

THIS AGREEMENT

MADE this 23rd day of June, 1969,

BETWEEN

BEAVER VALLEY MALL, INC., a Pennsylvania corporation, having its principal office at 2445 Belmont Avenue, Youngstown, Ohio, hereinafter referred to as "Beaver Valley", WILLIAM F. SULLIVAN and ROSEMARY SULLIVAN, husband and wife, of 6101 Penn Avenue, Pittsburgh, Pennsylvania, hereinafter referred to as "Owners",

AND

DUQUESNE LIGHT COMPANY, a Pennsylvania corporation, having its principal office at 435 Sixth Avenue, Pittsburgh, Pennsylvania, hereinafter referred to as "Duquesne".

WHEREAS, Owners are the owners in fee of a certain tract of land situate in Center Township, Beaver County, Pennsylvania, which land is located at the intersection of Route 18 (Frankfurt Road) and Route 51 (Brodhead Road) in said Township and County, and Beaver Valley is lessee of said land, which land is hereinafter referred to as the "subject land"; and

WHEREAS, Beaver Valley is engaged in the development of a shopping mall upon the subject land and in connection therewith has agreed with Duquesne upon a plan or method for providing electric service to the individual stores and common areas thereof; and

WHEREAS, Beaver Valley has requested that Duquesne own and maintain all electrical wiring, equipment and other facilities in said shopping mall up to and including the load side of the meter or current transformer for each customer of Duquesne in said shopping mall pursuant to Rule 9.1 of Duquesne's filed tariff; and

WHEREAS, Duquesne is willing to own and maintain such wiring, equipment and other facilities, at its sole cost and expense, subject to the grant by Beaver Valley and Owners to Duquesne of the necessary easement and right of way for such facilities and subject also to the covenants and agreements hereinafter set forth.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH THAT: The parties, in consideration of the mutual covenants and agreements hereinafter set forth and the sum of One Dollar (\$1.00) paid by each party to the other, receipt whereof is hereby acknowledged, do hereby covenant and agree as follows:

1. Upon the request of Duquesne (either prior to or at the time of the purchase by Duquesne of the wiring, equipment and other facilities as provided in Paragraph 3 hereof), Beaver Valley and Owners shall, by separate written agreement, in a form agreed upon by the parties hereto before the execution of this Agreement, grant and convey to Duquesne a perpetual easement and right of way in and through the subject land, including the shopping mall located thereon, for primary and secondary electric distribution systems for the conveyance, distribution and use of electric current, consisting of such wiring, equipment and other facilities up to and including the load side of the meter or current transformer for each customer of Duquesne in the shopping mall as Duquesne may at any time or from time to time deem necessary or proper for use in connection with such systems, said easement and right of way to be located substantially at the locations outlined on drawings to be attached to said agreement, with the right to construct, install, use, operate, maintain, repair, replace and finally remove said distribution systems, together with the further right to enter upon the subject land, or any part thereof, at any time for said purposes.

2. Duquesne shall install, own and maintain, at its sole cost and expense, all primary cable, primary switches and power transformers on the subject land, except that Beaver Valley shall provide all necessary trenching and backfilling for the primary cable.

3. Beaver Valley and/or its contractor shall construct and install all other electrical wiring, equipment or other facilities up to and including the load side of the meter or current transformer for each customer of Duquesne in the shopping mall, including, without limitation, all primary conduits, pull boxes and transformer pads and all secondary wiring, equipment and facilities. Duquesne shall inspect such wiring, equipment and other facilities each month during the progress of the work and, if Duquesne finds that such work has been performed in accordance with the plans, drawings and specifications therefor (including Duquesne's Electric Service Installation Rules) as well as the requirements of the National Electrical Code, Duquesne shall reimburse Beaver Valley for ninety (90) percent of the aggregate of the following costs incurred by Beaver Valley during the preceding month: (a) the cost of all labor and materials used in the construction and installation of such wiring, equipment and other facilities, as evidenced by written invoices from the persons furnishing such labor and materials (which invoices shall show a break-down of costs in sufficient detail to satisfy Duquesne's accounting procedures), and (b) reasonable engineering fees and overhead with respect to the design and installation of the wiring, equipment and other facilities installed by Beaver Valley and/or its contractor pursuant to this Paragraph 3. Duquesne shall reimburse Beaver Valley for the remaining ten (10) percent of such costs within ninety (90) days from the date of written notification of completion to Duquesne, and Beaver Valley and Owners shall

