

Michael Kurtz

From: Michael Kurtz
Sent: Wednesday, June 06, 2012 2:19 PM
To: 'Brown, David'; Philip Hayet
Cc: Hans, Jennifer (KYOAG); Shannon Fisk; Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

Same

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Brown, David [mailto:DBROWN@stites.com]
Sent: Wednesday, June 06, 2012 2:18 PM
To: Philip Hayet
Cc: Michael Kurtz; Hans, Jennifer (KYOAG); Shannon Fisk; Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
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Jennifer - please sign my name to the final.

David Brown

Sent from my iPhone

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I am reviewing it right now.

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Great effort everyone!

Jennifer Black Hans

Executive Director

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Office of the Attorney General

1024 Capital Center Drive

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000105

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jennifer.hans@ag.ky.gov

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Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

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From: Philip Hayet <philhay@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>].

Sent: Monday, June 04, 2012 10:51 AM

To: 'Lane Kollen'; 'Philip Hayet'

Subject: FW: Motion to Compel

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

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BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLLawfirm.com

000323

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
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David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]
Sent: Tuesday, June 05, 2012 11:48 AM
To: Brown, David

000224

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Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
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Phil

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To: 'Lane Kollen'; 'Philip Hayet'

000325

Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

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To: Michael Kurtz
Cc: Cook, Larry (KYOAG); Napier, Heather (KYOAG)
Subject: RE: Motion to Compel

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Thanks Jennifer.

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I have signed, and we will file and send copies to docket list by regular mail today. When I receive a stamped copy, I will scan and circulate it to all counsel by email today.

Jennifer Black Hans
Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

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Subject: RE: Motion to Compel

Same

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

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000223

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Michael L. Kurtz, Esq.

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I can file it today. I am happy to sign for you and David if I have both of your permissions, and I see where Joe has already signed on behalf of the Sierra Club.

Great effort everyone!

Jennifer Black Hans

Executive Director

Office of Rate Intervention

Office of the Attorney General

1024 Capital Center Drive

Frankfort, KY 40601

(502) 696-5453 (Rate Intervention)

000329

(502) 696-5408 (Direct)

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jennifer.hans@ag.ky.gov

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Here is what should be considered the final version of the motion, plus the referenced letter. I can overnight from my office. Jennifer, if it is convenient you could sign for the parties and file today. Either way. Let me know.

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Sent: Wednesday, June 06, 2012 3:06 PM
To: Hans, Jennifer (KYOAG); Michael Kurtz
Cc: Napier, Heather (KYOAG)
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080335

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000 337

Executive Director

Office of Rate Intervention

Office of the Attorney General

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000338

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Mmmm sushi

Heather Napier
Office of the Attorney General
Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
heather.napier@ag.ky.gov

502) 696-5453

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Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

000344

From: Hans, Jennifer (KYOAG) [mailto:jennifer.hans@ag.ky.gov]
Sent: Wednesday, June 06, 2012 2:54 PM
To: Michael Kurtz; Brown, David; Philip Hayet

Cc: Shannon Fisk; Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

I have signed, and we will file and send copies to docket list by regular mail today. When I receive a stamped copy, I will scan and circulate it to all counsel by email today.

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

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Subject: RE: Motion to Compel

Same

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Jennifer - please sign my name to the final.

David Brown

Sent from my iPhone

On Jun 6, 2012, at 1:56 PM, "Philip Hayet" <philhaye@concentric.net> wrote:

Mike,

I am reviewing it right now.

Phil

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I can file it today. I am happy to sign for you and David if I have both of your permissions, and I see where Joe has already signed on behalf of the Sierra Club.

Great effort everyone!

Jennifer Black Hans

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All.

Here is what should be considered the final version of the motion, plus the referenced letter. I can overnight from my office. Jennifer, if it is convenient you could sign for the parties and file today. Either way. Let me know.

Michael L. Kurtz, Esq.

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Shannon/Kristen.

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E-mail: mkurtz@BKLawfirm.com

From: Shannon Fisk [<mailto:sfisk@earthjustice.org>]
Sent: Tuesday, June 05, 2012 10:47 PM
To: Brown, David; Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
Subject: RE: Motion to Compel

Thanks, Mike and David, for drafting this. Attached are some proposed edits and additions from Kristin and me. Please let us know if you have any questions, concerns, etc.

0003/19

Shannon

From: Brown, David [<mailto:DBROWN@stites.com>]
Sent: Tuesday, June 05, 2012 1:30 PM
To: Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk
Subject: RE: Motion to Compel

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David

David C. Brown
Stites & Harbison, PLLC
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Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

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000050

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Sent: Tuesday, June 05, 2012 10:36 AM

To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

Here are my changes. If you would like to discuss please call my cell at 770-855-1815. I may not be immediately available but will be able to call back. I will be back in the office tomorrow.

Thanks,

Phil

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

000011

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000312

Michael Kurtz

From: Michael Kurtz
Sent: Wednesday, June 06, 2012 3:07 PM
To: 'Napier, Heather (KYOAG)'; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG)
Subject: RE: Motion to Compel

OK, but you guys will have to find the place. The only restaurants I know in Frankfort are Panera and Longhorn.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
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Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Napier, Heather (KYOAG) [mailto:Heather.Napier@ag.ky.gov]
Sent: Wednesday, June 06, 2012 3:06 PM
To: Cook, Larry (KYOAG); Hans, Jennifer (KYOAG); Michael Kurtz
Subject: RE: Motion to Compel

Mmmm sushi

Heather Napier
Office of the Attorney General
Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
heather.napier@ag.ky.gov

502) 696-5453

From: Cook, Larry (KYOAG)
Sent: Wednesday, June 06, 2012 3:06 PM
To: Hans, Jennifer (KYOAG); 'Michael Kurtz'
Cc: Napier, Heather (KYOAG)
Subject: RE: Motion to Compel

000353

Yeah, Mike! ☺

From: Hans, Jennifer (KYOAG)
Sent: Wednesday, June 06, 2012 3:05 PM
To: Michael Kurtz
Cc: Cook, Larry (KYOAG); Napier, Heather (KYOAG)
Subject: RE: Motion to Compel

You and I owe Heather, our Administrative Assistant, lunch sometime. ☺

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]
Sent: Wednesday, June 06, 2012 2:55 PM
To: Hans, Jennifer (KYOAG); Brown, David; Philip Hayet

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Thanks Jennifer.

Michael L. Kurtz, Esq.
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000254

Same

Michael L. Kurtz, Esq.

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000158

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dbrown@stites.com

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Jody

000361

Michael Kurtz

From: Kristin Henry [kristin.henry@sierraclub.org]
Sent: Wednesday, June 06, 2012 3:45 PM
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Cc: Michael Kurtz; Brown, David; Philip Hayet; Shannon Fisk; Jody Kyler; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: Re: Motion to Compel
Attachments: Joint Motion to Compel FINAL-kh edits.docx

I had a few minor edits if it hasn't gone out yet. Also, please sign for me.

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

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000162

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Subject: RE: Motion to Compel

Same

Michael L. Kurtz, Esq.

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Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

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From: Brown, David [<mailto:DBROWN@stites.com>]

Sent: Wednesday, June 06, 2012 2:18 PM

To: Philip Hayet

Cc: Michael Kurtz; Hans, Jennifer (KYOAG); Shannon Fisk; Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis

(KYOAG); Cook, Larry (KYOAG)
Subject: Re: Motion to Compel

Jennifer - please sign my name to the final.

David Brown

Sent from my iPhone

On Jun 6, 2012, at 1:56 PM, "Philip Hayet" <philhayet@concentric.net> wrote:

Mike,

I am reviewing it right now.

Phil

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]
Sent: Wednesday, June 06, 2012 1:49 PM
To: 'Hans, Jennifer (KYOAG)'; Brown, David; Shannon Fisk
Cc: Jody Kyler; philhayet@concentric.net; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

You have my permission. David may be out of pocket for a while, but I'm sure is fine to sign for him if he does not respond personally.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

000364

E-mail: mkurtz@BKLawfirm.com

From: Hans, Jennifer (KYOAG) [<mailto:jennifer.hans@ag.ky.gov>]
Sent: Wednesday, June 06, 2012 1:52 PM
To: Michael Kurtz; Brown, David; Shannon Fisk
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

I can file it today. I am happy to sign for you and David if I have both of your permissions, and I see where Joe has already signed on behalf of the Sierra Club.

