

**BOEHM, KURTZ & LOWRY**

ATTORNEYS AT LAW  
36 EAST SEVENTH STREET  
SUITE 1510  
CINCINNATI, OHIO 45202  
TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764

**Via Overnight Mail**

June 6, 2012

Mr. Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

RECEIVED

JUN 12 2012

PUBLIC SERVICE  
COMMISSION


**Re: Case No. 2012-00063**

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of the JOINT MOTION TO STAY PROCEDURAL SCHEDULE of Kentucky Industrial Utility Customers, Inc., Sierra Club and Attorney General for filing in the above-referenced matter.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place these documents of file.

Very Truly Yours,


  
Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**

MLKkew  
Attachment

cc: Certificate of Service  
Quang Nyugen, Esq.  
Faith Burns, Esq.  
Larry Cook, Esq.  
Matt James, Esq.  
David C. Brown, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by mailing a true and correct copy by regular, U.S. Mail, unless other noted, this 11th day of June, 2012 to the following



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Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

JENNIFER B HANS, ESQ.  
DENNIS G. HOWARD, II. ESQ.  
LAWRENCE W. COOK, ESQ.  
MATT JAMES, ESQ.  
ASSISTANT ATTORNEY GENERAL'S OFFICE  
1024 CAPITAL CENTER DRIVE, STE 200  
FRANKFORT, KENTUCKY 40601-8204

JAMES M MILLER, ESQ.  
SULLIVAN, MOUNTJOY, STAINBACK & MILLER, PSC  
100 ST. ANN STREET  
P.O. BOX 727  
OWENSBORO, KENTUCKY 42302-0727

JOE CHILDERS, ESQ.  
JOE F. CHILDERS & ASSOCIATES  
300 LEXINGTON BUILDING  
201 WEST SHORT STREET  
LEXINGTON, KENTUCKY 40507

KRISTIN HENRY, ESQ. SIERRA CLUB  
85 SECOND STREET  
SAN FRANCISCO, CA 94105

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE:**

<b>APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR APPROVAL OF ITS 2012 ENVIRONMENTAL COMPLIANCE PLAN, FOR APPROVAL OF ITS AMENDED ENVIRONMENTAL COST RECOVERY SURCHARGE TARIFF, FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND FOR AUTHORITY TO ESTABLISH A REGULATORY ACCOUNT</b>	)	<b>CASE NO. 2012-00063</b>
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**JOINT MOTION TO STAY PROCEDURAL SCHEDULE**

Kentucky Industrial Utility Customers, Inc. (“KIUC”), Ben Taylor and Sierra Club and the Attorney General (collectively, “Intervenors”) hereby move the Kentucky Public Service Commission (“Commission”) to enter an Order staying the procedural schedule in this docket until such time that Big Rivers Electric Corporation (“Big Rivers”) provides a full response to the Intervenors’ initial sets of information requests. Specifically, Intervenors move that all supplemental requests for information to Big Rivers be due twelve days after Big Rivers has completed its responses to initial information requests. All subsequent dates in the procedural schedule should be rescheduled accordingly. This request is necessitated by the fact that Big Rivers has failed to provide the database used in the production cost modeling that the company used to support its Application, and that some of the files produced by Big Rivers in response to discovery from KIUC were corrupted. While Intervenors are attempting to expeditiously resolve these matters with Big Rivers, these matters will not be resolved in time to provide Intervenors with a fair opportunity to submit supplementary data requests unless a stay is granted.

## MEMORANDUM IN SUPPORT

The procedural schedule set forth in the Commission's April 30, 2012 Order provides that Big Rivers shall file responses to initial requests for information no later than June 1, 2012. The Commission's Order gives Intervenors twelve days after receiving Big Rivers' responses to their initial information requests before the second set of information requests to Big Rivers are due on June 13, 2012. Unfortunately, Big Rivers failed to provide complete responses to the Intervenors initial requests on June 1, and has not provided full responses as of this filing.

As set forth in the Intervenors' Joint Motion to Compel filed on June 6, 2012, the Intervenors seek production of the database and input files that ACES developed and fed into the production cost modeling upon which Big Rivers' April 2, 2012 Application is based. The Commission should not proceed to determine whether Big Rivers' Application is reasonable and cost-effective without an examination of the accuracy of the modeling results that form the basis for Big Rivers' Application for an Environmental Cost Recovery Surcharge Tariff. The database and input files used by ACES were not provided as part of Big Rivers' responses to initial information requests on June 1, 2012.

