prepayment, updated financial statements, a security interest in an asset acceptable to Seller, a letter of credit, performance bond or guarantee by a creditworthy entity on Buyer's behalf. If Buyer (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) defaults in the payment obligation to Seller; (iii) files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such petition filed or proceeding commenced against Buyer; (iv) otherwise becomes bankrupt or insolvent (however evidenced); (v) fails to provide sufficient financial assurances; (vi) fails to fully comply with the terms and conditions of this Agreement; or (vii) becomes unable or unwilling to pay Buyer's debts as they become due; then Seller shall have the right to either suspend deliveries or terminate the Agreement upon five (5) days prior notice. If such cause is not remedied with such period, in addition to any and all other remedies available under this Agreement and the laws of the Commonwealth of Kentucky. Buyer grants Seller an automatic first priority lien on all gas purchased on Buyer's behalf, whether in storage or otherwise, and Seller shall have the right to use the same to satisfy or offset the payment of any indebtedness owed by Buyer to Seller. Buyer agrees that Seller may use any gas purchased for Buyer or on Buyer's behalf as a credit against or offset of Buyer's unpaid account balances or damages incurred by Seller.

**PAYMENT:** Buyer shall reimburse Seller and pay Seller directly for all transportation charges, gas purchase, storage, shrinkage, and retainage from the wellhead, and all other charges. Buyer shall pay all such charges are subject to change in accordance with Seller's charges as amended from time to time. Buyer will pay for storage gas at the time of purchase and billing. Buyer will pay Seller all amounts due on all gas purchased on or before the due date indicated and in the manner directed on Seller's invoices. If such date is not a business day, then the due date will be the next business day. Buyer will pay 2% per month on all amounts not paid before the due date. If Buyer's company or organization is currently on Transportation or Tariff Gas Supply, any current amount or past due account balances are the sole responsibility of the Buyer and will be incurred by said Buyer and all its successors. Buyer will pay all costs associated with the collection of any amounts due, including reasonable attorney fees.

## TERMS AND CONDITIONS (continued)

Buyer authorizes Seller to take possession of and use any unused portion of gas stored or purchased on Buyer's behalf as an offset against Buyer's indebtedness to Seller. The obligation of Buyer to make payment for all gas purchased on Buyer's behalf shall survive the termination or cancellation of this Agreement.

**BILLING DISPUTE:** If Buyer, in good faith, disputes any part of any billing statement, Buyer shall first pay the entire invoiced amount and provide to Seller a written explanation of the basis for the dispute no later than the due date for payment. Seller shall take prompt action to resolve the billing dispute. Any overpayment by Buyer, upon determination of the correct billing amount, shall be returned to Buyer or credited against the next billing.

**METERING:** If Buyer requests the installation of a special metering device, then Buyer shall be responsible for all costs associated with the installation, maintenance and operation of the meter.

**APPLICABLE LAWS:** This Agreement is subject to all valid laws, orders and regulations of all legislatures and regulatory bodies now or hereafter having jurisdiction, directly or indirectly, over this Agreement or any party hereto. Should any party be ordered or required to comply with rules or orders inconsistent with the provisions of this Agreement, this Agreement may be amended by Seller to comply with said rules or orders. It is agreed that this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Any action to enforce this Agreement must be brought in the State or Federal Courts located in Covington, Kenton County, Kentucky.

**ALL PRICING OPTIONS ARE BASED ON EXHIBIT "A".** All pricing options provided on Exhibit "A" are based on Buyer's most recent historical usage profile as of the date of execution of this Agreement. Seller will provide on a best efforts basis any material volumes that are greater or less than the historic profile which may generate additional charges or discounts depending on market pricing. In addition to providing Buyer with average monthly flow of gas during an Operational Flow Order (OFO) day, Seller will provide Buyer, on a best efforts basis, with all incremental gas needed to meet the flow order requirements. Buyer will be responsible for the additional cost of gas during an OFO day including, but not limited to, market based price of gas, delivery charges, or additional LDC charges.

**FORCE MAJEURE:** *Force majeure* shall mean unanticipated events or conditions, beyond reasonable control of Seller, including but not limited to: (i) Transporter's refusal to accept, transport and redeliver quantities of gas previously nominated by Buyer and confirmed by Transporter; (ii) allocation of such gas between various Shippers on its pipeline system for any reason; (iii) changes in applicable federal, state, or local laws, statutes, regulations, or rules, including changes in any tariff rates, terms, or conditions which may render any or all provisions of this Agreement inoperable; (iv) economic inability to perform resulting from credit terms imposed on Seller by Suppliers, Transporters, Local Distribution Companies, or any other entity. Any such events or conditions shall be deemed *force majeure* events.