Great effort everyone!

Jennifer Black Hans

Executive Director

Office of Rate Intervention

Office of the Attorney General

1024 Capital Center Drive

Frankfort, KY 40601

(502) 696-5453 (Rate Intervention)

(502) 696-5408 (Direct)

Fax: 502-573-1009

jennifer.hans@ag.ky.gov

000065

NOTICE OF CONFIDENTIALITY

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Wednesday, June 06, 2012 1:41 PM
To: 'Brown, David'; Shannon Fisk
Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

All.

Here is what should be considered the final version of the motion, plus the referenced letter. I can overnight from my office. Jennifer, if it is convenient you could sign for the parties and file today. Either way. Let me know.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

E-mail: mkurtz@BKllawfirm.com

000366

From: Brown, David [<mailto:DBROWN@stites.com>]
Sent: Wednesday, June 06, 2012 9:38 AM
To: Michael Kurtz; Shannon Fisk
Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

I think the additions by the Sierra Club are very fine. There are a few editing comments that i will send momentarily.

David

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Sent: Wednesday, June 06, 2012 9:17 AM
To: 'Shannon Fisk'; Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

All.

Shannon/Kristen.

Thank you for the additions. I think the motion is very compelling. I would like to file it today. I will accept all changes and then make final clean ups. I don't think affidavits are essential and I don't want to delay, so I will remove those references.

Jennifer, we would like to have the AG sign on if you give the go ahead.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

E-mail: mkurtz@BKLLawfirm.com

000057

From: Shannon Fisk [<mailto:sfisk@earthjustice.org>]
Sent: Tuesday, June 05, 2012 10:47 PM
To: Brown, David; Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
Subject: RE: Motion to Compel

Thanks, Mike and David, for drafting this. Attached are some proposed edits and additions from Kristin and me. Please let us know if you have any questions, concerns, etc.

Shannon

From: Brown, David [<mailto:DBROWN@stites.com>]
Sent: Tuesday, June 05, 2012 1:30 PM
To: Michael Kurtz
Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk
Subject: RE: Motion to Compel

Mike and All - attached is a clean and marked copy of the original draft that came out last night. Sorry it turned out so messy. What I have tried to do is (i) make it a joint motion, (ii) explain the process and the main issue up front, and (iii) give the Commission the option to issue a subpoena although ACES is in Indiana. The rest of the editing is mainly to eliminate repetition and keeping the focus on the main issue. Mike, I'll leave this up to you. Also I thought I saw some comment from you but they did not make it into this draft.

David

David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

000368

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]
Sent: Tuesday, June 05, 2012 11:48 AM
To: Brown, David
Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: Re: Motion to Compel

David. Please send your changes to Kristen and Shannon also. Hopefully we will file a joint motion.

Sent from my iPad

On Jun 5, 2012, at 11:41 AM, "Brown, David" <DBROWN@stites.com> wrote:

Mike - I have revisions to suggest and will get those to you in a bit. I think we need to put the precise issue up front.

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

Here are my changes. If you would like to discuss please call my cell at [770-855-1815](tel:770-855-1815). I may not be immediately available but will be able to call back. I will be back in the office tomorrow.

Thanks,

Phil

0000169

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000070

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Wednesday, June 06, 2012 3:54 PM
To: Kristin Henry
Cc: Michael Kurtz; Brown, David; Philip Hayet; Shannon Fisk; Jody Kyler; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

Kristin:

I apologize, but the pleading has been filed. Electronic delivery will be forthcoming shortly. Joe Childers electronically signed for you and Shannon.

Thank you.

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

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From: Kristin Henry [mailto:kristin.henry@sierraclub.org]
Sent: Wednesday, June 06, 2012 3:45 PM
To: Hans, Jennifer (KYOAG)
Cc: Michael Kurtz; Brown, David; Philip Hayet; Shannon Fisk; Jody Kyler; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: Re: Motion to Compel

I had a few minor edits if it hasn't gone out yet. Also, please sign for me.

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone

000071

415.977.5793 fax
kristin.henry@sierraclub.org

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On Wed, Jun 6, 2012 at 11:54 AM, Hans, Jennifer (KYOAG) <jennifer.hans@ag.ky.gov> wrote:

I have signed, and we will file and send copies to docket list by regular mail today. When I receive a stamped copy, I will scan and circulate it to all counsel by email today.

Jennifer Black Hans

Executive Director

Office of Rate Intervention

Office of the Attorney General

1024 Capital Center Drive

Frankfort, KY 40601

(502) 696-5453 (Rate Intervention)

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jennifer.hans@ag.ky.gov

000372

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From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]

Sent: Wednesday, June 06, 2012 2:19 PM

To: 'Brown, David'; Philip Hayet

Cc: Hans, Jennifer (KYOAG); Shannon Fisk; Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)

Subject: RE: Motion to Compel

Same

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

E-mail: mkurtz@BKLlawfirm.com

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Subject: Re: Motion to Compel

Jennifer - please sign my name to the final.

David Brown

Sent from my iPhone

000373

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000074

Great effort everyone!

Jennifer Black Hans

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Office of the Attorney General

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Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)

Subject: RE: Motion to Compel

All.

000375

Here is what should be considered the final version of the motion, plus the referenced letter. I can overnight from my office. Jennifer, if it is convenient you could sign for the parties and file today. Either way. Let me know.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

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Ph: 513.421.2255 Fax: 513.421.2764

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Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLawfirm.com

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000377

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David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

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To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

000378

Sent from my iPhone

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From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen'
<lkollen@jkenn.com>
Subject: RE: Motion to Compel

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Phil

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

000079

Mike,

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Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000380

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Wednesday, June 06, 2012 4:14 PM
To: Jim Miller; Tyson Kamuf; Roger.Hickman@bigrivers.com; Albert Yockey
Cc: Michael Kurtz; Brown, David; Shannon Fisk; Kristin Henry; joe@jchilderslaw.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Lane Kollen; Philip Hayet; briana@acespower.com; johnst@acespower.com; Joseph.McLeer@ventyx.abb.com; Brenton Meese; cleung@earthjustice.org; Cook, Larry (KYOAG); Howard, Dennis (KYOAG); James, Matt (KYOAG)
Subject: Joint Motion to Compel - Big Rivers - Case No. 2012-00063
Attachments: Intervenor Joint Motion to Compel_Case No 2012-00063.pdf

Dear Counsel:

Please find attached a courtesy electronic copy of the Joint Motion of Kentucky Industrial Utility Customers, Inc., Ben Taylor and Sierra Club, and Attorney General to Compel or, in the alternative, to Issue Subpoena Duces Tecum, which was filed with the Commission today in the above-referenced docket. Please advise if you have any problems opening. Hard copies have been mailed today as indicated on the certificate of service.

Respectfully yours,

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

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000331

Michael Kurtz

From: James Giampietro [james.giampietro@sierraclub.org]
Sent: Thursday, June 07, 2012 3:08 PM
To: Michael Kurtz; jmiller@smsmlaw.com; DeRouen, Jeff (PSC); James Giampietro; Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; dbrown@stites.com; Kurt Boehm; Cook, Larry (KYOAG); James, Matt (KYOAG)
Cc: Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica
Subject: 2012-00063 SC Pro Hac Vice Motion for Kristin Henry
Attachments: 2012-00063 SC PHV for Kristin Henry 2012-06-07.pdf

Attached please find a motion to admit attorney Kristin Henry Pro Hac Vice, a KBA Out-Of-State Certification form, and a Proposed order for the Commission.