Since June 1, 2012 Intervenors have diligently tried to obtain this information from Big Rivers through both informal communications and through the Joint Motion to Compel filed on June 6, 2012. Big Rivers' Response to the Joint Motion to Compel sets out a proposed course of action for the Intervenors to obtain this information, but there are several conditions that need to be worked out between Big Rivers and Intervenors before that process can move forward (See Big Rivers' Response pp. 5-6). Additionally, Big Rivers' proposed plan to provide the requested information is to "strip down" the ACES database of non-Big Rivers data before it is provided

to the Intervenors and to have the Intervenors pay the cost of this process.<sup>1</sup> (Big Rivers' Response p. 6). If Big Rivers/ACES had not used a database that contains non-Big Rivers information there would be no need for the time-consuming step of purging this information from the database prior to providing it to the Intervenors.

KIUC has also discovered that there are several files in the CDs provided by Big Rivers in response to KIUC's First Set of Data Requests that are missing and/or corrupted. KIUC is working informally with Big Rivers to rectify this problem. However, it is unlikely that correct and valid files will be provided in time for Intervenors to prepare supplemental information requests prior to June 13, 2012.

In sum, it is clear from Big Rivers' Response to the Joint Motion to Compel that obtaining the requested information will require a process of undetermined duration and will certainly not be concluded by June 13, 2012 when supplemental information requests are due. Intervenors should not be required to submit supplemental information requests before they have received a response to their initial information requests when the delay in providing a complete response is due to factors in Big Rivers' control and was not the fault of the Intervenors. To do so would greatly prejudice the Intervenors and would contravene the intent of the Commission's April 30, 2012 Order which contemplates that the Intervenors be afforded the opportunity to examine Big Rivers' responses to initial data responses prior to submitting supplemental responses.

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<sup>1</sup> The Intervenors intend to file a Reply to Big Rivers' Response to the Joint Motion to Compel that will, among other things, dispute Big Rivers' proposal that Intervenors must pay the costs of "stripping down" the database of non-Big Rivers data.

**WHEREFORE**, Intervenor respectfully request that the Commission enter an Order staying the procedural schedule in this docket until such time that Big Rivers provides a full response to the Intervenor's initial set of information requests. The Intervenor requests that all supplemental requests for information to Big Rivers be due twelve days after Big Rivers has completed its responses to initial data requests and that all subsequent due dates in the procedural schedule should be postponed by the same number of days.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

**BOEHM, KURTZ & LOWRY**

36 East Seventh Street, Suite 1510

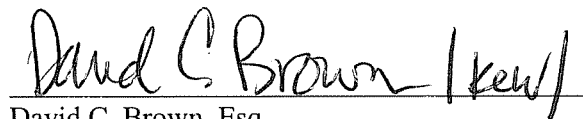
Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)

[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

**COUNSEL FOR KENTUCKY INDUSTRIAL  
UTILITY CUSTOMERS, INC.**



David C. Brown, Esq.

**STITES & HARBISON**

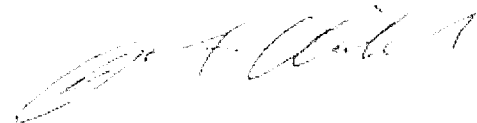
1800 Aegon Center, 400 West Market Street

Louisville, KY 40202

Ph: (502) 587-3400 Fax: (502) 587-6391

E-mail: [dbrown@stites.com](mailto:dbrown@stites.com)

**CO-COUNSEL FOR ALCAN PRIMARY  
PRODUCTS CORPORATION**



Joe Childers, Esq.

**JOE F. CHILDERS & ASSOCIATES**

300 Lexington Building

201 West Short Street

Lexington, Kentucky 40507

Ph: 859-253-9824 Fax: 859-258-9288

**COUNSEL FOR BEN TAYLOR AND SIERRA CLUB**

Of counsel:

Kristin Henry, Staff Attorney

**SIERRA CLUB**

85 Second Street

San Francisco, CA 94105

Ph: 415-977-5716 Fax: 415-977-5793

[kristin.henry@sierraclub.org](mailto:kristin.henry@sierraclub.org)

**COUNSEL FOR BEN TAYLOR AND SIERRA CLUB**

Jennifer Black Hans, Assistant Attorney General

Dennis Howard, Assistant Attorney General

Larry Cook, Assistant Attorney General

**OFFICE OF RATE INTERVENTION**

**OFFICE OF THE ATTORNEY GENERAL**

1024 Capital Center Drive

Frankfort, KY 40601

Ph: (502) 696-5408 Fax: 502-573-1009

[jennifer.hans@ag.ky.gov](mailto:jennifer.hans@ag.ky.gov)

[dennis.howard@ag.ky.gov](mailto:dennis.howard@ag.ky.gov)

[larry.cook@ag.ky.gov](mailto:larry.cook@ag.ky.gov)

**COUNSEL FOR THE OFFICE OF RATE**

**INTERVENTION OFFICE OF THE ATTORNEY**

**GENERAL**

June 11, 2012