If Seller is rendered unable, wholly or in part, by *force majeure* to carry out its obligations under this Agreement, it is agreed that upon Seller's declaration of such *force majeure* in writing or by telephone to the Buyer as soon as practicable after the occurrence of the causes relied on, then the Seller's obligations to deliver all or any portion of gas, so far as Seller is affected by such *force majeure*, shall be suspended from the inception of and during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable and diligent dispatch in order to put Seller in a position to carry out its obligations under this Agreement. *Force majeure* does not apply to or excuse Buyer's payment obligations. Seller specifically reserves the right to alter the terms of this Agreement, including material terms, to either attempt to avoid a *force majeure* declaration or to mitigate its damages. This Agreement shall not be terminated by reason of *force majeure*, but shall remain in full force and effect, unless Seller notifies Buyer in writing that this Agreement is terminated because of *force majeure*. Buyer may purchase natural gas from another source to supplement Seller's deliveries during the anticipated duration of the *force majeure* event.

**SEVERABILITY:** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**ENTIRE AGREEMENT:** This Agreement represents the entire agreement between the parties and supercedes all prior agreements and understandings. No changes can be made to this Agreement unless the changes are in writing and signed by both Buyer and Seller.

**INCORPORATION OF EXHIBITS AND ADDENDA:** All approved and properly executed Exhibits and Addenda, are hereby incorporated into this Agreement by reference as if fully set forth herein.

**NOTICE:** Unless otherwise specified, notice under this Agreement from Buyer to Seller shall be in writing and served by U.S. mail, registered or certified with return receipt requested, properly addressed and posted. Seller may elect to provide notice by facsimile or e-mail. Any party that changes its address must give the other party at least five (5) days written notice thereof. Seller may be contacted by phone (513) 621-1113, facsimile (513) 621-3773, or by mail at 1077 Celestial Street, Suite #110, Cincinnati, Ohio 45202-1629.

**NON-WAIVER:** The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver has occurred.

**NO DAMAGES TO EITHER PARTY:** Neither party shall be liable to the other for any indirect, consequential, special or punitive damages whether arising under tort (including negligence or strict liability), contract, or any other legal theory.

**EXHIBIT "A"**  
**NATURAL GAS PURCHASE AGREEMENT**

**PRICE ELECTION**

**Must select by initialing in box, One (1) of the Two (2)**

1. ☒ **Appalachian Option:** Variable price per MMBtu (Dth) for Appalachian sourced gas determined by the spot gas price purchased for Buyer plus Seller's applied pipeline charges, including shrinkage, and/or other charges. The price will be adjusted monthly to reflect the change in the price of Appalachian sourced gas and/or Seller's pipeline charges. This option shall be altered to be consistent with Buyer's voluntary elections below and construed according to the remaining terms of the Natural Gas Purchase Agreement.
2. ☐ **NYMEX Option:** Variable price per MMBtu (Dth) based on the NYMEX monthly price plus Seller's applied pipeline charges, including shrinkage, basis points, storage, and/or other charges. The price will be adjusted monthly to reflect the change in the price of NYMEX gas and/or Seller's pipeline charges. This option shall be altered to be consistent with Buyer's voluntary elections below and construed according to the remaining terms of this Agreement.

**VOLUNTARY ELECTIONS**

**Select by initialing in box.**

- A. ☐ **Storage Option:** Buyer authorizes Seller to purchase a portion of Buyer's winter requirements as indicated below between the months of April through October. Such gas will be retained in a Storage Pool by Seller on Buyer's behalf. All storage gas shall be paid for by Buyer at the time of purchase for storage injection using the pricing option selected by Buyer below, plus transportation and injection charges. These storage volumes will be used in the following November through March winter period to supplement Buyer's flowing gas purchases delivered by Seller to meet Buyer's total winter requirements. Buyer will pay weighted average cost of transportation, storage and withdrawal, at the time it is withdrawn from storage and redelivered on Buyer's behalf. If Buyer does not use all of the gas placed in storage, excess storage gas will, at SEC's option, be carried over or cashed out at market rates.