--

James Giampietro
Sierra Club Environmental Law Program
85 2nd Street, 2nd Floor
San Francisco CA, 94105
Office: (415)977-5638
Fax: (415)977-5793

000302

Michael Kurtz

From: Jim Miller [jmillersmsmlaw.com]
Sent: Friday, June 08, 2012 5:32 PM
To: Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Lane Kollen; Philip Hayet; brianas@acespower.com; johnst@acespower.com; Joseph.McLeer@ventyx.abb.com; Brenton Meese; cleung@earthjustice.org; Cook, Larry (KYOAG); Howard, Dennis (KYOAG); James, Matt (KYOAG); Hans, Jennifer (KYOAG); Tyson Kamuf; Roger.Hickman@bigrivers.com; Albert Yockey; Michael Kurtz; Brown, David; Shannon Fisk; Kristin Henry; joe@jchilderslaw.com
Subject: RE: Response of Big Rivers to Joint Motion to Compel - Big Rivers - Case No. 2012-00063
Attachments: Response to Motion to Compel.pdf

All:

Attached is the response of Big Rivers to the intervenors' joint motion to compel. The original will be filed at the Public Service Commission on Monday, and paper copies are being served by mail.

Jim

James M. Miller
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street
P.O. Box 727
Owensboro, KY 42302-0727
Telephone (270) 926-4000
Direct Dial (270) 691-1640
Fax (270) 683-6694

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000237

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Saturday, June 09, 2012 9:20 AM
To: Michael Kurtz
Cc: Cook, Larry (KYOAG); James, Matt (KYOAG); Howard, Dennis (KYOAG)
Subject: FW: Response of Big Rivers to Joint Motion to Compel - Big Rivers - Case No. 2012-00063
Attachments: Response to Motion to Compel.pdf

Dear Mike:

I reviewed BREC's response this morning, and have the following preliminary comments (to be followed by a more thorough discussion Monday):

- BREC's reference to the time factor is irrelevant. the Commission already warned BREC in the Order denying KIUC/AG's motion to dismiss that, if BREC proceeded with a lack of transparency it had only itself to blame. The Commission was clear that BREC, and not the intervenors, carries the burden of proceeding with the application and, therefore, risks having its application denied if there is not enough information provided for a determination to be made. The time constraints are not our disadvantage.
- "Big Rivers has cooperated with the Intervenor's requests to discuss their asserted needs" - Really? I did not hear anything close to cooperation during the teleconference.
- "Big Rivers provided a substantial amount of model-related data ... even before it was required to file its responses to [1st Round DR]." A data dump in spreadsheets to be sure, but the "substantial amount of ... data" is useless if your expert cannot reproduce the model. Therefore, BREC has not fulfilled the asserted needs of KIUC. Also, I would note emphatically that it was only on 6/8 --just prior to BREC's response to this motion to compel -- that BREC provided the **PACE Output files**. Have Phil double check, but on the first CD delivered to the AG, which purported to contain PACE Input and Output files, the Output file was unreadable. Since it was "Output" files that were later used in the ACES modeling, this may be a point of critical lack of production, since it was only provided just before the due date for 2nd Round DRs. I defer to Phil.
- The conditions BREC sets are not reasonable, in my opinion. There is absolutely no way that the AG will agree to the cost-shifting proposed by BREC, so we will not get the data. However, AG will not object if Sierra Club and KIUC choose to agree to all or part of said conditions.

Do let me know what more you may need from the AG. I will be online sporadically this weekend. We can get Larry and Dennis' big brains in on this issue as necessary first thing Monday.

Regards,

Jennifer

000384

From: Jim Miller [mailto:jmiller@smsmlaw.com]
Sent: Fri 6/8/2012 5:32 PM
To: Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Lane Kollen; Philip Hayet; briana@acespower.com; johnst@acespower.com; Joseph.McLeer@ventyx.abb.com; Brenton Meese; cleung@earthjustice.org; Cook, Larry (KYOAG); Howard, Dennis (KYOAG); James, Matt (KYOAG); Hans, Jennifer (KYOAG); Tyson Kamuf; Roger.Hickman@bigrivers.com; Albert Yockey; Michael Kurtz; Brown, David; Shannon Fisk; Kristin Henry; joe@jchilderslaw.com
Subject: RE: Response of Big Rivers to Joint Motion to Compel - Big Rivers - Case No. 2012-00063

All:

Attached is the response of Big Rivers to the intervenors' joint motion to compel. The original will be filed at the Public Service Commission on Monday, and paper copies are being served by mail.

Jim

James M. Miller
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street
P.O. Box 727
Owensboro, KY 42302-0727
Telephone (270) 926-4000
Direct Dial (270) 691-1640
Fax (270) 683-6694

CONFIDENTIALITY STATEMENT:

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000205

Michael Kurtz

From: Michael Kurtz
Sent: Sunday, June 10, 2012 7:17 AM
To: Hans, Jennifer (KYOAG)
Cc: Cook, Larry (KYOAG); James, Matt (KYOAG); Howard, Dennis (KYOAG)
Subject: Re: Response of Big Rivers to Joint Motion to Compel - Big Rivers - Case No. 2012-00063

Jennifer.

Great analysis. On Monday we should all (AG, KIUC, Sierra Club) probably talk to develop a response.

Sent from my iPad

On Jun 9, 2012, at 9:15 AM, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov> wrote:

> Dear Mike:

>

> I reviewed BREC's response this morning, and have the following preliminary comments (to be followed by a more thorough discussion Monday):

>

>

> *

> BREC's reference to the time factor is irrelevant. the Commission already warned BREC in the Order denying KIUC/AG's motion to dismiss that, if BREC proceeded with a lack of transparency it had only itself to blame. The Commission was clear that BREC, and not the intervenors, carries the burden of proceeding with the application and, therefore, risks having its application denied if there is not enough information provided for a determination to be made. The time constraints are not our disadvantage.

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critical lack of production, since it was only provided just before the due date for 2nd Round DRs. I defer to Phil.

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> Do let me know what more you may need from the AG. I will be online sporadically this weekend. We can get Larry and Dennis' big brains in on this issue as necessary first thing Monday.

> Regards,

> Jennifer

> _____

>

> From: Jim Miller [<mailto:jmiller@smsmlaw.com>]

> Sent: Fri 6/8/2012 5:32 PM

> To: Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Lane Kollen; Philip Hayet; briana@acespower.com; johnst@acespower.com; Joseph.McLeer@ventyx.abb.com; Brenton Meese; cleung@earthjustice.org; Cook, Larry (KYOAG); Howard, Dennis (KYOAG); James, Matt (KYOAG); Hans, Jennifer (KYOAG); Tyson Kamuf; Roger.Hickman@bigrivers.com; Albert Yockey; Michael Kurtz; Brown, David; Shannon Fisk; Kristin Henry; joe@jchilderslaw.com

> Subject: RE: Response of Big Rivers to Joint Motion to Compel - Big Rivers - Case No. 2012-00063

>

> All:

>

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> Jim

>

> James M. Miller

> Sullivan, Mountjoy, Stainback & Miller, P.S.C.

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> P.O. Box 727

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>

> <Response to Motion to Compel.pdf>

000188

Michael Kurtz

From: Kurt Boehm
Sent: Monday, June 11, 2012 4:01 PM
To: Kurt Boehm; 'Lane Kollen'; 'Brown, David'
Cc: Michael Kurtz; 'Kristin Henry'; 'Cook, Larry (KYOAG)'; 'Philip Hayet'; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Shannon Fisk'
Subject: RE: Conference call
Attachments: Motion To Stay Procedural Schedule (late afternoon edit)- 1.doc

As discussed on the call, a revised Motion for Stay is attached. We intend to file this by the end of the day.

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

From: Kurt Boehm
Sent: Monday, June 11, 2012 1:58 PM
To: 'Lane Kollen'; Brown, David
Cc: Michael Kurtz; Kristin Henry; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Shannon Fisk
Subject: RE: Conference call

Counsel- In advance of the 3:00 call, please review KIUC's draft of a Motion to Stay the procedural schedule until BREC has answered the first set of DRs. We would like to discuss the possibility of making this a joint motion.

Thanks

Kurt J. Boehm, Esq.
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36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

From: Lane Kollen [<mailto:lkollen@jkenn.com>]
Sent: Monday, June 11, 2012 1:33 PM
To: Brown, David
Cc: Michael Kurtz; Kristin Henry; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk
Subject: Re: Conference call

Okay w me.

000389

Lane

On 6/11/2012 1:30 PM, Brown, David wrote:
OK with me.

