

## TRANSMISSION LINE EASEMENT

FOR VALUABLE CONSIDERATION RECEIVED, Jason Allen Barnard and Jennifer Lauren Barnard, husband and wife, with a mailing address of 550 Depot Mills Dr., Gerrardstown, WV 25420, hereinafter referred to, whether one or more, as "Grantor;" hereby grant and convey unto TRANS-ALLEGHENY INTERSTATE LINE COMPANY, a Maryland and Virginia corporation having its principal place of business at 800 Cabin Hill Drive Greensburg, Westmoreland County, Pennsylvania 15601, its successors and assigns (hereinafter called "Grantee") with covenants of general warranty and further assurances of title a perpetual easement or right-of-way ("the Right-of-Way") Two-Hundred (200') feet in width, located as hereinafter described to (a) construct , reconstruct, repair, improve, alter, replace, operate, use, inspect, maintain and remove an overhead line of poles, towers or structures, as Grantee may from time to time deem expedient or advisable, with such wires and cables as Grantee shall from time to time suspend therefrom, consisting of all foundations, footings, crossarms, wires, poles, towers, attachments, anchors, ground connections, or other equipment, accessories and appurtenances, as Grantee may from time to time deem necessary or desirable in connection therewith (the "Facilities") for the transmission of electrical and other forms of energy as exist from time to time, and for all communication purposes, whether existing now or in the future, including without limitation fiber optic circuits; (b) permit Grantee to transmit and to carry other forms and sources of energy, whether existing now or in the future, in order to deliver electrical power, information or such other services as Grantee may provide from time to time.

The Right-of-Way shall be located over, across, and upon a portion of the property of Grantor located in **Capon District/Township, Hampshire County, Commonwealth/State of West Virginia**, containing **23.07** acres more or less, and described in that certain deed recorded in **Deed Book 450 at Page 63** of the Deed Records of said County, being further identified as Tax Parcel **2-14-29** (the "Subject Property") and further shown on attached Exhibit "A", attached hereto and made a part hereof and is the same property described in the Option for Transmission Line Easement between Grantor and Grantee dated **August 1, 2007**, and of record in **Volume 468 at Page 718** of the Deed Records of said County.

Grantee shall at all times have the right to: (a) clear the Right-of-Way of all buildings or structures except fences less than 5 feet in height; b) control, cut down, trim and remove trees and underbrush from the Right-of-Way by any method with the exception of aerial spraying; and c) cut down and trim any tree located outside the Right-of-Way which in the opinion of the Grantee may interfere with the safety, proper operation and/or maintenance of its Facilities. All trees and limbs cut down shall remain the property of Grantor.

**Transmission Credit ID: T0074; 2-14-29**

For the purpose of exercising its rights under this Agreement, Grantee shall have the right of ingress, egress and regress from the property of Grantor in order to obtain access to the Right-of-Way over the Right-of-Way itself, or over the property of Grantor adjacent to the Right-of-Way and lying between public or private roads and the Right-of-Way in such manner as shall cause the least practicable damage and inconvenience to Grantor.

Grantee will, at its option, repair or pay for damages to Grantor's property, except damages to structures, trees or other obstructions as provided below, when such damages result from the construction, reconstruction, repair, alteration, replacement, operation, inspection, maintenance or removal of Grantee's Facilities, or from Grantee's exercise of the right of ingress, egress, and regress, provided Grantor gives timely written notice thereof to Grantee.

Grantor may use the Right-of-Way for any purpose not inconsistent with the rights hereby granted, provided such use does not interfere with or endanger the construction, operation or maintenance of Grantee's Facilities, and provided further that plans for any grade changes on said Right-of-Way shall be submitted to Grantee for its approval. Grantor shall not erect or construct any building or other structure, except permitted fences, or drill or operate any well within the Right-of-Way. Grantee shall have the right to open all fences for proper purposes, but will keep the same closed when not necessary for proper purposes.

The Grantee shall pay to the Grantor: (a) \$ \_\_\_\_\_ in full payment for said rights and easement, and (b) \$ \_\_\_\_\_ in full payment for all loss or damages which may be sustained by the Grantor resulting in any manner from the original construction of said facilities, except that the Grantee shall also pay for all damage to private roads of the Grantor resulting from such construction. The Grantee shall pay for all damages sustained by the Grantor resulting thereafter from the maintenance, repair, alteration, reconstruction or removal of, or construction of additions to, said facilities by the Grantee.