- **Projected November through March usage:** \_\_\_\_\_ **MMBtu(Dth)**
- **Amount Buyer authorizes Seller to purchase for storage:** \_\_\_\_\_ **MMBtu(Dth)**

- **Storage Pricing: Variable Pricing Option:** ☐

**Fixed Summer Strip:** ☐

**Gas Purchase Authorization:** ☐

- B. ☐ **Base Load Fixed Price Option:** Seller will purchase on behalf of Buyer a NYMEX futures strip of twelve (12) months or five (5) month, as elected below, at a fixed price based on the NYMEX market price at the time of purchase. Prior to the actual purchase, Seller may require Buyer to furnish a letter of credit or other financial assurances as defined in the Natural Gas Purchase Agreement under the paragraph titled FINANCIAL ASSURANCES securing the total base load volume, less the amount paid for storage gas, if any. Each month, Buyer will pay for the cost of the strip plus Seller's transportation charges, including shrinkage, basis points, storage, and/or other charges. Following the term of the futures strip all base volumes used by Buyer will be priced using the pricing option selected by Buyer above. In the event that, in any given month, Buyer does not consume baseload volumes, unused volumes will, at SEC's option, be carried over or cashed out at market rates.

☐ **12 Month Option.** Buyer elects to purchase a baseload of \_\_\_\_\_ MMBtu (Dth) per month for a period of twelve (12) months. Volumes required in excess of such baseload will be provided using the price option selected above.

or

☐ **5 Month Winter Option.** Buyer elects to purchase a baseload of \_\_\_\_\_ MMBtu (Dth) per month during the period November through March. Volumes required in excess of such baseload will be provided using the price option selected above.

☐ **Other - See Natural Gas Purchase Agreement Addendum**

This paragraph supplements the Natural Gas Purchase Agreement (Agreement) and shall be construed in accordance with the terms of the Agreement. In the event of automatic renewal the price of all natural gas delivered by Seller to Buyer shall be at a variable rate based upon a recognized index plus Seller's applied pipeline charges, including shrinkage, and other charges.

\_\_\_\_\_, President  
 Buyer's Signature                      Date                      Seller's Approval                      Date

\_\_\_\_\_  
 Buyer's Printed Name                      Title

Cust ID:

Buyer's Name: The Kenton County School District

EXA011508APP

Exhibit "B"

CUSTOMER NAME: The Kenton County School District  
Cust ID:

Local Distribution Company: Duke of Kentucky

SUB ID	BILLING & SERVICE ADDRESS	ACCOUNT NUMBER	METER NUMBER
<u>1</u>	Dixie Heights High School 3010 Dixie Hwy Fort Mitchell, KY 41017	24303697019	
<u>2</u>	River Ridge Elementary School 2772 Amsterdam Rd. Villa Hills, KY 41017	29402031016	
<u>3</u>	Simon Kenton High School 11132 Madison Pike Independence, KY 41051	5303668014	
<u>4</u>	Summit View Academy 5006 Madison Pike Independence, KY 41051	43502120019	



Buyer's Signature	Date	Seller's Signature	Date
-------------------	------	--------------------	------

EXB01212008A  
As of 7/31/2019

**GAS TRANSPORTATION AGREEMENT  
DUKE ENERGY KENTUCKY, INC. RATE FT-L**

This GAS TRANSPORTATION AGREEMENT (the "Agreement") is entered into and effective as of the first day of \_\_\_\_\_, 2019 (the "Effective Date"), by and between DUKE ENERGY KENTUCKY, INC., a Kentucky corporation with offices at 4580 Olympic Boulevard, Erlanger, Kentucky 41018 ("Duke Energy"), and \_\_\_\_\_, a \_\_\_\_\_ corporation having facilities at \_\_\_\_\_ ("Customer"). Duke Energy and Customer may be referred to individually as a "Party" and collectively as the "Parties".

**WITNESSETH**

WHEREAS, Customer has arranged for the purchase of firm basis natural gas from a third party and for the delivery of such gas to a Duke Energy city-gate receipt point; and

WHEREAS, Customer desires Duke Energy to transport such gas on the Duke Energy gas distribution system on a firm basis; and

WHEREAS, Duke Energy is willing to receive such gas at a Duke Energy city-gate receipt point and transport and deliver such gas to the outlet of Customer's meter (the "Delivery Point"), and Customer is eligible and willing to receive such gas at the Delivery Point, all in accordance with the terms and conditions herein and in Duke Energy's prevailing Rate FT-L, KY. P.S.C. Gas No. 2, Sheet No. 51 (including all associated riders and any successor tariff sheet thereto), a copy of which is attached hereto as Appendix A (the "Governing Tariff").

