

INDUSTRIAL POWER AGREEMENT

WITH INTERRUPTIBLE SERVICE AND ECONOMIC DEVELOPMENT RIDER

THIS AGREEMENT, made and entered into the 18th day of April, 2019, by and between **EAST KENTUCKY POWER COOPERATIVE, INC.**, a Kentucky corporation with its principal offices at 4775 Lexington Road, Winchester, Kentucky 40391 (“EKPC”); **FLEMING-MASON ENERGY COOPERATIVE**, a Kentucky corporation with its principal offices at 1449 Elizaville Road, Flemingsburg, Kentucky 41041 (“Cooperative”); and **AppHarvest Morehead Farm, LLC**, a Delaware corporation with its principal offices at 100 Lake Park Drive, Morehead, Kentucky 40351 (“Customer”).

WITNESSETH:

WHEREAS, EKPC is a Generation and Transmission Cooperative which supplies the wholesale energy requirements of sixteen (16) Customer-owned Distribution Cooperatives located generally in Eastern and South Central Kentucky, including Cooperative; and

WHEREAS, Cooperative is a rural electric cooperative corporation providing retail electric service in Rowan County, Kentucky and other places; and

WHEREAS, Cooperative is a member of EKPC and purchases its wholesale electric power and energy requirements from EKPC pursuant to a Wholesale Power Contract dated October 1, 1964; and


WHEREAS, Customer is a member of Cooperative and purchases, or desires to purchase, retail electric power and energy needs from Cooperative, under the terms and conditions contained herein, to serve its Rowan County, Kentucky plant (hereinafter referred to as its “Plant”); and

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WHEREAS, EKPC fully integrated into the PJM Interconnection, LLC (“PJM”) regional transmission system, on June 1, 2013;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties agree as follows:

1. **Term.** This Agreement shall become effective upon the approval of the Kentucky Public Service Commission (“Commission”) (the “Effective Date”), subject to the provisions of Paragraph 21 below. This Agreement shall continue in effect for a term of ten (10) years from said Effective Date and shall continue for additional one year terms thereafter; provided, however, that the Agreement may be cancelled after the initial ten (10) year term by any party upon giving written notice of such termination at least ninety (90) days prior to the desired termination date.
2. **Rates and Charges.** Customer shall pay Cooperative monthly for power and energy made available under this Agreement in accordance with the rates, charges, and provisions of Cooperative’s effective standard tariffs applicable to consumers of the same class as Cooperative’s Rate Schedule 6B – Large Industrial Service, the Interruptible Service Standard Rider (“Interruptible Rider”), and Section EDR – Economic Development Rider as approved by the Commission and as modified, replaced, or adjusted from time to time and approved by the Commission. Given the Customer’s expected load and energy use profile, EKPC, the Cooperative, and the Customer agree that Rate Schedule 6B – Large Industrial Service will be applicable for all demand and energy usage. The demand credit for interruptible service is applied to all billing demand above the Firm Load level to determine the effective interruptible demand rate. Billing demand shall be the Contract

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Demand plus any Excess Demand as defined in Cooperative's Rate Schedule 6B – Large Industrial Service and Cooperative's Section EDR – Economic Development Rider.


Any additional demand billed as a result of the application of the power factor adjustment, as described in the applicable EKPC and Cooperative tariffs, shall not be eligible for the interruptible demand credit and shall be billed at the appropriate demand rate as provided in the applicable tariff. In order to assist the Customer with compliance with the power factor requirement and at the Customer's sole option, EKPC shall provide capacitors for the Customer to lease.

For billing from EKPC to Cooperative, EKPC will provide wholesale electricity to Cooperative for Customer pursuant to the rates, charges, and provisions of EKPC's Rate Section B and EKPC's Section EDR – Economic Development Rider and where the billing demand shall be the minimum demand plus any excess demand as defined in EKPC's Rate Section B.

After one year from the Effective Date, Customer may choose any existing tariff of Cooperative that is consistent with this Agreement and for which the Customer qualifies. Such change will require two months' advance written notice to Cooperative. Customer agrees that if it chooses to change to a different tariff it will remain on that tariff for at least one year.

The Cooperative and Customer may mutually agree to rate changes at any time, subject to any necessary approval of the Commission.

3. **Availability of Power.** Except as otherwise provided in this Agreement, Cooperative shall make available to Customer, and Customer shall take and purchase from Cooperative, all of Customer's requirements for electric power and energy

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operation of Customer's Plant. The Point of Delivery for power and energy made available hereunder shall be the point at which Customer's Plant facilities connect to Cooperative's facilities. The power and energy made available hereunder shall be in the form of 3-phase alternating current at a frequency of approximately sixty (60) hertz and at a nominal voltage of 24940/14400Y Primary Distribution Voltage. Regulation of voltage shall be within such limits as prescribed in the applicable rules and regulations of the Commission. Maintenance by Cooperative at Point of Delivery of the above described frequency and voltage within the above stated limits shall constitute availability of power for the purpose of this Agreement. The power and energy taken by Customer hereunder, shall be measured by meters and associated metering equipment to be, or caused to be, installed, operated and maintained by Cooperative or EKPC at its own respective costs. Further, at its own cost, Cooperative shall install a second meter inside the premises measuring the Customer's non-grow light electricity usage for information purposes only. None of such electric power and energy shall be resold to third parties. EKPC, the Cooperative, and the Customer agree that the Customer's expected load and unique energy use profile warrants a two-level "Contract Demand." The "Contract Demand" for service under this Agreement for the months of October through March shall be 27,130 kW and for the months of April through September shall be 1,430 kW. The monthly energy usage shall be equal to or greater than 400 hours per kW of Contract Demand per month. Customer shall have the right to increase or decrease said levels of Contract Demand, by giving written notice thirty (30) days prior to the date of the desired change, except that Contract Demand shall not be reduced below 10,000 kW for the months of October through March and not be reduced below 500 kW for the months of April through September.