David Brown

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]

Sent: Monday, June 11, 2012 1:26 PM

To: 'Kristin Henry'

Cc: Lane Kollen; Brown, David; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk

Subject: RE: Conference call

Fine with me.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLLawfirm.com

From: Kristin Henry [<mailto:kristin.henry@sierraclub.org>]

Sent: Monday, June 11, 2012 1:23 PM

To: Michael Kurtz

Cc: Lane Kollen; Brown, David; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk

Subject: Re: Conference call

I am not available until later in the day. Can we do 3:00 eastern.

On Jun 11, 2012 6:28 AM, "Michael Kurtz" <MKurtz@bkllawfirm.com> wrote:

A conference call to discuss BREC's response to our joint motion is in order. How about this afternoon at 2:00 eastern?

866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLLawfirm.com

000000

Michael Kurtz

From: Shannon Fisk [sfisk@earthjustice.org]
Sent: Monday, June 11, 2012 4:13 PM
To: Kurt Boehm; 'Lane Kollen'; 'Brown, David'
Cc: Michael Kurtz; 'Kristin Henry'; 'Cook, Larry (KYOAG)'; 'Philip Hayet'; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'
Subject: RE: Conference call
Attachments: Motion To Stay Procedural Schedule (late afternoon edit)- 1-swfedits.doc

Thanks for drafting. Here are a few proposed minor edits.

Shannon

From: Kurt Boehm [<mailto:KBoehm@bkllawfirm.com>]
Sent: Monday, June 11, 2012 4:01 PM
To: Kurt Boehm; 'Lane Kollen'; 'Brown, David'
Cc: Michael Kurtz; 'Kristin Henry'; 'Cook, Larry (KYOAG)'; 'Philip Hayet'; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; Shannon Fisk
Subject: RE: Conference call

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From: Kurt Boehm
Sent: Monday, June 11, 2012 1:58 PM
To: 'Lane Kollen'; Brown, David
Cc: Michael Kurtz; Kristin Henry; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Shannon Fisk
Subject: RE: Conference call

Counsel- In advance of the 3:00 call, please review KIUC's draft of a Motion to Stay the procedural schedule until BREC has answered the first set of DRs. We would like to discuss the possibility of making this a joint motion.

Thanks

000091

Kurt J. Boehm, Esq.
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36 East Seventh Street, Suite 1510
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office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

From: Lane Kollen [<mailto:kollen@jkenn.com>]
Sent: Monday, June 11, 2012 1:33 PM

To: Brown, David
Cc: Michael Kurtz; Kristin Henry; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk
Subject: Re: Conference call

Okay w me.

Lane

On 6/11/2012 1:30 PM, Brown, David wrote:
OK with me.

David Brown

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 11, 2012 1:26 PM
To: 'Kristin Henry'
Cc: Lane Kollen; Brown, David; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk
Subject: RE: Conference call

Fine with me.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

From: Kristin Henry [<mailto:kristin.henry@sierraclub.org>]
Sent: Monday, June 11, 2012 1:23 PM
To: Michael Kurtz
Cc: Lane Kollen; Brown, David; Cook, Larry (KYOAG); Philip Hayet; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Kurt Boehm; Shannon Fisk
Subject: Re: Conference call

000392

I am not available until later in the day. Can we do 3:00 eastern.

On Jun 11, 2012 6:28 AM, "Michael Kurtz" <MKurtz@bkllawfirm.com> wrote:

A conference call to discuss BREC's response to our joint motion is in order. How about this afternoon at 2:00 eastern?

866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLawfirm.com

000393

Michael Kurtz

From: Kurt Boehm
Sent: Monday, June 11, 2012 5:40 PM
To: 'Jim Miller'; 'tkamuf@smsmlaw.com'
Cc: Michael Kurtz; 'Brown, David'; Philip Hayet; Lane Kollen
Subject: KIUC discovery issue

Jim and Tyson-

KIUC's consultants have identified several problems with the data supplied by Big Rivers in response to KIUC's First Set of Data Requests. Please address these problems at the earliest possible time.

Below is a description of each problem followed by KIUC's requested action by Big Rivers to rectify the problem:

1. The April 26, 2012 CD provided input and output data associated with the Company's Financial Models. The following problems were encountered. The Company's Base Case Financial Model was found in:

Financial Forecast (2012-2026) Base Case (No Env. Comp.) 02-.xls

- a) As stated in KIUC's Question 1 from our first set of DRs, some of the cell entries in the Financial Model spreadsheet point to spreadsheets that were not supplied. Question 1 requested the Company to supply all spreadsheets that were referenced but had not been supplied to that point. For example, the Worktab PCM, Cell N77 in the above file pointed to another spreadsheet (Big Rivers 2012-2026 (CAIR) Base Case exhibits determin (2-2-12).xlsx) that was not provided. That cell referenced market price data for the month of Jan 2012. BR's DR response stated "Please see the CD Big Rivers filed May 29, 2012, in response to the May 11, 2012, letter from KIUC's counsel to Big River's counsel." The May 29th CD still did not contain the referenced spreadsheets, and it was not clear what file on the May 29th CD BR wanted us to refer to.
- b) However, production cost results were supplied by ACES on the May 24 CD in other files that can be matched up to some degree to the results found in the Financial Model spreadsheets. For example, the file associated with the Base Case from May 24th is Big Rivers.15Year.CAIR Base Case.xlsm.
- c) Still there are some values in the Base Case Financial Model spreadsheet that cannot be matched precisely. For example, VO&M and SO2 Tons do not appear to match exactly. Most likely it is because ACES performed some calculation in the spreadsheets that we were not given, most likely related to splitting out costs and other results between Big Rivers and Henderson Municipal Power and Light. Without the missing spreadsheets, we don't know all of the additional calculations that ACES performed.

KIUC Request: Please direct KIUC to the referenced spread sheets or properly comply with KIUC Q1.1 and supply all other spreadsheets that were referenced from within each of the Financial Model spreadsheets.

- 2) PACE Global supplied two of the files that were on the May 29th CD, and one could not be opened properly:

PACE_Big Rivers Data Request Outputs_120524.xlsx

000394

- a) An error message appeared in trying to open this file indicating that Excel found unreadable content in the file. After allowing Excel to try to recover from this error, Excel reported a message stating, "Replaced Part:

/xl/worksheets/sheet3.xml part with XML error. The name in the end tag of the element must match the element type in the start tag. Line 2, column 17076013.

b) After that message went away the file opened, two worktabs were found in the spreadsheet:

Output Stochastic Energy Prices- This contains annual market price values (\$/MWH - onpeak, offpeak, all hours) for 200 iterations for the years 2012 - 2030. It is not clear what the iterations were and how this information was factored into the evaluations that ACES performed, and there is no documentation that explains that. It would be more clear if ACES gave us fully populated input database files.

Output Hourly Energy Prices - This worktab was completely blank. It is possible that it was blank because of the error that was encountered in opening the file.

KIUC Request: Please re-send a working file PACE_Big Rivers Data Request Outputs_120524.xlsx, which includes market price data.

3. It appears that the file ACES used containing market price data was - Copy of 2012-26 hrly energy price forecast for PCM (1-18-12) nominal.xlsx. However, there was a problem with this file, as it was unreadable, and Excel indicated that the file was corrupted and could not be opened.

KIUC Request: Please resend a working file.

4. It appears that the Company did not supply the ACES input assumptions and output results for the Buy and Buy No Smelter Load cases.

There is a very specific Excel spreadsheet for each of the two cases that appear to be missing, and some associated folders appear to be missing.

a) For the "Buy" case, the spreadsheet missing is Big Rivers.15Year.CSAPR By Gen.VarLimits.xlsm.

b) For the "Buy No Smelter Load" case, the spreadsheet missing is Big Rivers.15Year.CSAPR By Gen.VarLimits NoSmelters.xlsm

KIUC Request: For each of those cases, please provide either the location or a working file with the associated folders identified as Assumptions, Data, and Exhibits. There appears to be two files supplied that are very close in the name to the above spreadsheet names, but not identical. KIUC is concerned that unless we have files with the exact name, we may not be looking at the correct files.

5. On the CD supplied May 29, 2012, Big Rivers supplied the following file - (C-M by eq) sens 2 exh. det. Rev 1 no smltrs 021412.xlsx - This file can't be opened, first Excel reported it had unrecoverable data, then Excel stated it was corrupt.