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

**Article I. Definitions:** The following capitalized words and phrases used in this Agreement shall have the following meanings:

- A. "KY PSC" shall mean the Kentucky Public Service Commission.
- B. "Service Regulations" shall mean the set of rules and regulations of Duke Energy for providing gas service as approved by the KY PSC.
- C. "Tariffs" shall mean documents approved by the KY PSC describing the terms and conditions under which Duke Energy provides natural gas service.

**Article II. Governing Tariff:**

A. Service under this Agreement shall be in accordance with the Governing Tariff. Except as otherwise provided herein, the terms and conditions and other provisions of the Governing Tariff shall control all aspects of this Agreement. Customer acknowledges and agrees that the terms and conditions of the Governing Tariff and any other applicable Tariff may be changed from time to time by valid order of the KY PSC or other governmental authority

having jurisdiction over such service. Customer agrees that any such changes will supersede any inconsistent terms and conditions in the existing Tariffs and this Agreement and will apply to this Agreement as of the effective date of the order by the KY PSC or other governmental authority with jurisdiction approving such changes.

B. Service is for Customer's use only and under no circumstances may Customer or Customer's agent or any other individual, association or corporation install meters for the purpose of reselling or otherwise disposing of service supplied Customer.

**Article III. Continuity of Service:** Duke Energy shall make reasonable provision to supply satisfactory and continuous service, but does not guarantee a constant or uninterrupted supply of gas and shall not be liable for any damage or claim of damage attributable to any interruption caused by unavoidable accident or casualty, extraordinary action of the elements, action of any governmental authority, litigation, or by any cause which Duke Energy could not have reasonably foreseen and made provision against. A Rate FT-L customer shall be subject to the curtailment of service provisions set forth in the Governing Tariff.

**Article IV. Notice:**

A. Each Party shall designate a representative for the receipt of any notices required under this Agreement (other than an interruption notice), which may be changed from time to time. All such notices shall be in writing and delivered by U.S. mail, personal delivery, facsimile or email. Notices shall be effective upon receipt or such later date specified in the notice.

B. Any interruption notice provided under this Agreement may occur, at Duke Energy's option, verbally in person or by phone, in writing, or electronically, including through the use of Duke Energy's automated calling system. Customer shall be responsible for designating personnel to be contacted in the event of a curtailment. When designating such personnel, Customer shall provide contact information that allows Duke Energy to give notice any time, day or night, and any day of the year including all holidays. Customer also shall be responsible for providing Duke Energy with timely updates to the personnel to be contacted, including change of phone numbers, from time to time throughout the term of this Agreement.

**Article V. Suppliers/Pool Operators:**

A. Customer shall choose a supplier/pool operator (a "Pool Operator") to perform certain of its obligations under this Agreement and shall provide Duke Energy with a customer pooling agreement authorizing the Pool Operator to act on Customer's behalf. Customer's authorized Pool Operator shall have available to it supply management/pooling options and shall perform in the same manner as Customer and abide by Duke Energy's policies, whether enumerated in this Agreement, the Governing Tariff, Duke Energy's pooling and balancing tariff (Rate IMBS) or Duke Energy's Service Regulations.

B. Customer or Pool Operator shall nominate, and Duke Energy shall confirm, daily delivery of necessary quantities of natural gas to the city gate receipt point. Duke Energy shall not be liable for under-deliveries, over-deliveries, imbalances, or other conditions caused by Customer's Pool Operator which result in Customer having to purchase higher priced gas or



incur other increased incremental costs. Customer shall be subject to such balancing requirements, thermal conversion adjustments and unaccounted for allowance requirements as defined under the Governing Tariff and associated balancing rates and riders.

C. Notice of changes in Duke Energy's Tariffs or Service Regulations shall be directed to Customer. Duke Energy also will attempt to inform Customer's Pool Operator of such changes but will be under no obligation to do so.

D. Customer shall be liable for any penalty or loss incurred by Duke Energy as a result of the actions of its Pool Operator. Customer acknowledges this liability and agrees to indemnify, defend and hold Duke Energy harmless with respect this liability.

**Article VI. Billing:** Customer's net monthly bill shall be computed in accordance with the following:

A. Administration Charge Per Month - A monthly administrative charge shall be billed in accordance with the Governing Tariff.