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available to Customer hereunder shall be delivered, taken, and paid for subject to the provisions of Paragraph 2 of this Agreement and Cooperative's Rate Schedule 6B – Large Industrial Service, and the Interruptible Rider, applicable to demands in excess of the Firm Load, as approved by the Commission, and as modified from time to time by appropriate authority, copies of which are attached hereto and made a part hereof. Customer shall comply with all requirements of such tariffs relating to eligibility for interruptible rates. In the event of any conflict between the provisions of this Agreement and said tariffs, the latter shall control.

Customer has indicated it plans to install a back-up generator with a capacity not to exceed 1,500 kW, which is to be operated when there are outages or other disruptions in the provision of electric power and energy to its Plant. EKPC and the Cooperative agree the Customer can install and operate said back-up generator, provided that said back-up generator is only operated to cover outages or other disruptions in the provision of service to the Customer. In the event it is determined that the Customer has utilized the back-up generator to reduce its demand during normal operating conditions, the Customer will pay the Cooperative and EKPC an amount equal to twice the total demand charges that would have been billed for the demand that was reduced.

4. **Interruptible Service.** In accordance with Cooperative's Rate Schedule 6B – Large Industrial Service and the Interruptible Rider, Service to Customer may be interrupted by approved communication medium from EKPC's Market Operations Center ("MOC"). Customer chooses 7,130 kW of Firm Load with the balance being Interruptible Demand. Interruptible Demand shall not exceed 20,000 kW.

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- a. **EKPC Economic Interruptions.** EKPC may interrupt Customer to avoid purchasing energy from the PJM Market (an “Economic Interruption”). EKPC shall notify Customer that it is calling for an interruption and the notice shall be defined as an Economic Interruption and include the number of hours of such interruption. EKPC will endeavor to provide as much advance notice of interruptions as practicable, but the Customer will have 30 minutes to reduce its electric power load to the Firm Load level. Customer shall have the opportunity to buy-through any Economic Interruption and will pay for such buy-through energy. The rate shall be EKPC’s out-of-pocket cost at the PJM EKPC Zone during the interruption hours, plus the Cooperative distribution charge. The amount of buy-through energy billed by the Cooperative to the Customer will be the actual energy consumed by the Customer above the Firm Load each hour of the Economic Interruption. Interruptible buy-through energy shall not include the base energy charge, a fuel adjustment charge or environmental surcharge.
- b. **EKPC Reliability Interruption.** EKPC has the right to call upon a physical interruption of Customer’s Interruptible Demand (a “Reliability Interruption”) to participate in the PJM Demand Response Programs. EKPC shall notify Customer that it is calling for an interruption and the notice shall be defined as a Reliability Interruption and include the number of hours of such interruption. Customer must interrupt its Interruptible Demand, and buy-through energy provisions as described above are not available for Reliability Interruptions. For Reliability Interruptions, the terms and conditions of PJM’s Capacity Program then in place shall apply. Under that Program, PJM shall notify EKPC of a

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minutes prior to the start of the interruption per the Cooperative's Interruptible Rider. EKPC shall notify Customer of such interruption immediately and Customer shall reduce its load to the Firm Load level defined above. PJM requires a one (1) hour interruption annually to test and verify load reduction capabilities if a Reliability Interruption has not been called for the PJM calendar year.

- c. **Interruption Hours and Notice.** Customer is contracting for interruptible service for all demand over the Firm Load as set forth above, with a total annual interruption of up to 400 hours. The sum of Economic Interruptions and Reliability Interruptions shall not exceed 400 hours on an annual basis. The annual period shall start on June 1 and end on May 31 of the following year. However, during the first year of this Agreement, the annual period shall begin with the effective date of the Agreement and end on May 31 of the following year. The total interruptible hours during the first year shall be pro-rated based upon the actual start date but shall not exceed 400 hours. Interruptions may occur between 6:00 a.m. to 9:00 p.m. EPT during the months of November through April and between 10:00 a.m. to 10:00 p.m. EPT during the months of May through October. No interruption shall last more than 12 hours.

Notification of an interruption will be provided by EKPC to the Customer via a communication medium approved by all parties from EKPC's MOC to the Customer. The Customer's Point of Contact ("POC") to provide the communication of the notice of interruption is as follows:

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Primary POC	Position	Seth Norat, Chief Operating Officer
	Address	401 West Main Street, Suite 321 Lexington, Kentucky 40507
	Phone	(606) 548-8078
	Email	Seth@appharvest.com
	Text	(606) 548-8078
Secondary POC	Position	Jonathan Webb, Chief Executive Officer
	Address	401 West Main Street, Suite 321 Lexington, Kentucky 40507
	Phone	(606) 213-6203
	Email	jonathan@appharvest.com
	Text	(606) 213-6203

EKPC’s POC is the MOC system operator on duty at the time of communication. The phone number for EKPC’s POC is (859) 745-9210, and email is generation.operations@ekpc.coop.

5. **Economic Development Rider (“EDR”)**. The Customer has submitted an application to the Cooperative requesting service under the provisions of the Cooperative’s Section EDR – Economic Development Rider. The Customer’s Plant is located in a Kentucky county that has been identified by the Commonwealth of Kentucky as an “Enhanced Incentive County” and is for a minimum average billing load equal to or in excess of the amount required by said EDR tariff. The Customer has represented that it plans to hire 285 employees and will have an approximate capital investment of \$77,000,000.

