

MEMORANDUM OF AGREEMENT

BETWEEN THE

COMMONWEALTH OF KENTUCKY

ENERGY AND ENVIRONMENT CABINET

AND

THE TENNESSEE VALLEY AUTHORITY

Subject: Development and Use of Energy Resources

THIS MEMORANDUM OF AGREEMENT (the Agreement) is made and entered into this ____ day of _____, 2009 by and between the Commonwealth of Kentucky, Energy and Environment Cabinet, with an address of 500 Mero Street, Capital Plaza Tower, 12th Floor, Frankfort Kentucky 40601 (hereinafter “EEC”), and the Tennessee Valley Authority, an agency and instrumentality of the United States Government, with an address of 400 W. Summit Hill Drive, Knoxville, Tennessee 37902-1499 (hereinafter “TVA”),

WITNESSETH

WHEREAS, the purpose of this Agreement is to provide a framework of cooperation and facilitation between EEC and TVA, acknowledging that a clean, secure, reliable and affordable energy supply is critical to Kentucky’s economy, the sustainability of Kentucky’s environment, and the welfare and quality of life of the residents of Kentucky; and

WHEREAS, ensuring a clean energy supply requires increasing the use of all clean energy resources, including energy efficiency, peak demand reduction, energy conservation, renewable energy (including hydroelectric, solar, wind, biomass, and landfill gas generation); combined heat and power, and nuclear generation, and

WHEREAS, energy efficiency and conservation help reduce the cost of energy to the public and are increasingly important as energy costs and the demand for energy; and

WHEREAS, TVA plans to reduce peak electricity demand on its system by up to 1,400 megawatts and reduce growth in energy consumption by as much as 4.3 million megawatt-hours annually, by the year 2012; and

WHEREAS, TVA plans to generate at least fifty percent (50%) of the electricity provided to its customers from clean energy resources by the year 2020; and

WHEREAS, increased use of clean and renewable energy can help reduce environmental impacts, dependence on imported energy resources, and the risk of energy disruptions by broadening the portfolio of energy resources available to Kentucky residents; and

WHEREAS, renewable energy is understood to be generation from sources that are sustainable and often naturally replenished, including the purchase of renewable energy credits from such sources; and

WHEREAS, increasing the use of clean and renewable energy resources requires a better understanding of the opportunities to develop such resources that are capable of physically serving Kentucky; and

WHEREAS, EEC and TVA have access to a wealth of public and private research and technological capability that can assist in the development and use of clean energy resources, and that helps increase economic development potential in the energy sector; and

WHEREAS, Systems to generate and deliver electric power require large amounts of investments, operate over long periods, and require careful planning to meet multiple needs; and

WHEREAS, EEC and TVA acknowledge that achieving their respective energy and environmental protection goals require educating the public, especially children, about the importance of using energy prudently;

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and conditions contained herein, EEC and TVA hereby AGREE as follows:

1. OBLIGATIONS OF EEC

EEC shall:

1.1 Work with other Kentucky state agencies and the Office of the Governor to ensure that Kentucky uses its resources and influence to promote the development and use of clean energy resources, including but not limited to:

a. Expediting the approval of energy-resource projects, including the permitting of such projects; and

b. Providing technical assistance in addressing relevant permitting requirements, including guidance on how to prepare any technical analyses requested by TVA.

1.2. To the extent it is able to do so, promote and establish requirements and incentives for energy-efficient construction of new residences, commercial buildings, and industrial facilities.

1.3. Review with TVA the criteria for Kentucky's energy loan programs and continue to assist local governments and small businesses in improving the energy efficiency of their buildings.

1.4 Support the development of alternative fueled and electric vehicle infrastructure, including providing technical and financial assistance as appropriate and authorized by law.

1.5 Cooperate and coordinate with TVA in providing energy audits of local governments, small businesses and industries throughout Kentucky. This shall include providing TVA annually with information, data and reports that EEC otherwise generates about its auditing activities.

1.6 Cooperate and coordinate with TVA in educating the public, including Kentucky teachers and students, about the prudent use of and conservation of energy and, on at least an annual basis, provide TVA with information, data and reports that Kentucky produces about such educational efforts.

1.7 Participate in TVA's efforts to update its integrated resource plan.

2. OBLIGATIONS OF TVA

TVA shall:

2.1 Continue with implementing cost-effective energy efficiency measures, including funding for such measures.

2.2 Modify, as appropriate, its policies and ratemaking practices to remove barriers to investments in energy efficiency measures by TVA and the distributors of its electricity.

2.3 Strive to reduce peak electricity demand on its system by up to 1,400 megawatts and reduce growth in energy consumption by as much as 4.3 million megawatt-hours annually by the year 2012.

2.4 Strive to generate at least fifty percent (50%) of the electricity provided to its customers from clean energy resources by the year 2020.

2.5 Strive to achieve all cost-effective demand and energy reductions by the year 2025 by:

a. Informing and educating the public it serves about the benefits of prudently using electricity;

b. Working to stimulate and transform the marketplace for energy-related services and energy consuming goods;

c. In concert with its distributors, facilitating the expansion of infrastructure for advanced metering and direct load control;

d. Supporting Kentucky in the development of energy efficient building standards, including appropriately modifying TVA's *Energy Right New Homes Program*;

e. Providing incentives for reduction demand in conjunction with proper pricing signals; and

f. Continuing and expanding its *Green Power Switch Program*.