B. Transportation Throughput Charge - Transportation service provided under this Agreement shall be billed in accordance with the Governing Tariff. Gas volumes shall be measured by the meter at Customer's facilities. In the event of equipment malfunction, gas volumes shall be calculated based on usage records for such facilities. Customer agrees to accept such gas volumes for billing purposes.

C. Rate IMBS Throughput Charge - A charge for gas balancing service shall be billed in accordance with Rate IMBS, Interruptible Monthly Balancing Service, KY. P.S.C. Gas No. 2, Sheet No. 58.

D. Other Charges - Any other applicable charges as set forth in Governing Tariff shall be billed in accordance with the Governing Tariff.

E. Unauthorized Usage - If Customer uses gas in excess of the quantity nominated and delivered, Customer shall be responsible for the penalties charged to Duke Energy for such unauthorized usage. In addition, Duke Energy shall be entitled to any other remedies available under the Governing Tariff.

**Article VII. Warranty of Title:** Customer, either on its own or acting through its designated supplier, warrants that it shall have good title to all gas delivered to Duke Energy for transportation under this Agreement and that such gas will be free and clear of all liens, encumbrances and claims whatsoever. Customer shall indemnify, defend and hold Duke Energy harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of a breach of such warranty.

**Article VIII. Force Majeure:** Neither of the Parties hereto shall be liable in damages to the other for any act, omission, or circumstance occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, sabotage, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, gas curtailment imposed by

interstate or intrastate pipelines, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming force majeure and which by the exercise of due diligence such Party is unable to prevent or overcome. Failure to prevent or settle any strike or strikes shall not be considered to be a matter within the control of the Party claiming force majeure. Such causes or contingencies affecting the performance hereunder by either Party shall not relieve such Party of liability in the event of its concurring negligence or its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve Customer from its obligation to make payments of amounts then due hereunder.

**Article IX. Delivery Pressure:** Duke Energy shall use reasonable efforts to deliver gas under this Agreement at Duke Energy's standard four (4) ounce pressure, unless otherwise agreed to in a separate pressure agreement. The Parties agree that in times of emergency, high demand delivery, or during periods of construction and maintenance, the delivery pressure may fall below such standard pressure. Nothing herein shall be construed as implying a warranty by Duke Energy as to gas pressure.

**Article X. Metering:**

A. Meters and regulating equipment shall be owned and installed by Duke Energy at the Delivery Point. Duke Energy shall have the right of access to meters and measuring equipment at all times.

B. Customer agrees to install and maintain 110v electric service at Customer's sole cost and effort at a location approximately twenty (20) feet from the location of Duke Energy's gas meter(s). All electric service installed by Customer under this Agreement shall be suitable for use with Duke Energy's Automatic Meter Reading (AMR) equipment. Customer shall maintain and install adequate protection for the electric service so that Duke Energy may receive continuous and dependable information on such metering equipment. Customer shall be responsible for the monthly charges for such electric service or other necessary equipment or utilities.

C. Duke Energy reserves the right to change its metering from time to time for maintenance purposes and also to add remote meter reading devices or other equipment as it may desire for monitoring and measuring the Customer's gas usage.

**Article XI. Term of Agreement:** The primary term of this Agreement shall be one (1) year from the Effective Date; provided, however, that in the event this Agreement replaces an existing agreement between Duke Energy and Customer for service under the Governing Tariff, the primary term of this Agreement shall be thirty (30) days. Following expiration of the primary term, this Agreement shall continue unless canceled by either Party upon thirty (30) days written notice.

**Article XII. Regulatory Authority:**

A. This Agreement is subject to the jurisdiction and authority of the KY PSC and any other governmental authority having jurisdiction and to the rules, orders and regulations of such governmental authorities. Nothing herein contained shall be construed as divesting, or attempting to divest, any governmental authority of any of its rights, jurisdiction, powers or authority conferred by law. Except as specifically provided herein, nothing in this Agreement shall be construed so as to alter, modify or change conditions of normal gas deliveries pursuant to other Tariffs, contracts or curtailment priorities as are from time to time imposed upon Duke Energy's customers pursuant to regulatory orders, laws, requirements or sanctions. All service provided hereunder shall be subject to Duke Energy's Service Regulations for gas service as on file with the KY PSC.

B. This Agreement shall be contingent upon the receipt of such regulatory approvals or authorizations as may be required. The Parties agree to cooperate to obtain all required approvals or authorizations.