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a. **Discount Period and Discount Rate to Demand Charges.** The Customer has selected a five (5) year discount period option which requires a total contract term of ten (10) years. The discount period shall begin with the first complete billing month after the Effective Date of this Agreement. The discount to the total demand charge under this option will be:

First 12 consecutive monthly billings	50%
Next 12 consecutive monthly billings	40%
Next 12 consecutive monthly billings	30%
Next 12 consecutive monthly billings	20%
Final 12 consecutive monthly billings	10%

The discount shall be applied to the demand charges as stated in EKPC’s Rate Section B and the resulting reduction shall be passed through to the Customer without any revision or adjustment by the Cooperative. The discount rates shall apply to both the demand charge for the Contract Demand and the demand charge for Excess Demand. Any credits provided under any other demand-related rider shall be applied before the discounts as described above are applied. Thus the Interruptible Rider demand credit, if applicable, shall be applied to the Customer’s billing before the EDR discount. If during the discount period the Customer elects to take service under the terms and conditions of another tariff offered by the Cooperative that does not correspond to EKPC’s Rate Section B, the discount shall be applied to the demand charges of the EKPC rate schedule that corresponds to the Cooperative’s tariff offering.

b. **Load Factor.** The Customer agrees to maintain a minimum load factor of 60 percent during the months of the five (5) year discount period, subject to the following parameters:

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- (1) For the first 12 months of the discount period, the requirement to maintain a minimum load factor of 60 percent will be waived.
- (2) For the remaining months of the discount period, the load factor will be determined each month. During the remaining months of the discount period, the Customer may fail to achieve the 60 percent minimum load factor for no more than eight (8) months. During those eight (8) months, the Customer will continue to receive the discount to the total demand charge. EKPC shall notify the Cooperative and the Cooperative shall notify the Customer of each month the Customer has failed to achieve the 60 percent minimum load factor yet continued to receive the discount to the total demand charge. The notification will include the calculation of the achieved load factor for the month.

Failure to maintain the 60 percent minimum load factor in any month beyond the eight (8) months described in part (2) above will result in the suspension of the discount to the total demand charge for that month. EKPC shall notify the Cooperative and the Cooperative shall notify the Customer in a month where the discount to the total demand charge has been suspended. The notification will include the calculation of the achieved load factor for the month in question. The discount to the total demand charge will resume in the next subsequent month the 60 percent minimum load factor is achieved. However, the discount will resume at the discount rate applicable to the month of the discount period and failure to meet the 60 percent minimum load factor in any month.

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period. Failure to receive the EDR discount in any month will not affect the operation of the Interruptible Rider and the application of any Interruptible Rider demand credit.

For purposes of this Agreement, load factor is defined by the formula:

$$\text{Load Factor} = \text{billed kWh} / (\text{billed kW} \times 730)$$


where billed kWh and billed kW shall be the energy usage and demand as billed by EKPC and 730 reflects the average number of hours in a month.

- c. **Capacity Purchases.** The Customer agrees that EKPC and the Cooperative can only offer an EDR during either periods of excess capacity or the additional capacity needs have been secured or are capable of being economically secured through a market purchase agreement. If additional capacity is secured through a market purchase, then the Customer will be responsible for the costs of the market purchase agreement. The costs of the market purchase agreement will be disclosed separately on the Customer's monthly bill.

The determination of the cost associated with a market purchase will be based on EKPC's participation in the PJM market. If the total load requirement for EKPC in any year is not increased with the inclusion of the Customer's load, there will be no purchase or arrangement for additional capacity and consequently no additional capacity charges for that year. If a purchase or arrangement for additional capacity is required, the cost will be based on the market conditions at the time of the PJM Incremental Auction when the Customer's load is first recognized. The cost will remain constant until the next PJM Incremental Auction, and could increase,

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decrease, or remain the same, depending on the results of each successive PJM Incremental Auction.

- d. **Other Customer Specific Costs.** Any EDR customer-specific fixed costs shall be recovered over the life of the special contract.
- e. **Minimum Bill.** The minimum bill will equal the minimum bill as defined in the Cooperative's Rate Schedule 6B – Large Industrial Service plus the cost of any applicable capacity purchases and other customer specific costs, as described previously in this Agreement. The Cooperative's fuel adjustment clause and environmental surcharge, as established in the Cooperative's tariffs, shall be added to any minimum bill.
- f. **Early Termination.** In the event that the Customer ceases operations at the Plant or otherwise stops taking service at the Plant within the initial term of this Agreement, the Customer shall reimburse to EKPC and the Cooperative a portion of the EDR credits received by the Customer. The EDR credit reimbursement shall be due within 30 days from the date the Customer ceases operations at the Plant or stops taking service at the Plant. As used in this Agreement, EDR credits refers to the total dollar difference between the demand charges and environmental surcharge actually paid by the Customer compared to the demand charges and environmental surcharge that would have been paid without the EDR discount. Any applicable Interruptible Rider demand credits will be included in the calculation of the demand charges and environmental surcharges that would have been paid without the EDR discount. If the Customer ceases operations at the Plant or otherwise stops taking service at the Plant during 1

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initial term of this Agreement, the Customer shall reimburse 75 percent of the total EDR credits received by the Customer. If the Customer ceases operations at the Plant or otherwise stops taking service at the Plant during the final five (5) years of the initial term of this Agreement, the Customer shall reimburse 50 percent of the total EDR credits received by the Customer.

6. **Responsibilities of Customer.** It is the responsibility of Customer to be sure its phone is working and that someone is available 24 hours per day, 365 days per year to promptly respond to a communication from EKPC. Customer shall acknowledge to EKPC that they received notice of an interruption. If Customer does not acknowledge the notice of interruption from EKPC for whatever reason, Customer will be considered as failing to interrupt and the failure to interrupt provisions of the Cooperative's Rate Schedule 6B – Large Industrial Service and Interruptible Rider will be invoked.

Neither Cooperative nor EKPC shall be obligated to provide, or be responsible for providing, protective equipment for Customer's lines, facilities, and equipment to protect against single phasing, low voltage, short circuits, or any other abnormal system conditions, but Cooperative or EKPC, as the case may be, may provide such protective equipment as is reasonably necessary for the protection of its own property and operations. The electrical equipment install by Customer shall be capable of satisfactory coordination with any protective equipment installed by Cooperative or EKPC.


7. **Continuing Jurisdiction of the Commission.** The rates, terms and conditions of this Agreement for electric service shall be subject to modification or change by Order of the Commission, during the initial ten-year term and thereafter. The rates provided hereinabove shall be adjusted to reflect any Commission app

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tariff rates, including any FAC, Environmental Surcharge or changes in the base rates approved for EKPC and/or Cooperative on or after the effective date of this Agreement.