KIUC Request: Please supply a working file.

000395

Thank you in advance for your efforts in rectifying this situation.

Kurt

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

000396

Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 11, 2012 5:06 PM
To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
Cc: dbrown@stites.com; Kurt Boehm
Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063
Attachments: Joint Motion to Stay Procedural Schedule.pdf

Counsel, attached please find the JOINT MOTION TO STAY PROCEDURAL SCHEDULE of KIUC, SIERRA CLUB and ATTORNEY GENERAL filed in the above-referenced matter. Hard copies will follow by regular, U.S. mail.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000397

Michael Kurtz

From: Nguyen, Quang D (PSC) [QuangD.Nguyen@ky.gov]
Sent: Tuesday, June 12, 2012 7:50 AM
To: Michael Kurtz; jmillersmsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]
Sent: Monday, June 11, 2012 5:06 PM
To: jmillersmsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
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Counsel, attached please find the JOINT MOTION TO STAY PROCEDURAL SCHEDULE of KIUC, SIERRA CLUB and ATTORNEY GENERAL filed in the above-referenced matter. Hard copies will follow by regular, U.S. mail.

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36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLLawfirm.com

000008

Michael Kurtz

From: Michael Kurtz
Sent: Tuesday, June 12, 2012 8:24 AM
To: 'Nguyen, Quang D (PSC)'; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

KIUC is available today at 2:00.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Nguyen, Quang D (PSC) [<mailto:QuangD.Nguyen@ky.gov>]
Sent: Tuesday, June 12, 2012 7:50 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
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Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000100

Michael Kurtz

From: Jim Miller [jmillersmsmlaw.com]
Sent: Tuesday, June 12, 2012 8:28 AM
To: Nguyen, Quang D (PSC); Michael Kurtz; Tyson Kamuf; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC); Tyson Kamuf
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang,

Please include Tyson Kamuf on your distribution as I will be unable to attend that call. tkamuf@smsmlaw.com.

Jim

James M. Miller
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street
P.O. Box 727
Owensboro, KY 42302-0727
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Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

000101

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 11, 2012 5:06 PM
To: jmillersmsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
Cc: dbrown@stites.com; Kurt Boehm
Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Counsel, attached please find the JOINT MOTION TO STAY PROCEDURAL SCHEDULE of KIUC, SIERRA CLUB and ATTORNEY GENERAL filed in the above-referenced matter. Hard copies will follow by regular, U.S. mail.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

MKurtz@BKLawfirm.com

000102

Michael Kurtz

From: Howard, Dennis (KYOAG) [dennis.howard@ag.ky.gov]
Sent: Tuesday, June 12, 2012 8:33 AM
To: Michael Kurtz; Nguyen, Quang D (PSC); jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

The OAG is available as well.

Dennis Howard, II
Assistant Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
502.696.5453
dennis.howard@ag.ky.gov

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]
Sent: Tuesday, June 12, 2012 8:24 AM
To: Nguyen, Quang D (PSC); jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

KIUC is available today at 2:00.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLlawfirm.com

000103

From: Nguyen, Quang D (PSC) [<mailto:QuangD.Nguyen@ky.gov>]
Sent: Tuesday, June 12, 2012 7:50 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]

Sent: Monday, June 11, 2012 5:06 PM

To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'

Cc: dbrown@stites.com; Kurt Boehm

Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

MKurtz@BKLLawfirm.com

000104

Michael Kurtz

From: Nguyen, Quang D (PSC) [QuangD.Nguyen@ky.gov]
Sent: Tuesday, June 12, 2012 8:51 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

The contact number for the informal conference is (502) 564-9110. Conference Access Code: 5643941.

From: Nguyen, Quang D (PSC)
Sent: Tuesday, June 12, 2012 7:50 AM
To: 'Michael Kurtz'; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

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Sent: Monday, June 11, 2012 5:06 PM
To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
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Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLLawfirm.com

000105

Michael Kurtz

From: childerslaw81@gmail.com on behalf of Joe Childers [joe@jchilderslaw.com]
Sent: Tuesday, June 12, 2012 9:07 AM
To: Nguyen, Quang D (PSC)
Cc: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: Re: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang,

I am available. Since we have not heard from Kristin Henry, I assume she will send an email once she gets in the office (3 hours time difference).

Joe Childers

On Tue, Jun 12, 2012 at 7:49 AM, Nguyen, Quang D (PSC) <QuangD.Nguyen@ky.gov> wrote:

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Monday, June 11, 2012 5:06 PM
To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
Cc: dbrown@stites.com; Kurt Boehm
Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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000106

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

MKurtz@BKLawfirm.com

--

Joe F. Childers
Joe F. Childers & Associates
201 West Short Street
Suite 300
Lexington, Kentucky 40507
Telephone: (859) 253-9824
Facsimile: (859) 258-9288
Email: joe@jchilderslaw.com
www.jchilderslaw.com

000107

Michael Kurtz

From: Tyson Kamuf [tkamuf@smsmlaw.com]
Sent: Tuesday, June 12, 2012 9:08 AM
To: Howard, Dennis (KYOAG); Michael Kurtz; Nguyen, Quang D (PSC); Jim Miller; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang,
Big Rivers will also be available.

Tyson Kamuf
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street, P.O. Box 727
Owensboro, Kentucky 42302-0727
tkamuf@smsmlaw.com
(270) 926-4000
(270) 683-6694 fax

CONFIDENTIALITY STATEMENT:

This message from the law firm of Sullivan, Mountjoy, Stainback & Miller, P.S.C., contains information which is privileged and confidential and is solely for the use of the intended recipient. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, or use of the contents of this message is strictly prohibited. If you have received this in error, please destroy it immediately and please notify us immediately at (270) 926-4000.

From: Howard, Dennis (KYOAG) [<mailto:dennis.howard@ag.ky.gov>]
Sent: Tuesday, June 12, 2012 7:33 AM
To: Michael Kurtz; Nguyen, Quang D (PSC); Jim Miller; Tyson Kamuf; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

The OAG is available as well.

Dennis Howard, II
Assistant Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
502.696.5453
dennis.howard@ag.ky.gov

000408

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 12, 2012 8:24 AM
To: Nguyen, Quang D (PSC); jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

KIUC is available today at 2:00.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Nguyen, Quang D (PSC) [<mailto:QuangD.Nguyen@ky.gov>]
Sent: Tuesday, June 12, 2012 7:50 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

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Sent: Monday, June 11, 2012 5:06 PM
To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
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Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000-109

Michael Kurtz

From: Shannon Fisk [sfisk@earthjustice.org]
Sent: Tuesday, June 12, 2012 9:32 AM
To: Joe Childers; Nguyen, Quang D (PSC)
Cc: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang,

I am also available to be on the call.

Shannon

Shannon Fisk
Earthjustice
156 William Street
Suite 800
New York, New York 10038
T: 212-791-1881 ext. 8239
C: 215-327-9922
www.earthjustice.org

Because the earth needs a good lawyer

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

From: childerslaw81@gmail.com [mailto:childerslaw81@gmail.com] **On Behalf Of** Joe Childers
Sent: Tuesday, June 12, 2012 9:07 AM
To: Nguyen, Quang D (PSC)
Cc: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: Re: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang,

I am available. Since we have not heard from Kristin Henry, I assume she will send an email once she gets in the office (3 hours time difference).

Joe Childers

On Tue, Jun 12, 2012 at 7:49 AM, Nguyen, Quang D (PSC) <QuangD.Nguyen@ky.gov> wrote:

All –

000110

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]

Sent: Monday, June 11, 2012 5:06 PM

To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'

Cc: dbrown@stites.com; Kurt Boehm

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Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

MKurtz@BKLLawfirm.com

000111

--

Joe F. Childers
Joe F. Childers & Associates

201 West Short Street
Suite 300
Lexington, Kentucky 40507
Telephone: (859) 253-9824
Facsimile: (859) 258-9288
Email: joe@jchilderslaw.com
www.jchilderslaw.com

000112

Michael Kurtz

From: Brown, David [DBROWN@stites.com]
Sent: Tuesday, June 12, 2012 9:44 AM
To: Nguyen, Quang D (PSC); Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang - I am available. Thank you.