At the request of the undersigned, the consideration paid by Grantee for the right-of-way herein conveyed ☒ does ☐ does not include the Transmission Credit, as more fully set forth in the Transmission Credit Rider attached hereto, as a component of the consideration the undersigned receives or will receive for its execution of this Transmission Line Easement. A Transmission Credit shall be available for the Subject Property or any of the following tracts of land adjoining the Subject Property identified in the Tax Maps of the County Assessor as **2-14-29** in accordance with the terms and conditions of the Transmission Credit Rider.

The undersigned, for themselves, their heirs, successors and assigns, covenant that they are the true and lawful owners of said lands and have full right and power to grant and convey said easement as herein provided. The undersigned declare that the true and actual value of the property transferred hereby, is to the best of their knowledge and belief, \$: \_\_\_\_\_

**NOTICE TO LANDOWNER:** You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, the Grantor(s) has/have hereunto set his/her/their hand(s) this 20th day of December, 2008.

**WITNESSED:**

Paul Mazze

Jason Allen Barnard Grantor

\_\_\_\_\_

Jennifer Lauren Barnard Grantor

\_\_\_\_\_

\_\_\_\_\_ Grantor

\_\_\_\_\_

\_\_\_\_\_ Grantor

This instrument was prepared under the direction of Edward G. Kennedy, Attorney at Law, 800 Cabin Hill Drive, Greensburg, PA 15601

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (date)

By \_\_\_\_\_ (name  
or names of person or persons acknowledging).

\_\_\_\_\_  
Notary Public

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

My Commission Expires:

\_\_\_\_\_

### TRANSMISSION CREDIT RIDER

The following terms, conditions, and limitations set forth herein shall apply to TrAILCo's commitment to pay the Transmission Credit (as defined in paragraph 2 below).

1. Applicability to Property Owners. TrAILCo will pay the Transmission Credit to each Property Owner, as defined in this paragraph, who elects to receive it.

- a. A Property Owner is: (A) (i) a person/persons or other legal entity/entities that own(s) a parcel of real property in West Virginia on which TrAILCo will obtain an interest in real property (a "Legal Interest") in order to construct, own or operate any portion of the Facilities (each such parcel, a "Subject Property") where (ii) the Property Owner and TrAILCo execute either (x) an agreement granting TrAILCo a Legal Interest in the Subject Property, or (y) an option or similar agreement granting TrAILCo the enforceable right to enter into such an agreement (each an "Agreement"); and (B) any person or other legal entity, or group of persons or legal entities, that may become, individually or collectively, the successor in ownership of the Subject Property or that portion of the Subject Property on which all or a portion of the Facilities are located at the time of the transfer of ownership of the Subject Property or a portion thereof; provided, that the Property Owner's rights, relating to the Transmission Credit, arising from the Agreement through the sale or subdivision of the Subject Property to more than one person or into more than one tract, may not inure to more than a single successor in ownership of the Subject Property. In no event, however, shall a Property Owner (either

collectively or individually) of a Subject Property be entitled to assign more than one Designated Service Point (as defined below) upon the Subject Property or contiguous tracts thereto (as provided below).

- b. A Property Owner who, in addition to the Subject Property, owns tracts contiguous to the Subject Property may assign the Transmission Credit to a Designated Service Point (as defined below) located on a contiguous parcel so long as the ownership of the contiguous parcel remains the same as the Subject Parcel. Should the Property Owner sell either the contiguous parcel or the Subject Parcel such that the ownership of both parcels is not the same, the Transmission Credit will no longer be available to the contiguous parcel and will be designated, under the terms and conditions of this Transmission Credit Rider, by the owner of the Subject Parcel.

2. Scope of the Transmission Credit. For each Property Owner who elects to receive it, TrAILCo will pay a credit (as defined and quantified in paragraph 4 below, the “Transmission Credit”) to the electric utility that provides retail electric service (“Electric Provider”) to a single residence located on the Subject Property (as designated in the manner described below, the “Designated Service Point”) for the Designated Customer (as defined below).