8. **Voltage Fluctuations.** Customer and Cooperative shall cooperate to see that Customer's load is operated in accordance with prudent utility practices, as defined in Paragraph 11 below. Customer agrees to operate its Plant and facilities to reduce voltage fluctuations or harmonic distortions. Cooperative will notify Customer if its operations cause voltage fluctuations or harmonic distortions that result in interference with Cooperative's supply of service to other customers, and will attempt to identify and help Customer correct such problems. Any substantial deviation from prudent utility practices that would cause additional voltage fluctuations or harmonic distortions requires approval from Cooperative. If Customer fails to install and/or to operate the necessary facilities on its premises to correct the voltage fluctuations or harmonic distortions of its load based on applicable industry and IEEE standards, or to prevent such voltage fluctuations or harmonic distortions from interfering with Cooperative's supply of services to other customers, Cooperative shall have the right to deny service to Customer. Any voltage fluctuations or harmonic distortions shall be corrected within twenty-four (24) hours after written notice from Cooperative to Customer stating the voltage fluctuation or harmonic distortion problems.

9. **Right of Access.** The duly authorized agents and employees of EKPC and/or Cooperative shall have free access at all reasonable hours to the premises of Customer for the purpose of installing, repairing, inspecting, testing, operating, maintaining, renewing or exchanging any or all of their equipment which may be located on the premises of Customer for reading or testing meters, or for performing any other work incident


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Agreement. The parties agree to take reasonable steps to protect the property of each other party located on its premises, and to permit no one to inspect or tamper with the wiring and apparatus of the other party except such other party's agents or employees, or person authorized by law. It is agreed, however, that no party assumes the duty of inspecting the wiring or apparatus of any other party and shall not be responsible therefor.

10. **Right of Removal.** Any and all equipment, apparatus, devices, or facilities placed or installed, or caused to be placed or installed, by either of the parties hereto on or in the premises of the other party shall be and remain the property of the party owning and installing such equipment, apparatus, devices, or facilities regardless of the mode or manner annexation or attachment of real property of the other. Upon the termination of this Agreement, or any extension thereof, the owner thereof shall have the right to enter upon the premises of the other and shall within a reasonable time upon notice and approval of the other party remove all or any portion of such equipment, apparatus, devices, or facilities, unless otherwise agreed by the parties at the time of such termination. As a part of any such removal, the owner shall perform restoration as required for any damage caused by said removal.

11. **Prudent Utility Practice.** Each party shall design, construct and operate its facilities in accordance with prudent electric utility practice in conformity with generally accepted standards for electric utilities in the Commonwealth of Kentucky, including, but not limited to, the applicable edition of the National Electric Safety Code.

12. **Maintenance of Equipment.** Each party agrees that it will at all times maintain its lines equipment and other facilities up to the Delivery Points in a safe operating condition in conformity with generally accepted standards for electric utility

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Kentucky, including, but not limited to, the applicable edition of the National Electrical Safety Code and applicable IEEE standards.

13. **Billing and Payment.**

- a. **Regular Monthly Billing.** Cooperative will bill the Customer each month for the cost of electric power and energy delivered to Customer during the preceding month. This bill will clearly state the amount due and the corresponding due date. Cooperative's Rate Schedule 6B – Large Industrial Service includes the payment of a monthly Customer Charge. For the duration of this Agreement, the Cooperative agrees to waive and the Customer will not be required to pay the monthly Customer Charge.
- b. **Due Date.** Payment for electric power and energy furnished hereunder, including any amounts payable for replacement power or options pursuant to Paragraph 4 hereinabove, shall be due and payable at the office of Cooperative monthly in accordance with the applicable provisions of Cooperative's Rate Schedule 6B – Large Industrial Service and Interruptible Rider. If Customer shall fail to pay any such bill as provided in said tariffs, Cooperative may discontinue delivery of electric power and energy hereunder ten (10) days following written notice to Customer of its intention to do so. Such discontinuance for non-payment shall not in any way affect the obligations of Customer to pay the minimum monthly charge provided in the attached Rate Schedules. When the Cooperative does not receive payment for services rendered by the due date then the Customer shall forfeit the 5% prompt payment discount and shall pay the gross amount due. All amounts

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unpaid when due may be subject to a charge for late payment, as provided in the applicable Rate Schedules.

c. **Security.** Should Customer have two late payments within a 12-month period, Customer agrees to provide a form and amount of bill payment security acceptable to Cooperative, and payable to Cooperative, for the duration of the Agreement. The amount of payment security may be changed at the request of Cooperative to match any changes in load by Customer. Such payment security may be equal to, but shall not exceed two times the amount of Customer's average monthly bill. The payment security shall be promptly payable to Cooperative, upon demand, due to non-payment by Customer and in accordance with the conditions set forth in subsections (a) and (b) above.

14. **Meter Testing and Billing Adjustment.** EKPC or Customer shall test and calibrate meters, or cause them to be tested and calibrated, by comparison with accurate standards at intervals of twelve (12) months. EKPC or Customer shall also make, or cause to be made, special meter tests at any time during normal business hours at Customer's request. The costs of all tests shall be borne or provided for by Cooperative, provided, however, that if any special meter test made by Customer's request shall disclose that the meters are recording accurately Customer shall reimburse Cooperative for the cost of such test. Meters registering not more than two (2) percent above or below normal shall be deemed to be accurate. The readings of any meter which shall have been disclosed by test to be inaccurate (as defined above) shall be corrected for the period during which meter error is known to have existed, or if not know, for one-half the elapsed time since the last such test in accordance with the percentage of inaccuracy found by suc

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to register for any period, the parties shall agree as to the amount of kW demand and energy furnished during such period. Such estimates shall be based on Customer's operating records for the period in question, historical load records and other pertinent data and records, and Cooperative shall render a bill to Customer therefore. Meter calibration records will be provided by the Cooperative upon request from the Customer.