2.6 Continue its energy auditing programs, including its on-line home energy audit program, and cooperate and coordinate those efforts with EEC.

2.7 Provide to EEC annually non-confidential information, data and reports that it otherwise produces about TVA's energy-auditing programs.

2.8 Coordinate with EEC in making efforts to educate the public, including homeowners, businesses, schools and other institutions, about the prudent use of

electricity, and annually provide Kentucky with information, data and reports that it generates about these efforts.

2.9 Increase its use of cost-effective renewable energy resources including solar, wind, biomass, landfill gas, and hydroelectric generation, and annually provide Kentucky with non-confidential information, data and reports it produces on the generation it obtains from renewable energy resources and the status of efforts to increase such generation.

3. RENEWABLE ENERGY RESOURCE INVENTORY

3.1 EEC and TVA shall cooperate with one another in producing an analysis and inventory of renewable energy resources in Kentucky, including providing technical assistance and information backing such an analysis and inventory.

3.2 Subject to all laws and regulations protecting proprietary, confidential and competitively sensitive information and data, EEC and TVA shall issue a written report summarizing their analyses within two (2) years of the effective date of this Agreement.

4. ENVIRONMENTAL REVIEW

4.1 TVA shall conduct an environmental review and update its integrated resource plan to address how to meet the demand for electricity on the TVA system with the goal of completing it within two (2) years.

4.2 The purpose of the integrated resource plan is to explore the means by which TVA can sustainably meet the future electrical energy and resource stewardship needs of the Tennessee Valley. The study will provide a forum among TVA and its stakeholders

for discussing numerous topics, including resource purchases, efficiency programs, and reliability tradeoffs based on an analytic structure for assessing resource investments.

4.3 TVA shall hold public meetings in Kentucky to enhance public involvement and shall provide information about the study and its associated analyses.

4.4 EEC shall cooperate with TVA in conducting this review, and in making efforts to involve the public, stakeholder groups, and other governmental entities in the review.

5. ANNUAL ENERGY MEETING

5.1 EEC and TVA agree to hold an annual public meeting on the “Development and Use of Energy Resources” seeking to gather business, utility, governmental, academic, consumer and environmental leaders to promote an understanding for the need for clean, affordable, reliable energy, and the environmental issues associated with its generation and distribution along with the options for improving performance and efficiencies in its generation and use.

5.2 The first meeting is proposed to be a highlighted portion of the 2009 Kentucky Governor’s Conference on the Environment. TVA will provide support to this meeting and future meetings to keep the communities and public engaged in these issues.

5.3 This meeting shall include discussions of energy forecasts and developments relating to energy efficiency, demand response reduction, energy conservation, and clean and renewable energy, and shall involve interested stakeholders and outside experts to the extent practicable.

6. LIMITATIONS ON OBLIGATIONS

6.1 None of the commitments in this Agreement shall be implemented inconsistently with a party's legal authorities and limitations and shall be subject to those authorities and limitations. This includes but is not limited to Kentucky's regulatory authorities and TVA's ratemaking authority.

6.2 All of the commitments in this Agreement shall be subject to availability of a party's resources, including financial resources, to carry them out as determined in the sole discretion of the party.

6.3 This Agreement does not create any rights, substantive or procedural, enforceable at law or in equity by or against either party hereto, including third parties; it being the parties' intent only to memorialize their mutual intentions with respect to the subject matter hereof.

7. MODIFICATION AND TERMINATION OF AGREEMENT

The parties may agree to modify this MOU at any time. Such Agreement shall be set forth in writing and this MOU shall be conformed to such modification and reissued by the parties. This MOU shall expire on December 31, 2020, unless the parties agree in writing to extend it for some identified additional time. Notwithstanding anything herein to the contrary, either party may terminate this MOU by providing written notice to the other party. The termination shall be effective on the thirtieth (30th) calendar day following notice, unless a later date is set forth.

If to EEC:

Leonard K. Peters, Secretary
Energy and Environment Cabinet
500 Mero Street
Capital Plaza Tower, 12th Floor
Frankfort, Kentucky 40601
(502) 564-3350

If to TVA:

Tennessee Valley Authority
400 W. Summit Hill Drive
Knoxville, Tennessee 37902-1499
(865) 632-2101

8. ASSURANCES

Where required by law, Kentucky participants to this Agreement shall comply with the Executive Branch Code of Ethics (KRS Chapter 11A) and all applicable state and federal statutes relating to nondiscrimination.

8.2 The parties represent and warrant, by the signatures of their duly appointed representatives, that they are legally entitled to enter into this Agreement and that they will not violate, directly or indirectly, any applicable conflict of interest statute or policy by performing the obligations imposed on them by this Agreement. The parties further represent and warrant that they have no conflict of interest, in any manner or degree, with the performance of the duties imposed by this Agreement, and that no persons with a conflict of interest shall be employed to assist in performing the parties' obligations under this Agreement.

CHOICE OF LAW AND FORUM

All questions as to the execution, validity, interpretation, construction, and performance of this Agreement or any of its terms shall be governed by the laws of the Commonwealth of Kentucky or the United States, as appropriate.

IN WITNESS WHEREOF, EEC and TVA have executed this Agreement as of the date first above written.

AGREED TO BY:

**COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET**

Leonard K. Peters, Secretary

Date: _____

TENNESSEE VALLEY AUTHORITY

Senior Vice President
Office of Environment and Research

Date: _____