3. Designation of Designated Service Point and Identification of Designated Customer.

- a. The Property Owner will initially designate the Designated Service Point and the Designated Customer. The Property Owner shall supply the electric account information at the time of designation. The Property

Owner may amend this designation to name a different Designated Service Point or a different Designated Customer by providing a written notice, addressed and delivered to both TrAILCo and the Electric Provider, not less than 60 days prior to the effective date of the amended designation; provided that the new Designated Service Point or new Designated Customer shall otherwise be eligible for the Transmission Credit. The amount of the Transmission Credit available during the remainder of the Credit Year (as defined in paragraph 4(c) below) at the different Designated Service Point or for the different Designated Customer shall not exceed the amount of unused Transmission Credit available at the former Designated Service Point or for the former Designated Customer prior to such amendment of the designation.

- b. The Designated Customer will be the person listed on the account of the Electric Provider in respect of the metered retail electric service provided to the Designated Service Point. If the Designated Customer at a Designated Service Point changes, the amount of the Transmission Credit available during the remainder of the Credit Year at the Designated Service Point shall not exceed the amount of unused Transmission Credit available prior to the change in the Designated Customer at such Designated Service Point.

4. Amount and Manner of Payment of the Transmission Credit.

- a. For each Credit Year during which TrAILCo is obligated to pay the Transmission Credit, the amount of the Transmission Credit shall be equal

to the total amount billed to the Designated Customer during such Credit Year, beginning with the first bill issued to the Designated Customer in such Credit Year, including any bill that covers a service period that extends into the last month of the preceding Credit Year (a "Carryover Period"), where such total amount is for the provision of retail electric service to the Designated Customer at the Designated Service Point under the Electric Provider's prevailing rates and charges per metered kilowatt hour (kWh) (as defined below, the "Covered Charges") attributable to the Designated Customer's total metered usage in kWh at the Designated Service Point subject to a limit during any Credit Year (including the Carryover Period, if any) of 12,000 kWh in total metered usage. To the extent a Designated Customer's electric usage at the Designated Service Point exceeds 12,000 kWh during any Credit Year ("Excess Usage"), neither the Designated Customer nor the Property Owner shall have any entitlement to receive any credit or any payment by TrAILCo for Covered Charges in respect of the Excess Usage, either during or after that Credit Year. To the extent a Designated Customer's electric usage at the Designated Service Point is less than 12,000 kWh during any Credit Year ("Under Usage"), neither the Designated Customer nor the Property Owner shall have any entitlement to receive any credit or any payment by TrAILCo in respect of the Under Usage, either during or after that Credit Year.

- b. “Covered Charges” (A) shall include the net effect (whether positive or negative) of all (i) charges for metered service, whether associated with customer charges, base charges, rates arising from any Expanded Net Energy Cost or other fuel adjustment clause; (ii) federal state, and local taxes, fees, and assessments associated with the provision of electric service; (iii) any environmental control charge authorized pursuant to W. Va. Code §24-2-4e (an “ECC”) or associated ECC normalization surcharge; and (iv) any other charge on a customer bill that is associated with or calculated on the basis of metered electric service; and (B) shall not include (a) any amounts required to be paid by the Designated Customer in respect of any due (or overdue) unpaid amounts carried over from the previous Credit Year, including any associated late fees; (b) any amounts payable under a deferred payment plan; (c) any amounts assessed to the Designated Customer or its predecessor arising from the disconnection of service from, or reconnection of service to, the Designated Service Point; or (d) any amounts charged to the Designated Customer, whether or not appearing on the Designated Customer’s bill, associated with the provision of services or facilities to the Designated Customer or in respect of the Designated Service Point that are not directly related to the Electric Provider’s provision of metered retail electric service, including without limitation any charges by the Electric Provider for line extensions, outdoor lighting or non-metered services.