David

David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

From: Nguyen, Quang D (PSC) [<mailto:QuangD.Nguyen@ky.gov>]
Sent: Tuesday, June 12, 2012 7:50 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: Brown, David; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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Cc: dbrown@stites.com; Kurt Boehm
Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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000 11 3

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000114

Michael Kurtz

From: Kristin Henry [kristin.henry@sierraclub.org]
Sent: Tuesday, June 12, 2012 11:42 AM
To: Tyson Kamuf
Cc: Howard, Dennis (KYOAG); Michael Kurtz; Nguyen, Quang D (PSC); Jim Miller; Cook, Larry (KYOAG); James, Matt (KYOAG); Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: Re: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

I am available for a call at 2:00.

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law as attorney-client and work-product confidential or otherwise confidential communications. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify me at the telephone number above.

On Tue, Jun 12, 2012 at 6:08 AM, Tyson Kamuf <tkamuf@smsmlaw.com> wrote:

Quang,

Big Rivers will also be available.

Tyson Kamuf

Sullivan, Mountjoy, Stainback & Miller, P.S.C.

100 St. Ann Street, P.O. Box 727

Owensboro, Kentucky 42302-0727

tkamuf@smsmlaw.com

(270) 926-4000

000115

(270) 683-6694 fax

CONFIDENTIALITY STATEMENT:

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From: Howard, Dennis (KYOAG) [mailto:dennis.howard@ag.ky.gov]

Sent: Tuesday, June 12, 2012 7:33 AM

To: Michael Kurtz; Nguyen, Quang D (PSC); Jim Miller; Tyson Kamuf; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG)

Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)

Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

The OAG is available as well.

Dennis Howard, II
Assistant Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
502.696.5453
dennis.howard@ag.ky.gov

000116

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]

Sent: Tuesday, June 12, 2012 8:24 AM

To: Nguyen, Quang D (PSC); jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)

Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)

Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

Quang.

KIUC is available today at 2:00.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLawfirm.com

From: Nguyen, Quang D (PSC) [<mailto:QuangD.Nguyen@ky.gov>]

Sent: Tuesday, June 12, 2012 7:50 AM

To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)

Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)

Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

000417

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

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Sent: Monday, June 11, 2012 5:06 PM

To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'

Cc: dbrown@stites.com; Kurt Boehm

Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

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Michael L. Kurtz, Esq.

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36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

MKurtz@BKLawfirm.com

000418

Michael Kurtz

From: Kurt Boehm
Sent: Tuesday, June 12, 2012 11:56 AM
To: 'Nguyen, Quang D (PSC)'; Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

I am forwarding the below email to the parties prior to the 2pm call because it may come up in our discussion.

Kurt

From: Kurt Boehm
Sent: Monday, June 11, 2012 5:40 PM
To: 'Jim Miller'; 'tkamuf@smsmlaw.com'
Cc: Michael Kurtz; 'Brown, David'; Philip Hayet; Lane Kollen
Subject: KIUC discovery issue

Jim and Tyson-

KIUC's consultants have identified several problems with the data supplied by Big Rivers in response to KIUC's First Set of Data Requests. Please address these problems at the earliest possible time.

Below is a description of each problem followed by KIUC's requested action by Big Rivers to rectify the problem:

1. The April 26, 2012 CD provided input and output data associated with the Company's Financial Models. The following problems were encountered. The Company's Base Case Financial Model was found in:

Financial Forecast (2012-2026) Base Case (No Env. Comp.) 02-.xls
 - a) As stated in KIUC's Question 1 from our first set of DRs, some of the cell entries in the Financial Model spreadsheet point to spreadsheets that were not supplied. Question 1 requested the Company to supply all spreadsheets that were referenced but had not been supplied to that point. For example, the Worktab PCM, Cell N77 in the above file pointed to another spreadsheet (Big Rivers 2012-2026 (CAIR) Base Case exhibits determin (2-2-12).xlsx) that was not provided. That cell referenced market price data for the month of Jan 2012. BR's DR response stated "Please see the CD Big Rivers filed May 29, 2012, in response to the May 11, 2012, letter from KIUC's counsel to Big River's counsel." The May 29th CD still did not contain the referenced spreadsheets, and it was not clear what file on the May 29th CD BR wanted us to refer to.
 - b) However, production cost results were supplied by ACES on the May 24 CD in other files that can be matched up to some degree to the results found in the Financial Model spreadsheets. For example, the file associated with the Base Case from May 24th is Big Rivers.15Year.CAIR Base Case.xlsm.
 - c) Still there are some values in the Base Case Financial Model spreadsheet that cannot be matched precisely. For example, VO&M and SO2 Tons do not appear to match exactly. Most likely it is because ACES performed some calculation in the spreadsheets that we were not given, most likely related to splitting out costs and other

000-119

results between Big Rivers and Henderson Municipal Power and Light. Without the missing spreadsheets, we don't know all of the additional calculations that ACES performed.

KIUC Request: Please direct KIUC to the referenced spread sheets or properly comply with KIUC Q1.1 and supply all other spreadsheets that were referenced from within each of the Financial Model spreadsheets.

2) PACE Global supplied two of the files that were on the May 29th CD, and one could not be opened properly:

PACE_Big Rivers Data Request Outputs_120524.xlsx

a) An error message appeared in trying to open this file indicating that Excel found unreadable content in the file. After allowing Excel to try to recover from this error, Excel reported a message stating, "Replaced Part: /xl/worksheets/sheet3.xml part with XML error. The name in the end tag of the element must match the element type in the start tag. Line 2, column 17076013.

b) After that message went away the file opened, two worktabs were found in the spreadsheet:

Output Stochastic Energy Prices- This contains annual market price values (\$/MWH - onpeak, offpeak, all hours) for 200 iterations for the years 2012 - 2030. It is not clear what the iterations were and how this information was factored into the evaluations that ACES performed, and there is no documentation that explains that. It would be more clear if ACES gave us fully populated input database files.

Output Hourly Energy Prices - This worktab was completely blank. It is possible that it was blank because of the error that was encountered in opening the file.

KIUC Request: Please re-send a working file PACE_Big Rivers Data Request Outputs_120524.xlsx, which includes market price data.

3. It appears that the file ACES used containing market price data was - Copy of 2012-26 hrly energy price forecast for PCM (1-18-12) nominal.xlsx. However, there was a problem with this file, as it was unreadable, and Excel indicated that the file was corrupted and could not be opened.

KIUC Request: Please resend a working file.

4. It appears that the Company did not supply the ACES input assumptions and output results for the Buy and Buy No Smelter Load cases.

There is a very specific Excel spreadsheet for each of the two cases that appear to be missing, and some associated folders appear to be missing.

a) For the "Buy" case, the spreadsheet missing is Big Rivers.15Year.CSAPR By Gen.VarLimits.xlsm.

b) For the "Buy No Smelter Load" case, the spreadsheet missing is Big Rivers..15Year.CSAPR By Gen.VarLimits NoSmelters.xlsm

KIUC Request: For each of those cases, please provide either the location or a working file with the associated folders identified as Assumptions, Data, and Exhibits. There appears to be two files supplied that are very close in the name to the above spreadsheet names, but not identical. KIUC is concerned that unless we have files with the exact name, we may not be looking at the correct files.

000-120

5. On the CD supplied May 29, 2012, Big Rivers supplied the following file - (C-M by eq) sens 2 exh. det. Rev 1 no smltrs 021412.xlsx - This file can't be opened, first Excel reported it had unrecoverable data, then Excel stated it was corrupt.

KIUC Request: Please supply a working file.

Thank you in advance for your efforts in rectifying this situation.

Kurt

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

From: Nguyen, Quang D (PSC) [mailto:QuangD.Nguyen@ky.gov]
Sent: Tuesday, June 12, 2012 8:51 AM
To: Michael Kurtz; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; James Giampietro; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

The contact number for the informal conference is (502) 564-9110. Conference Access Code: 5643941.