15. **Membership/Capital Credits.** Cooperative is a non-profit Kentucky corporation and Customer will benefit from any savings or reductions in cost-of-service in the same manner as any comparable customer as authorized by Kentucky law, and by Cooperative's Articles of Incorporation and Bylaws; provided, however, Cooperative's Board of Directors may defer retirement of so much of the capital credited to patrons for any year which reflects capital credited to Cooperative by EKPC until EKPC shall have retired such capital credited to Cooperative. Customer shall participate in capital credits of Cooperative in accordance with Kentucky law and Cooperative's Articles of Incorporation and Bylaws. However, capital credits shall not be recorded for the Customer during the five (5) year EDR discount period.
16. **Notices.** Any written notice, demand, or request required or authorized under this Agreement shall be deemed properly given to or served on Cooperative and EKPC if mailed to:

Fleming-Mason Energy Cooperative
Attn: President and CEO
1449 Elizaville Road
P. O. Box 328
Flemingsburg, KY 41041

And

East Kentucky Power Cooperative, Inc
Attn: Senior Vice President of Power Supply

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4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

Any such notice, demand, or request shall be deemed properly given or served on Customer if mailed to:

AppHarvest
401 West Main Street, Suite 321
Lexington, KY 40507

Each party shall have the right to change the name of the person to whom, or the location where the notices are to be given or served by notifying the other party, in writing, of such change.

17. **Responsibility for Damages or Loss.** The electric power and energy supplied under this Agreement is supplied upon the express condition that after it passes the Point of Delivery it becomes the responsibility of the Customer. Neither Cooperative nor EKPC shall be liable for loss or damage to any person or property whatsoever, and Customer agrees to indemnify and hold EKPC and/or Cooperative harmless for damages suffered by any individual or business entity resulting directly or indirectly from the use, misuse or presence of the said electric power and energy on Customer's premises, or elsewhere, after it passes the Delivery Point, except where such loss or damage shall be shown to have been occasioned by the gross negligence of EKPC or Cooperative, their agents or employees.
18. **Continuity of Service.** Cooperative shall use reasonable diligence required of a public utility in Kentucky to provide a constant and uninterrupted supply of electric power and energy hereunder. If the supply of electric power and energy shall fail, neither EKPC nor Cooperative shall be liable therefor or for damages caused thereby.


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19. **Successor in Interest – Assignment.** The terms and conditions of this Agreement shall inure to and be binding upon the parties, together with their respective successors in interest. No party to this Agreement may assign its rights hereunder without the consent of the other, which shall not be unreasonably withheld; except that Cooperative may assign this Agreement to the Rural Utilities Service (“RUS”) and/or any other lenders to Cooperative without such consent.

20. **Force Majeure.** The obligations of either party to this Agreement shall be suspended during the continuance of any occurrence, beyond the affected party’s control (a “force majeure”), which wholly or partially prevents the affected party from fulfilling such obligations, provided that the affected party gives notice to the other party of the reasons for its inability to perform within a reasonable time from such occurrence, is diligently seeking to cure said force majeure, and gives notice to the other party within a reasonable time of such cure. As used in this Section, the term force majeure shall include, but is not limited to: acts of God; strikes; wars; acts of public enemy; riots; storms; floods; civil disturbances; explosions; failure of machinery or equipment; unavoidable disruptions in power deliveries from EKPC; or actions of federal, state, or local governmental authorities, which are not reasonably within the control of the party claiming relief.

Notwithstanding the above provisions, no event of force majeure shall relieve Customer of the obligation to pay the minimum monthly charge provided herein or in the attached rate schedules.

21. **Approvals.** The rates and charges for electrical service established hereunder are subject to approval by the Commission pursuant to Kentucky Revised Statutes, Chapter 278, and any necessary approvals by the RUS and the National Rural I

KENTUCKY PUBLIC SERVICE COMMISSION
Gwen R. Pinson Executive Director

EFFECTIVE 7/1/2019 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Corporation. The parties covenant to use reasonable efforts to forthwith seek and support such approvals for this Agreement by filing such papers, presenting such testimony and taking such other action as may be necessary or appropriate to secure the same.

22. **Modifications.** Any future revisions or modifications of this Agreement, except as provided in Paragraph 7, hereinabove, shall require the written mutual approval of Cooperative and Customer, and any necessary approvals by RUS, any other lenders to Cooperative, and the Commission.

23. **Miscellaneous.**


a. **Headlines of Articles.** Headings of articles of this Agreement have been inserted for convenience only and shall in no way affect the interpretation of any term or provision hereof.

b. **Severability.** Except where expressly stated otherwise the duties, obligations and liabilities of the parties are intended to be several and not joint or collective.

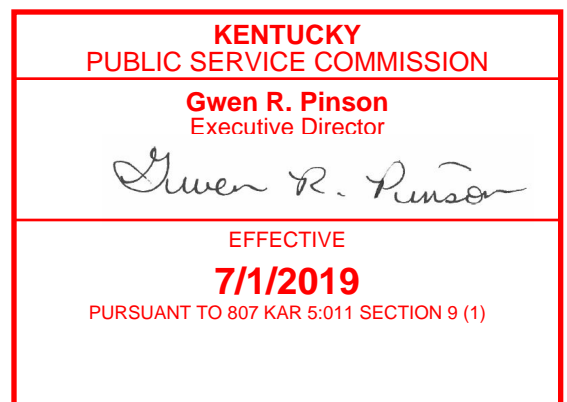
c. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky, notwithstanding any principles of choice of law.

d. **Venue.** Any actions or claims arising from or relating to this Agreement shall be instituted in the Circuit Court of Rowan County, Kentucky and each party hereto expressly acknowledges that such forum is convenient and acceptable.

e. **Waivers.** Any waiver at any time by a party of its rights with respect to a default or with respect to any other matters arising on connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

KENTUCKY PUBLIC SERVICE COMMISSION
Gwen R. Pinson Executive Director

EFFECTIVE 7/1/2019 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)


- f. **Prior Agreements.** The parties hereby acknowledge that this Agreement contains the entire agreement among the parties and supersedes all prior agreements and understandings related to the subject matter hereof.
- g. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed an original.



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, in six original counterparts, by their respective officers, thereunto duly authorized, as of the day and year first above written.

ATTEST:

APPHARVEST MOREHEAD FARM, LLC




SIGNATURE
TITLE: CEO

BY Jonathan Webb
PRINTED NAME

ATTEST:

EAST KENTUCKY POWER COOPERATIVE, INC.