**Article XIII. Taxes:** Any state or local sales or use tax or any utility gross receipts license tax imposed by any state or local government agency or instrumentality within Kentucky shall be paid by Customer. Nothing contained herein shall be construed as imposing any obligation on Duke Energy with respect to any tax imposed on Customer after title and possession of the gas shall have passed to Customer or Customer's designee.

**Article XV. Successors and Assigns:** This Agreement shall be binding on, and inure to the benefit of, the successors and assigns of Duke Energy and Customer. This Agreement shall supersede and cancel previous gas service agreements except (a) existing pressure gas service agreements and (b) any obligations incurred by Customer to make payment for services received but not yet paid for under an existing gas service agreement.

**Article XV. Applicable Law:** This Agreement shall be governed by the laws of the Commonwealth of Kentucky regardless of choice of law principles in Kentucky or any other state.

**Article XVI. Counterparts:** This Agreement may be executed by the Parties in one or more counterparts, all of which when taken together, shall constitute one and the same instrument, and may be delivered by facsimile, email or other electronic means.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the date set forth above.

**DUKE ENERGY KENTUCKY, INC.**

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

By: Mitch Martin  
Print name here

Title: Manager, Citygate Operations

Date: \_\_\_\_\_

\_\_\_\_\_

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

By: \_\_\_\_\_  
Print name here

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

Date: \_\_\_\_\_

**Duke Energy Kentucky, Inc.****Customer Pooling Agreement**

This Agreement shall serve jointly as an application for service with Duke Energy Kentucky, Inc. ("Company") under Tariff Rate IT, Tariff Rate IT/FT, or Tariff Rate FT-L as specified below, and as an amendment to the Gas Transportation Agreement, Duke Energy Kentucky, Inc. Rate IT, currently in effect between Customer and Company. All terms and conditions contained in the Gas Transportation Agreement shall remain in effect unless otherwise specified below.

**Customer Name:** Dixie Heights High School **Customer Account #:** 24303697-01  
**Service Address:** 3010 Dixie Hwy Fort Mitchell, KY 41017  
**Contact Person:** Chris Baker **Phone #:** 859-344-8888 **Fax #:** \_\_\_\_\_  
**Email:** chris.baker@kenton.kyschools.us **Effective Start Date:** \_\_\_\_\_

**Interruptible Monthly Balancing Pool – Rate IMBS (Please enter "X" for choice of pool balancing option)**

Participation in a pool includes a general daily balancing obligation and charges based on the carry-over tolerance level selected below.

<input type="checkbox"/> Pool 1	5% monthly carry-over May through November 7% monthly carry-over December through April	Customer charge per tariff: currently \$0.015/Mcf
<input type="checkbox"/> Pool 2	6% monthly carry-over May through November 8% monthly carry-over December through April	Customer charge per tariff: currently \$0.020/Mcf
<input checked="" type="checkbox"/> Pool 3	8% monthly carry-over May through November 10% monthly carry-over December through April	Customer charge per tariff: currently \$0.025/Mcf

Customer and Pool Operator hereby agree that the account identified herein shall be included for supply management purposes within the Pool Operator's management pool (use separate form for each account).

**Pool Operator:** Stand Energy Corporation **Tariff Rate (circle one):** IT IT/FT **FT-L**

**For IT/FT Service: Contract Demand (Mcf/day):** \_\_\_\_\_

The Contract Demand specified above amends the Gas Transportation Agreement designating the volume of gas which Customer may use each gas day in the event of an operational curtailment. Contract Demand is firm service use and will be billed in accordance with Company's Tariff Rate IT or Tariff Rate FT-L. Transportation service shall continue for a minimum initial term of twelve months. Refer to Tariff Rate IT, Tariff Rate FT-L, and Tariff Rate IMBS for additional provisions, including, but not limited to, limitations on movement between rate schedules and applicable riders and taxes.

Customer and Pool Operator acknowledge that under normal operating conditions membership in a pool shall not obligate Customer's individual account(s) to balancing requirements beyond those that Customer specifically agrees to with Pool Operator. However, during periods of operational curtailment, Customer's failure to respond to curtailment orders will result in Company directly charging Customer for unauthorized usage and/or disconnection of service by Company and other provisions as specified in Customer's Gas Transportation Agreement and applicable tariffs. Customer and Pool Operator understand and agree that all other supply management responsibility shall rest with Pool Operator in accordance with Tariff Rate IMBS. If Customer changes its choice of Pool Operator, Customer is responsible for providing notification of change to former Pool Operator.