From: Nguyen, Quang D (PSC)
Sent: Tuesday, June 12, 2012 7:50 AM
To: 'Michael Kurtz'; jmiller@smsmlaw.com; tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)
Cc: dbrown@stites.com; Kurt Boehm; Raff, Richard (PSC)
Subject: RE: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

All –

Please advise as to your availability today at 2pm, EDT, for a telephonic informal conference to discuss the status of the discovery issue and the procedural schedule. I will forward the call in information shortly.

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Monday, June 11, 2012 5:06 PM
To: jmiller@smsmlaw.com; DeRouen, Jeff (PSC); Nguyen, Quang D (PSC); Burns, Faith (PSC); Raff, Richard (PSC); tkamuf@smsmlaw.com; Cook, Larry (KYOAG); James, Matt (KYOAG); Kristin Henry; Shannon Fisk; Joe Childers; Ruben Mojica; 'James Giampietro'
Cc: dbrown@stites.com; Kurt Boehm
Subject: Joint Motion to Stay Procedural Schedule, Docket No. 2012-00063

000 121

Counsel, attached please find the JOINT MOTION TO STAY PROCEDURAL SCHEDULE of KIUC, SIERRA CLUB and ATTORNEY GENERAL filed in the above-referenced matter. Hard copies will follow by regular, U.S. mail.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000 122

Michael Kurtz

From: Kurt Boehm
Sent: Tuesday, June 12, 2012 11:59 AM
To: Shannon Fisk; Kristin Henry
Cc: Philip Hayet; Michael Kurtz; dbrown@stites.com
Subject: FW: KIUC discovery issue

Shannon and Kristin- Phil Hayet asked me if you would confirm with your consultants that they are having the same issues (described below) with Big Rivers' data?

Thanks

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

From: Kurt Boehm
Sent: Monday, June 11, 2012 5:40 PM
To: 'Jim Miller'; 'tkamuf@smsmlaw.com'
Cc: Michael Kurtz; 'Brown, David'; Philip Hayet; Lane Kollen
Subject: KIUC discovery issue

Jim and Tyson-

KIUC's consultants have identified several problems with the data supplied by Big Rivers in response to KIUC's First Set of Data Requests. Please address these problems at the earliest possible time.

Below is a description of each problem followed by KIUC's requested action by Big Rivers to rectify the problem:

1. The April 26, 2012 CD provided input and output data associated with the Company's Financial Models. The following problems were encountered. The Company's Base Case Financial Model was found in:

Financial Forecast (2012-2026) Base Case (No Env. Comp.) 02-.xls

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- b) However, production cost results were supplied by ACES on the May 24 CD in other files that can be matched up to some degree to the results found in the Financial Model spreadsheets. For example, the file associated with the Base Case from May 24th is Big Rivers.15Year.CAIR Base Case.xlsm.

- c) Still there are some values in the Base Case Financial Model spreadsheet that cannot be matched precisely. For example, VO&M and SO2 Tons do not appear to match exactly. Most likely it is because ACES performed some calculation in the spreadsheets that we were not given, most likely related to splitting out costs and other results between Big Rivers and Henderson Municipal Power and Light. Without the missing spreadsheets, we don't know all of the additional calculations that ACES performed.

KIUC Request: Please direct KIUC to the referenced spread sheets or properly comply with KIUC Q1.1 and supply all other spreadsheets that were referenced from within each of the Financial Model spreadsheets.

- 2) PACE Global supplied two of the files that were on the May 29th CD, and one could not be opened properly:

PACE_Big Rivers Data Request Outputs_120524.xlsx

- a) An error message appeared in trying to open this file indicating that Excel found unreadable content in the file. After allowing Excel to try to recover from this error, Excel reported a message stating, "Replaced Part: /xl/worksheets/sheet3.xml part with XML error. The name in the end tag of the element must match the element type in the start tag. Line 2, column 17076013.

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Output Hourly Energy Prices - This worktab was completely blank. It is possible that it was blank because of the error that was encountered in opening the file.

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- a) For the "Buy" case, the spreadsheet missing is Big Rivers.15Year.CSAPR By Gen.VarLimits.xlsm.
- b) For the "Buy No Smelter Load" case, the spreadsheet missing is Big Rivers.15Year.CSAPR By Gen.VarLimits NoSmelters.xlsm

KIUC Request: For each of those cases, please provide either the location or a working file with the associated folders identified as Assumptions, Data, and Exhibits. There appears to be two files supplied that are very close in

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KIUC Request: Please supply a working file.

Thank you in advance for your efforts in rectifying this situation.

Kurt

Kurt J. Boehm, Esq.
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Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

000 125

Michael Kurtz

From: Kristin Henry [kristin.henry@sierraclub.org]
Sent: Tuesday, June 12, 2012 3:31 PM
To: Kurt Boehm
Cc: Shannon Fisk; Philip Hayet; Michael Kurtz; dbrown@stites.com
Subject: Re: FW: KIUC discovery issue

We can confirm that I am seeing the same problems with 1a, 2a, 2b, 3, and 5 listed below. However, I cannot comment on the others at this point.

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law as attorney-client and work-product confidential or otherwise confidential communications. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify me at the telephone number above.

On Tue, Jun 12, 2012 at 8:58 AM, Kurt Boehm <KBoehm@bkllawfirm.com> wrote:

>
> Shannon and Kristin- Phil Hayet asked me if you would confirm with your consultants that they are having the same issues (described below) with Big Rivers' data?
>
>
>
> Thanks
>
>

000126

>
> Kurt J. Boehm, Esq.
>
> BOEHM, KURTZ & LOWRY
>
> 36 East Seventh Street, Suite 1510
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> Cincinnati, Ohio 45202
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> From: Kurt Boehm
> Sent: Monday, June 11, 2012 5:40 PM
> To: 'Jim Miller'; 'tkamuf@smsmlaw.com'
> Cc: Michael Kurtz; 'Brown, David'; Philip Hayet; Lane Kollen
> Subject: KIUC discovery issue
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> KIUC's consultants have identified several problems with the data supplied by Big Rivers in response to KIUC's First Set of Data Requests. Please address these problems at the earliest possible time.
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> Below is a description of each problem followed by KIUC's requested action by Big Rivers to rectify the problem:
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000-127

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> c) Still there are some values in the Base Case Financial Model spreadsheet that cannot be matched precisely. For example, VO&M and SO2 Tons do not appear to match exactly. Most likely it is because ACES performed some calculation in the spreadsheets that we were not given, most likely related to splitting out costs and other results between Big Rivers and Henderson Municipal Power and Light. Without the missing spreadsheets, we don't know all of the additional calculations that ACES performed.

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000 128

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>

> Kurt

>

>

>

> Kurt J. Boehm, Esq.

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> BOEHM, KURTZ & LOWRY

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>

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> fax: 513-421-2764

>

>

>

>

000130

Michael Kurtz

From: Kurt Boehm
Sent: Tuesday, June 12, 2012 4:26 PM
To: 'Kristin Henry'
Cc: Shannon Fisk; Philip Hayet; Michael Kurtz; dbrown@stites.com
Subject: RE: FW: KIUC discovery issue

Thanks

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
office: 513-421-2255
mobile: 513-290-6683
fax: 513-421-2764

-----Original Message-----

From: Kristin Henry [mailto:kristin.henry@sierraclub.org]
Sent: Tuesday, June 12, 2012 3:31 PM
To: Kurt Boehm
Cc: Shannon Fisk; Philip Hayet; Michael Kurtz; dbrown@stites.com
Subject: Re: FW: KIUC discovery issue

We can confirm that I am seeing the same problems with 1a, 2a, 2b, 3, and 5 listed below. However, I cannot comment on the others at this point.

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

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communications. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify me at the telephone number above.

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> Cc: Michael Kurtz; 'Brown, David'; Philip Hayet; Lane Kollen
> Subject: KIUC discovery issue
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000132

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000133

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 - > Output Stochastic Energy Prices- This contains annual market price values (\$/MWH - onpeak, offpeak, all hours) for 200 iterations for the years 2012 - 2030. It is not clear what the iterations were and how this information was factored into the evaluations that ACES performed, and there is no documentation that explains that. It would be more clear if ACES gave us fully populated input database files.
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000134

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> Kurt

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> Kurt J. Boehm, Esq.