- c. “Credit Year” shall mean the twelve calendar month period that begins on the Commencement Date (as defined below) and each twelve calendar month period thereafter during the term of TrAILCo’s obligation to pay the Transmission Credit pursuant to this Partial Joint Stipulation.
- d. TrAILCo will execute a service agreement with each Electric Provider that provides or will provide service to a Designated Service Point (as described in more detail below, each a “Transmission Credit Service Agreement”) pursuant to which (among other things): (i) the Electric Provider, not less frequently than once per month, will invoice TrAILCo for the Covered Charges in respect of electric service provided to the Designated Service Point; (ii) TrAILCo will make a payment to the Electric Provider in the amount of the Covered Charges appearing on the Designated Customer’s bill from the Electric Provider, for and on behalf of the Designated Customer and pursuant to its contractual obligations to the Property Owner under the relevant Agreement, on or before the date on which the Designated Customer’s payment of the Covered Charges for that month, as designated on the Designated Customer’s bill, are due and payable (for each month and in respect of any such bill, the “Payment Due Date”); and (iii) TrAILCo will pay, in addition to the total Covered Charges for any Credit Year, any late fee assessed to the Designated Customer arising from TrAILCo’s failure to pay the Covered Charges (but only the Covered Charges) by the Payment Due Date.

5. Commencement and Term of TrAILCo's Obligation to Pay Transmission Credit.

TrAILCo's obligations to pay the Transmission Credit shall begin on the Electric Provider's billing date for the Designated Customer during the first calendar month following the calendar month during which TrAILCo begins construction of the portion of the West Virginia Segments of TrAIL on the Property Owner's Subject Property ("Commencement Date") and, with respect to any Property Owner, will extend for so long as the Facilities are emplaced on the Subject Property. TrAILCo will have no obligation to pay the Transmission Credit to any Property Owner if (1) TrAILCo is not authorized to construct the West Virginia Segments of TrAIL, (2) TrAILCo does not elect to construct the West Virginia Segments of TrAIL, or (3) the Public Service Commission of the State of West Virginia does not approve the Transmission Credit.

6. Nature and Enforcement of Obligations.

- a. TrAILCo's obligations, including without limitation the obligation to pay the Transmission Credit, are contractual in nature, arise solely from the Agreement, and run solely to (i) the Property Owner or, (ii) if the Property Owner and the Designated Customer are not the same person or entity, then also to the Designated Customer, but in this latter case only to the limited extent of the Designated Customer's interest in TrAILCo's payment of the Covered Charges appearing on the Designated Customer's bill from the Electric Provider. Neither the Property Owner nor the Designated Customer may prosecute a formal or informal complaint against TrAILCo at the Commission other than for the purpose of enforcing the portion of their Agreement related to the Transmission Credit.

- b. The existence of TrAILCo's obligations to a Property Owner under an Agreement does not vest in the Property Owner or the Designated Customer any legal rights against the Electric Provider. The Designated Customer's obligation to ensure full and timely payment for electric service to the Electric Provider, and specifically (but without implied limitation) the obligation to ensure full and timely payment of any ECC charged to the Designated Customer, is not obviated, eliminated, or diminished by TrAILCo's obligations, including without limitation the obligation to pay the Transmission Credit, under the Agreement.
- c. To the extent TrAILCo fails to make a payment of the Transmission Credit to an Electric Provider in respect of a Designated Customer's Covered Charges in a timely manner as required in the Transmission Credit Service Agreement, the Electric Provider will seek payment from the Designated Customer of those amounts. The Electric Provider's obligation to ensure and, if necessary, enforce full and timely payment for electric service from the Designated Customer, and specifically (but without implied limitation) the obligation to ensure and, if necessary, enforce full and timely payment of the ECC charged to the Designated Customer, is not obviated, eliminated, or diminished by TrAILCo's obligations, including without limitation TrAILCo's obligation to pay the Transmission Credit to the Electric Provider arising under the Agreement and/or the Transmission Credit Service Agreement.

- d. TrAILCo will be responsible for all costs associated with the administration of the Transmission Credit, including those costs incurred by an Electric Provider.
- e. By paying the Transmission Credit in any instance, or otherwise, TrAILCo shall not be deemed to be, and shall not be, responsible or liable to the Designated Customer, the Electric Provider or any other person with regard to any dispute arising between a Designated Customer and an Electric Provider pertaining to such electric service or for any injury or death to person or persons or damage to property arising from such electric service, except to the extent such injury, death or property damage is caused by the negligence or willful misconduct of TrAILCo.