<b>Customer</b>	<b>Pool Operator</b>	<b>Duke Energy Kentucky, Inc.</b>
_____ Print Name	<u>Larry Freeman</u> Print Name	_____ Print Name
_____ Signature	_____ Signature	_____ Signature
_____ Title	<u>Executive V.P.</u> Title	_____ Title
_____ Email Address	<u>lfreeman@stand-energy.com</u> Email Address	_____ Email Address
_____ Date	_____ Date	_____ Date

Please email to: [GasCommercialOperations@duke-energy.com](mailto:GasCommercialOperations@duke-energy.com), or fax to 513-287-2018. This Agreement must be received no later than the 20<sup>th</sup> day of the month preceding the Effective Start Date listed above.

**For internal use only**



**Duke Energy Kentucky, Inc.****Customer Pooling Agreement**

This Agreement shall serve jointly as an application for service with Duke Energy Kentucky, Inc. ("Company") under Tariff Rate IT, Tariff Rate IT/FT, or Tariff Rate FT-L as specified below, and as an amendment to the Gas Transportation Agreement, Duke Energy Kentucky, Inc. Rate IT, currently in effect between Customer and Company. All terms and conditions contained in the Gas Transportation Agreement shall remain in effect unless otherwise specified below.

**Customer Name:** Simon Kenton High School **Customer Account #:** 53036680-14  
**Service Address:** 11132 Madison Pike Independence, KY 41051  
**Contact Person:** Chris Baker **Phone #:** 859-344-8888 **Fax #:** \_\_\_\_\_  
**Email:** chris.baker@kenton.kyschools.us **Effective Start Date:** \_\_\_\_\_

**Interruptible Monthly Balancing Pool – Rate IMBS (Please enter "X" for choice of pool balancing option)**

Participation in a pool includes a general daily balancing obligation and charges based on the carry-over tolerance level selected below.

<input type="checkbox"/> Pool 1	5% monthly carry-over May through November 7% monthly carry-over December through April	Customer charge per tariff: currently \$0.015/Mcf
<input type="checkbox"/> Pool 2	6% monthly carry-over May through November 8% monthly carry-over December through April	Customer charge per tariff: currently \$0.020/Mcf
<input checked="" type="checkbox"/> Pool 3	8% monthly carry-over May through November 10% monthly carry-over December through April	Customer charge per tariff: currently \$0.025/Mcf

Customer and Pool Operator hereby agree that the account identified herein shall be included for supply management purposes within the Pool Operator's management pool (use separate form for each account).

**Pool Operator:** Stand Energy Corporation **Tariff Rate (circle one):** IT IT/FT **FT-L**

**For IT/FT Service: Contract Demand (Mcf/day):** \_\_\_\_\_

The Contract Demand specified above amends the Gas Transportation Agreement designating the volume of gas which Customer may use each gas day in the event of an operational curtailment. Contract Demand is firm service use and will be billed in accordance with Company's Tariff Rate IT or Tariff Rate FT-L. Transportation service shall continue for a minimum initial term of twelve months. Refer to Tariff Rate IT, Tariff Rate FT-L, and Tariff Rate IMBS for additional provisions, including, but not limited to, limitations on movement between rate schedules and applicable riders and taxes.

Customer and Pool Operator acknowledge that under normal operating conditions membership in a pool shall not obligate Customer's individual account(s) to balancing requirements beyond those that Customer specifically agrees to with Pool Operator. However, during periods of operational curtailment, Customer's failure to respond to curtailment orders will result in Company directly charging Customer for unauthorized usage and/or disconnection of service by Company and other provisions as specified in Customer's Gas Transportation Agreement and applicable tariffs. Customer and Pool Operator understand and agree that all other supply management responsibility shall rest with Pool Operator in accordance with Tariff Rate IMBS. If Customer changes its choice of Pool Operator, Customer is responsible for providing notification of change to former Pool Operator.

<b>Customer</b>	<b>Pool Operator</b>	<b>Duke Energy Kentucky, Inc.</b>
_____ Print Name	<u>Larry Freeman</u> _____ Print Name	_____ Print Name
_____ Signature	_____ Signature	_____ Signature
_____ Title	<u>Executive V.P.</u> _____ Title	_____ Title
_____ Email Address	<u>lfreeman@stand-energy.com</u> _____ Email Address	_____ Email Address
_____ Date	_____ Date	_____ Date

Please email to: [GasCommercialOperations@duke-energy.com](mailto:GasCommercialOperations@duke-energy.com), or fax to 513-287-2018. This Agreement must be received no later than the 20<sup>th</sup> day of the month preceding the Effective Start Date listed above.