SIGNATURE
TITLE: Pres./CEO

BY Anthony S. Campbell
PRINTED NAME

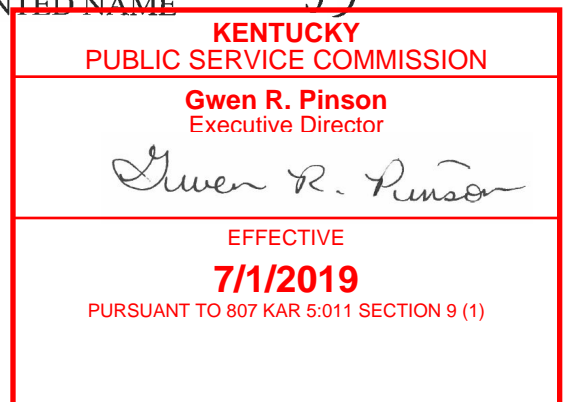
ATTEST:

FLEMING-MASON ENERGY COOPERATIVE



SIGNATURE
TITLE: President / CEO

BY Joni Hazelrigg
PRINTED NAME



Form for Filing Rate Schedules

Fleming-Mason Energy Cooperative Inc.
 P. O. Box 328
 Flemingsburg, KY 41041

For All Territory Served

P.S.C. No. 10
17th Revised Sheet No. 10
 Canceling P.S.C. No. 3
16th Revised Sheet No. 10

CLASSIFICATION OF SERVICE															
Large Industrial Service - Schedule LIS 6B	Rate Per Unit														
<p><u>Applicability:</u> Available to all members of the Cooperative for individual metered service where the monthly contract demand is 10,000 KW and above with a monthly energy usage equal to or greater than 400 hours per KW of billing demand.</p> <p><u>Condition:</u> An "Agreement for Purchased Power" shall be executed by the consumer for service under this schedule.</p> <p><u>Character of Service:</u> Three-phase 60 Hertz alternating current as specified in Agreement for Purchased Power.</p> <p><u>Monthly Rate:</u></p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;">Customer Charge</td> <td style="text-align: right;">\$1221.76/Mo</td> </tr> <tr> <td style="padding-left: 40px;">Demand Charge – Per Contract kW</td> <td style="text-align: right;">\$ 7.17/kW</td> </tr> <tr> <td style="padding-left: 40px;">Demand Charge - Per kW in Excess of Contract</td> <td style="text-align: right;">\$ 9.98/kW</td> </tr> <tr> <td style="padding-left: 40px;">Energy Charge - For All kWh</td> <td style="text-align: right;">\$0.04263/kWh</td> </tr> </table> <p><u>Determination of Billing Demand:</u> The monthly billing demand (kilowatt demand) shall be the contract demand plus any excess demand. Excess demand occurs when the ultimate consumer's highest demand during the current month, coincident with the load center's peak, exceeds the contract demand. The load center's peak demand is highest average rate at which energy is used during any fifteen-minute interval in the below listed hours for each month and adjusted for power factor as provided therein:</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: center;"><u>Months</u></th> <th style="text-align: center;"><u>Hours Applicable for Demand Billing-EST</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">October - April</td> <td style="text-align: center;">7:00 A.M. to 12:00 Noon; 5:00 P.M. to 10:00 P.M.</td> </tr> <tr> <td style="text-align: center;">May - September</td> <td style="text-align: center;">10:00 A.M. to 10:00 P.M.</td> </tr> </tbody> </table>		Customer Charge	\$1221.76/Mo	Demand Charge – Per Contract kW	\$ 7.17/kW	Demand Charge - Per kW in Excess of Contract	\$ 9.98/kW	Energy Charge - For All kWh	\$0.04263/kWh	<u>Months</u>	<u>Hours Applicable for Demand Billing-EST</u>	October - April	7:00 A.M. to 12:00 Noon; 5:00 P.M. to 10:00 P.M.	May - September	10:00 A.M. to 10:00 P.M.
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Date of Issue 08/07/2017

Date Effective Service rendered on and after 09/01/2017

Issued By Joni Hazelrigg Title President and CEO

Issued by authority of an order of the Public Service Commission of Kentucky.

Case No. 2017-00012 Dated 08/07/2017

KENTUCKY
PUBLIC SERVICE COMMISSION

Gwen R. Pinson
Executive Director

Gwen R. Pinson
Executive Director

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

7/1/2019

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Form for Filing Rate Schedules

Fleming-Mason Energy Cooperative Inc.
 P. O. Box 328
 Flemingsburg, KY 41041

For All Territory Served

P.S.C. No. 10
17th Revised Sheet No. 10
Cancelling P.S.C. No. 3
16th Revised Sheet No. 10

CLASSIFICATION OF SERVICE	
Large Industrial Service - Schedule LIS 6B	Rate Per Unit
<p><u>Minimum Monthly Charge:</u> The minimum monthly charge shall not be less than the sum of (A), (B), and (C) below: (A) The customer charge, plus (B) The product of the contract demand multiplied by the demand charge, plus (C) The product of the contract demand multiplied by 400 hours and the energy charge per kwh.</p> <p><u>Power Factor Adjustment:</u> The consumer agrees to maintain a unity power factor as nearly as practicable at each delivery point at the time of the monthly maximum demand. When the power factor is determined to be less than 90%, the monthly maximum demand at the delivery point will be adjusted by multiplying the actual monthly maximum demand by 90% and dividing this product by the actual power factor at the time of the monthly maximum demand.</p> <p><u>Fuel Adjustment Clause:</u> The above rate may be increased or decreased by amount per kwh equal to the fuel adjustment amount per kwh as billed by the Wholesale Power Supplier plus an allowance for line losses. The allowance for line losses will not exceed 10% and is based on a twelve month moving average of such losses. This fuel clause is subject to all other applicable provisions as set out in 807 KAR 5:056.</p> <p><u>Terms of Payment:</u> The above rates are net and are due on the billing date, the gross rates being 5% higher. In the event the current monthly bill is not paid within 15 days from the date of the bill, the gross rates shall apply.</p> <p><u>Taxes and Fees</u> The Cooperative shall add to the electric bills of all applicable members the Kentucky Sales and Use Tax, any Utility Gross Receipt License Tax for Schools, any other tax that may be imposed on the Cooperative that is measured or determined by sales or receipts, or any Franchise Fee enacted by an ordinance of a municipality.</p> <p><u>Service at Transmission Voltage:</u> If service is furnished at transmission voltage, a discount equal to the Customer Charge shall apply.</p>	

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PURSUANT TO 807 KAR 5:011 SECTION 9 (1)
EFFECTIVE
7/1/2019
 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

For Area Served
 P.S.C. No. 3
 2nd Revised Sheet No 1
 Canceling P.S.C. No. 3
 1st Sheet No. 1

Fleming-Mason Energy Cooperative, Inc.