concurrently execute and deliver a bill of sale evidencing the transfer of title to all of such wiring, equipment or other facilities to Duquesne, free and clear of any security interest in or other lien or encumbrance on such facilities. In this connection, Beaver Valley shall submit to Duquesne for Duquesne's approval, as soon as available, a preliminary estimate of the cost of constructing and installing such wiring, equipment and other facilities, including an estimate of the engineering fees and overhead with respect thereto. In addition, Beaver Valley shall, from time to time, submit to Duquesne, for its review, all bids from contractors with respect to the work for which Beaver Valley is responsible under this Paragraph 3.

4. Duquesne shall prepare and furnish to Beaver Valley all drawings with respect to the primary distribution system (including the pad and transformer locations) on the subject land. Beaver Valley and/or its electrical engineer or consultant shall prepare and furnish to Duquesne for its approval all drawings with respect to the secondary distribution system (including the over-current protective equipment) on the subject land up to and including the load side of the meter or current transformer for each customer of Duquesne in the shopping mall. Beaver Valley and/or its electrical engineer or consultant shall, in addition, cooperate with Duquesne in reviewing the design of the secondary distribution system as such design progresses, shall furnish Duquesne with tracings for a complete set of working drawings and, upon completion of the installation of the secondary distribution system, shall furnish Duquesne with a complete set of drawings for such system as finally installed. Both the design and construction of the secondary distribution system and any other facilities for which Beaver Valley is responsible under Paragraph 3 hereof shall be

subject to, and shall conform with, the requirements of Duquesne's specifications (including its Electric Service Installation Rules) and the National Electrical Code; provided, however, that if not inconsistent with such requirements, the locations of the meters and current transformers shall be subject to the mutual agreement of the parties.

5. Beaver Valley shall be responsible for and shall construct, own and maintain, at its sole cost and expense, all electrical wiring, equipment and other facilities beyond the load side of the meter or current transformer for each customer of Duquesne in the shopping mall.

6. All wiring, equipment and other facilities installed by Duquesne or purchased by it pursuant to Paragraph 3 hereof shall remain the property of Duquesne, and upon demolition or destruction of the shopping mall or upon termination of this Agreement for any cause, Duquesne shall have the right to remove the same; provided, however, that in the event of the proposed demolition of the shopping mall, Beaver Valley or Owners shall give Duquesne written notice thereof at least sixty (60) days prior to the scheduled date of the proposed demolition and shall afford Duquesne a reasonable opportunity for removing its facilities prior to such date.

7. Beaver Valley and/or Owners agree to indemnify, protect and save harmless Duquesne from and against all claims, demands, actions, judgments, loss or damage for injury or death to any person or persons or loss or damage to any and all property, and any and all expenses in connection therewith (including the expenses of litigation and attorney's fees), arising from or growing out of or in any way connected with the presence or operation of Duquesne's wiring, equipment and other facilities in the shopping mall, except

injury or death to persons or loss or damage to property caused by the negligence of Duquesne.

8. Neither Beaver Valley nor Owners shall in any way or manner repair, adjust, tamper or otherwise interfere with Duquesne's wiring, equipment and other facilities, or the use or operation thereof, on the subject land or in said shopping mall, nor shall Beaver Valley or Owners suffer or permit any of their contractors, employees, agents, tenants, licensees, invitees or any other person or persons to repair, adjust, tamper or interfere with such facilities.

9. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective heirs, personal representatives, successors and assigns of said parties, and all covenants of the parties herein contained shall be deemed to be covenants running with the land.

IN WITNESS WHEREOF, the parties, intending to be legally bound thereby, have executed this Agreement the day and year first above written.

ATTEST:

FR Kennedy  
Assistant Secretary

DUQUESNE LIGHT COMPANY

By: W J Guilfoyle  
VICE PRESIDENT  
SALES DIVISION

ATTEST:

Ronald G. Galip  
Ronald G. Galip, Secretary

BEAVER VALLEY MALL, INC.

By: William Cafaro  
William Cafaro, President

WITNESS:

Ronald G. Galip

William F. Sullivan  
William F. Sullivan

Rosemary Sullivan  
Rosemary Sullivan