**For internal use only**

Form effective date: July 2015

Date Received: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
MM DD YR

\_\_\_\_\_  
Duke Energy Kentucky, Inc. Representative

**Duke Energy Kentucky, Inc.****Customer Pooling Agreement**

This Agreement shall serve jointly as an application for service with Duke Energy Kentucky, Inc. ("Company") under Tariff Rate IT, Tariff Rate IT/FT, or Tariff Rate FT-L as specified below, and as an amendment to the Gas Transportation Agreement, Duke Energy Kentucky, Inc. Rate IT, currently in effect between Customer and Company. All terms and conditions contained in the Gas Transportation Agreement shall remain in effect unless otherwise specified below.

**Customer Name:** Summit View Academy **Customer Account #:** 43502120-01  
**Service Address:** 5006 Madison Pike Independence, KY 41051  
**Contact Person:** Chris Baker **Phone #:** 859-344-8888 **Fax #:** \_\_\_\_\_  
**Email:** chris.baker@kenton.kyschools.us **Effective Start Date:** \_\_\_\_\_

**Interruptible Monthly Balancing Pool – Rate IMBS (Please enter "X" for choice of pool balancing option)**

Participation in a pool includes a general daily balancing obligation and charges based on the carry-over tolerance level selected below.

<input type="checkbox"/> Pool 1	5% monthly carry-over May through November 7% monthly carry-over December through April	Customer charge per tariff: currently \$0.015/Mcf
<input type="checkbox"/> Pool 2	6% monthly carry-over May through November 8% monthly carry-over December through April	Customer charge per tariff: currently \$0.020/Mcf
<input checked="" type="checkbox"/> Pool 3	8% monthly carry-over May through November 10% monthly carry-over December through April	Customer charge per tariff: currently \$0.025/Mcf

Customer and Pool Operator hereby agree that the account identified herein shall be included for supply management purposes within the Pool Operator's management pool (use separate form for each account).

**Pool Operator:** Stand Energy Corporation **Tariff Rate (circle one):** IT IT/FT **FT-L**

**For IT/FT Service: Contract Demand (Mcf/day):** \_\_\_\_\_

The Contract Demand specified above amends the Gas Transportation Agreement designating the volume of gas which Customer may use each gas day in the event of an operational curtailment. Contract Demand is firm service use and will be billed in accordance with Company's Tariff Rate IT or Tariff Rate FT-L. Transportation service shall continue for a minimum initial term of twelve months. Refer to Tariff Rate IT, Tariff Rate FT-L, and Tariff Rate IMBS for additional provisions, including, but not limited to, limitations on movement between rate schedules and applicable riders and taxes.

Customer and Pool Operator acknowledge that under normal operating conditions membership in a pool shall not obligate Customer's individual account(s) to balancing requirements beyond those that Customer specifically agrees to with Pool Operator. However, during periods of operational curtailment, Customer's failure to respond to curtailment orders will result in Company directly charging Customer for unauthorized usage and/or disconnection of service by Company and other provisions as specified in Customer's Gas Transportation Agreement and applicable tariffs. Customer and Pool Operator understand and agree that all other supply management responsibility shall rest with Pool Operator in accordance with Tariff Rate IMBS. If Customer changes its choice of Pool Operator, Customer is responsible for providing notification of change to former Pool Operator.

<b>Customer</b>	<b>Pool Operator</b>	<b>Duke Energy Kentucky, Inc.</b>
_____ Print Name	<u>Larry Freeman</u> _____ Print Name	_____ Print Name
_____ Signature	_____ Signature	_____ Signature
_____ Title	<u>Executive V.P.</u> _____ Title	_____ Title
_____ Email Address	<u>lfreeman@stand-energy.com</u> _____ Email Address	_____ Email Address
_____ Date	_____ Date	_____ Date

Please email to: [GasCommercialOperations@duke-energy.com](mailto:GasCommercialOperations@duke-energy.com), or fax to 513-287-2018. This Agreement must be received no later than the 20<sup>th</sup> day of the month preceding the Effective Start Date listed above.

**For internal use only**

Date Received: \_\_\_\_\_  
MM DD YR

\_\_\_\_\_  
Duke Energy Kentucky, Inc. Representative