INTERRUPTIBLE SERVICE

STANDARD RIDER

This Interruptible Rate is a rider to Rate Scheduled LGS, LIS1, LIS2, LIS3, LIS4, LIS5, LIS6, LIS4B, LIS5B and LIS6B.

APPLICABLE

In all territory served by the Cooperative.

AVAILABILITY OF SERVICE

This schedule shall be made available to any member where that member will contract for an interruptible demand of not less than 250kW and not more than 20,000 kW, subject to a maximum number of hours of interruption per year and a notice period as listed below.

MONTHLY RATE

A monthly demand credit per kW is to be based on the following matrix:

<u>NOTICE MINUTES</u>	<u>ANNUAL HOURS OF INTERRUPTION</u>			(T)
	<u>200</u>	<u>300</u>	<u>400</u>	
30	\$4.20	\$4.90	\$5.60	

DETERMINATION OF MEASURED LOAD-BILLING DEMAND

The monthly billing demand shall be the highest average rate at which energy is used during any fifteen consecutive minute period during the below listed hours:

<u>MONTHS</u>	<u>HOURS APPLICABLE FOR DEMAND BILLING--EPT</u>	(T)
November through April	6:00 a.m. to 9 p.m.	↓
May through October	10:00 a.m. to 10:00 p.m.	

The interruptible billing demand shall be equal to the amount by which the monthly billing demand exceeds the minimum billing demand as specified in the contract.

DATE OF ISSUE August 24, 2015
 DATE EFFECTIVE October 1, 2015
 ISSUED BY Joni K. Hazelrigg
 President & Chief Executive Officer
Joni K Hazelrigg

KENTUCKY
 PUBLIC SERVICE COMMISSION
 JEFF R. DEROUEN
 EXECUTIVE DIRECTOR
 TAMP BRANCH
Gwen R. Pinson
 Executive Director

10/1/2015
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 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)
7/1/2019
 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Fleming-Mason Energy Cooperative, Inc.

CONDITIONS OF SERVICE FOR MEMBER CONTRACT

1. The member will, upon notification by the Cooperative, reduce his load being supplied by the Cooperative to the contract capacity level specified by the contract.
2. The Cooperative will endeavor to provide the member with as much advance notice as possible of the interruption of service. However, the member shall interrupt service within the notice period as contracted.
3. Service will be furnished under the Cooperative's "Rules and Regulations" except as set out herein and/or provisions agreed to by written contract.
4. No responsibility of any kind shall attach to the Cooperative for, or on account of, any loss or damage caused by, or resulting from, any interruption of curtailment of this service.
5. The Member shall own, operate, and maintain all necessary equipment for receiving electric energy and all telemeter and communications equipment, within the Member's premises, required for interruptible service.
6. The minimum original contract period shall be one year and thereafter until terminated by giving at least six months' previous written notice. The Cooperative may require a contract be executed for a longer initial term when deemed necessary by the size of the load and other conditions.
7. The Fuel Adjustment Clause, as specified in the prevailing rate schedule is applicable.

CALCULATION OF MONTHLY BILL

The monthly bill is calculated on the following basis:

- A. Sum of customer charge, plus
- B. Minimum billing demand in kW multiplied by the firm capacity rate, plus
- C. Interruptible billing demand in kW multiplied by interruptible rate, plus
- D. Energy usage in kWh multiplied by the energy rate.

DATE OF ISSUE August 24, 2015
DATE EFFECTIVE October 1, 2015
ISSUED BY Joni K. Hazelrigg
President & Chief Executive Officer.
Joni K Hazelrigg

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7/1/2019
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For Area Served
P.S.C. No. 3
2nd Revised Sheet No. 3
Canceling P.S.C. No. 3
1st Sheet No. 3

Fleming-Mason Energy Cooperative, Inc.

NUMBER AND DURATION OF INTERRUPTIONS

- A. There shall be no more than two (2) interruptions during a 24-hour calendar day. No interruption shall last more than twelve hours.
- B. Interruptions may occur between 6:00 a.m. and 9:00 p.m. EPT during the months of November through April and between 10:00 a.m. and 10:00 p.m. EPT during the months of May through October.
- C. The maximum number of annual hours of interruption shall be in accordance with the member contracted level of interruptible service.

(T)



CHARGE FOR FAILURE TO INTERRUPT

If a member fails to interrupt load as requested by the Cooperative, the Cooperative shall bill the entire billing demand at a rate equal to five (5) times the applicable firm power demand charge for that billing month.

DATE OF ISSUE August 24, 2015
DATE EFFECTIVE October 1, 2015
ISSUED BY Joni K. Hazelrigg
President & Chief Executive Officer

Joni K Hazelrigg

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~~7/1/2019~~
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Fleming-Mason Energy Cooperative, Inc.

Section EDR

Economic Development Rider

Applicability

The EDR is available in all the service territory served by Fleming-Mason Energy.

Availability

Available as a rider to qualifying Fleming-Mason Energy's non-residential customers to be served or being served under East Kentucky Power Cooperative, Inc.'s ("EKPC") Sections B, C, E, and G to encourage Economic Development as defined herein. Service under the EDR is conditional on approval of a special contract between EKPC, Fleming-Mason Energy, and the qualifying non-residential customer for such economic development rate service filed with and approved by the Kentucky Public Service Commission ("Commission").

Economic Development

Service under EDR is available to:

- 1) New customers contracting for a minimum average monthly billing load of 500 kW over a 12 month period. If the new customer is locating in a Kentucky county that is identified by the Commonwealth of Kentucky as an "Enhanced Incentive County", then the minimum average monthly billing load will be 250 kW over a 12 month period.
- 2) Existing customers contracting for a minimum average monthly billing load increase of 500 kW over a 12 month period above their Economic Development Base Load ("ED Base Load"). If the existing customer is located in a Kentucky county that is identified by the Commonwealth of Kentucky as an "Enhanced Incentive County", then the minimum average monthly billing load increase will be 250 kW over a 12 month period. The ED Base load will be determined as follows:
 - a. The existing customer's ED Base Load will be determined by averaging the customer's previous three years' monthly billing loads. EKPC, Fleming-Mason Energy, and the existing customer must agree upon the ED Base Load, and any adjustments to the ED Base Load must be mutually agreed to by the parties.
 - b. The ED Base Load shall be an explicit term of the special contract submitted to the Commission for approval before the customer can take service under the EDR. Once the ED Base Load's value is established, it will not be subject to variation or eligible for service under the EDR.
 - c. These provisions are not intended to reduce or diminish in any way EDR service already being provided to all or a portion of a customer's ED Base Load. Such EDR service would continue under the terms of the applicable special contract already existing between EKPC, Fleming-Mason Energy, and the customer concerning the affected portion of the customer's ED Base Load.

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DATE OF ISSUE 11/10/2014
Month / Date / Year

DATE EFFECTIVE 01/01/2015
Month / Date / Year

ISSUED BY Joni Haasebrugg
(Signature of Officer)

TITLE President and Chief Executive Officer

KENTUCKY
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TAMM BRANCH
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Executive Director

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7/1/2019
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PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Fleming-Mason Energy Cooperative, Inc.

Section EDR (con't.)

- 3) A new or existing customer eligible for a minimum average monthly billing load between 250 kW and 500 kW may require a customer-specific meter installation. The cost of the customer-specific meter installation shall be recovered from the customer.
- 4) The new customer or existing customer must agree to maintain a minimum load factor of 60 percent during the majority of the months in the discount period, subject to the following parameters:
 - a. During the first 12 months of the discount period the 60 percent minimum load factor requirement will be waived.
 - b. During the remaining months of the discount period, the load factor will be determined each month. The new or existing customer may fail to achieve the 60 percent minimum load factor for no more than 1/6th of the remaining months of the discount period.
 - c. Failure to maintain the 60 percent minimum load factor in any month beyond the period described in part 4(b) above will result in the suspension of the discount to the Total Demand Charge for that month. The discount to the Total Demand Charge will resume in the month the 60 percent minimum load factor is achieved; however the discount will resume at the discount rate applicable to the month of the discount period.
- 5) A customer desiring service under the EDR must submit an application for service that includes:
 - a. A description of the new load to be served;
 - b. The number of new employees, if any, the customer anticipates employing associated with the new load; and
 - c. The capital investment the customer anticipates making associated with the EDR load.
- 6) Any EDR customer-specific fixed costs shall be recovered over the life of the special contract.

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ISSUED BY *Joni Hazelrigg*
(Signature of Officer)

TITLE President and Chief Executive Officer

KENTUCKY
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Gwen R. Pinson

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Fleming-Mason Energy Cooperative, Inc.

Section EDR (con't.)

Rate

The rate available under the EDR shall be in the form of a discount to the Total Demand Charge on the EKPC rate section applicable to the customer. The Total Demand Charge is the sum of all demand charges, including any credits provided under any other demand-related rider, before the EDR discounts as described below are applied. A customer taking service under the EDR shall be served according to all of the rates, terms, and conditions of the normally applicable rate schedule subject to the following discount options:

Discount Period	3 years	4 years	5 years
Required Minimum Contract Term	6 years	8 years	10 years
Discount to Total Demand Charge:			
First 12 consecutive monthly billings	30%	40%	50%
Next 12 consecutive monthly billings	20%	30%	40%
Next 12 consecutive monthly billings	10%	20%	30%
Next 12 consecutive monthly billings	0%	10%	20%
Next 12 consecutive monthly billings	0%	0%	10%

The discount will not be smaller than the amount calculated from the EKPC rate sections.

Terms and Conditions

- 1) EKPC and Fleming-Mason Energy will only offer an EDR during either periods of excess capacity or the additional capacity needs have been secured, or are capable of being economically secured, through a market purchase agreement. If additional capacity has been secured through a market purchase, the customer will be responsible for the costs of the market purchase agreement. Upon submission of each EDR special contract, EKPC will demonstrate that the load expected to be served during each year of the contract period will not cause them to fall below a reserve margin that is considered essential for system reliability.
- 2) Service shall be furnished under the applicable standard rate schedule and this rider, filed as a special contract with the Commission, for a fixed term of at least two times the discount period and for such time thereafter under the terms stated in the applicable standard rate schedule. The discount period shall not be less than 3 years and not exceed 5 years. A greater term of contract or termination notice may be required because of conditions associated with a customer's requirements for service. Service shall be continued under the conditions provided for under the applicable standard rate schedule to which this rider is attached after the original term of the contract.

DATE OF ISSUE 11/10/2014
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ISSUED BY Joni Hazelrigg
(Signature of Officer)

TITLE President and Chief Executive Officer

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Fleming-Mason Energy Cooperative, Inc.

Section EDR (con't.)

3) The customer may request an EDR effective initial billing date that is no later than 12 months after the date on which EKPC and Fleming-Mason Energy initiates service to the customer.

4) The EDR is not available to a new customer which results from a change in ownership of an existing establishment. However, if a change in ownership occurs after the customer enters into an EDR special contract, the successor customer may be allowed to fulfill the balance of the EDR special contract.

5) EKPC and Fleming-Mason Energy may offer differing terms, as appropriate, under the special contract to which this rider is a part depending on the circumstances associated with providing service to a particular customer subject to approval by the Commission.



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ISSUED BY Joni Haveliag
(Signature of Officer)

TITLE President and Chief Executive Officer

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