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000 135

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000 136

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Thursday, June 14, 2012 2:53 PM
To: Michael Kurtz
Cc: 'Brenton Meese'; 'Joseph McLeer'; 'Duane Sheffield'
Subject: FW: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup
Attachments: Hayet Power Systems Amd 1 PaR_gl 061312.doc; CA-SOW-ADV-NA-120476-v1.docx

Mike,

I neglected to copy you as I had intended, please review the emails below. Also, Brenton responded to all of my questions and said yes to all.

Brenton, thanks for your reply.

Phil

From: Philip Hayet [mailto:philhayet@concentric.net]
Sent: Thursday, June 14, 2012 2:08 PM
To: 'Brenton Meese'
Cc: 'Joseph McLeer'; 'Duane Sheffield'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Brenton,

Next Wed and Thurs works fine. I would like to get all documentation as early as possible ahead of that. I can even come over to your office to pick it up, so that I can prepare for when I meet with Joe. Also, if there are any steps to prepare my computer ahead of that, I would like to know that too, so we can be as productive as possible when Joe and I meet. However, before I meet with Joe, the database will have to be done and back in your hands from ACES and ready for me to load on my computer. I am thinking that all of these things would be doable before Wed? Please let me know.

Also, Brenton, it is my understanding, and I want to make sure it is yours as well, that if all goes according to plan, I will meet with Joe for 2 days, and then Ventyx will only bill for those 2 days, not 7 as discussed in the contract. Seven is in the contract in case I need additional time to meet with Joe, which I don't anticipate. Also, normal reasonable phone support is available and built in to the contract. Please confirm that.

Mike,

Could you review the attached agreements and see Brenton's comments below. Also note that PROMOD is listed on the license as a convenience to allow this to be a contract that could be used for other projects that I have that might require PROMOD. Since I am not requesting a delivery of PROMOD, Ventyx will not bill me for that for this project.

Thanks,
Phil

From: Brenton Meese [mailto:Brenton.Meese@ventyx.abb.com]
Sent: Thursday, June 14, 2012 12:18 PM
To: Philip Hayet

000 137

Cc: Joseph McLeer; Duane Sheffield

Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Hi Phil,

Thanks for the voicemails yesterday and the clarifications. As we shared yesterday and as you know through your meetings with stakeholders and ACES, we have begun the database extraction for the Big Rivers database and this is on track. Joe would like to secure next Wednesday and Thursday to perform the training and setup activities with you, in order to adhere to your goal of being ready to model as of next Friday, June 22nd.

Please find attached the final versions of the Statement of Work (SOW) and the Planning & Risk/PROMOD Amendment. We updated each document to include your requested revisions or additions wherever possible. We also updated the dates in the Amendment Enrollment Form to reflect a 3-month initial engagement on PaR, after which we can have you fill out additional Engagement Forms as-needed (reflecting the pricing incentives we discussed as appropriate).

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Regarding delivery of the software, Joe and the PaR Team will stand ready to initiate delivery of the software once the agreements are fully executed. Joe and Team will also coordinate the delivery of the Big Rivers-ACES extracted database, which will load directly into the EPM PaR software.

Looking forward to receiving the executed agreements, and beginning this important project with you, Phil.

Kind Regards,
Brenton

BRENTON MEESE
Executive Account Manager

Email: Brenton.Meese@ventyx.abb.com
(O) 678.825.1467
(M) 404.964.8882

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Please note my office phone number and address have changed to our new North American Headquarters in Atlanta.

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000 139

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000110

Michael Kurtz

From: Michael Kurtz
Sent: Thursday, June 14, 2012 3:11 PM
To: 'Philip Hayet'
Cc: 'Brenton Meese'; 'Joseph McLeer'; 'Duane Sheffield'; Jody Kyler
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Phil.

Thanks. We'll review and get right back with you.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Philip Hayet [mailto:philhay@concentric.net]
Sent: Thursday, June 14, 2012 2:53 PM
To: Michael Kurtz
Cc: 'Brenton Meese'; 'Joseph McLeer'; 'Duane Sheffield'
Subject: FW: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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Sent: Thursday, June 14, 2012 2:08 PM
To: 'Brenton Meese'
Cc: 'Joseph McLeer'; 'Duane Sheffield'
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Sent: Thursday, June 14, 2012 12:18 PM
To: Philip Hayet
Cc: Joseph McLeer; Duane Sheffield
Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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000 1/12

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000143

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Friday, June 15, 2012 4:06 PM
To: 'Brenton Meese'
Cc: 'Joseph McLeer'; 'Duane Sheffield'; Michael Kurtz
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup
Attachments: image2012-06-15-154351.pdf; image2012-06-15-154431.pdf

Brenton,

Please see the attached signed Statement of Work and License Amendment. I think everything is in order, and I am planning on coming on Wednesday.

Is Joe located in Suite 500 in the 400 Perimeter Center Terrace Building? Love to start as early as possible.

Also, I need to get documentation ahead as we discussed, and would like to start preparing my laptop for Wednesday, so any instructions I could get now would be much appreciated. I should speak to Joe on Monday if possible.

Are things going smoothly with the strip out effort and when do you plan to have the database back from ACES?

Thanks,

Phil

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Sent: Thursday, June 14, 2012 12:18 PM
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Cc: Joseph McLeer; Duane Sheffield
Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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000145

Michael Kurtz

From: Duane Sheffield [Duane.Sheffield@ventyx.abb.com]
Sent: Monday, June 18, 2012 9:46 AM
To: Philip Hayet
Cc: Joseph McLeer; Michael Kurtz; Brenton Meese
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup
Attachments: SOW-ADV-NA-120476.pdf

Hi Phil-

The SOW that you returned did not include the Consulting Agreement, which is a required item of the set and is referred to in the SOW as the agreement under which services of the SOW will be provided.

Please sign and return both the attached Consulting Agreement and the SOW*.

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Thanks
Duane

From: Philip Hayet [mailto:philhay@concentric.net]
Sent: Friday, June 15, 2012 4:06 PM
To: Brenton Meese
Cc: Joseph McLeer; Duane Sheffield; 'Michael Kurtz'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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Phil

000146

From: Brenton Meese [mailto:Brenton.Meese@ventyx.abb.com]
Sent: Thursday, June 14, 2012 12:18 PM
To: Philip Hayet

Cc: Joseph, McLeer; Duane Sheffield

Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Hi Phil,

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Kind Regards,
Brenton

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Executive Account Manager

Email: Brenton.Meese@ventyx.abb.com
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000 1/18

Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 18, 2012 9:48 AM
To: tkamuf@smsmlaw.com
Cc: jmiller@smsmlaw.com; 'Brown, David'; Kurt Boehm; 'Philip Hayet'
Subject: ECR Data Responses

Tyson.

Some of the information you sent to us on flash drive will not open or are unreadable. See below. Can you please email revised responses.

Could not be Opened

Big Rivers 2012-2026 (CSAPR-MATS by equip) sens 2 exhibits determin Rev 1 no smltrs (2-14-12).xlsx
Big Rivers 2012-2026 (CSAPR-MATS by gen) sens 1 v-limits exhibits determin no smltrs (2-23-12).xlsx

Unreadable Content

Financial Forecast (2012-2026) Build 03-08-2012.xlsx
Financial Forecast (2012-2026) Buy 03-08-2012.xlsx

Even though a message came up about unreadable content, I could cause that to go away and the following appeared.

Removed Records: Formula from /xl/worksheets/sheet11.xml part
Removed Records: Formula from /xl/worksheets/sheet14.xml part
Removed Records: Formula from /xl/calcChain.xml part (Calculation properties)

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

000149

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Monday, June 18, 2012 11:05 AM
To: 'Duane Sheffield'
Cc: 'Joseph McLeer'; Michael Kurtz; 'Brenton Meese'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup
Attachments: image2012-06-18-100706.pdf

Duane,

Please see attached signed SOW.

As we discussed on the phone, you do have the signed Consulting Agreement, so I am not resending that. I am just resending the signed SOW, and as I understand it, the only change was that the "non-binding" language was removed from the cover page of the SOW.

Also, since this is the email distribution list containing relevant parties, including my client, Joe McLeer, and Brenton, here are the outstanding items/questions that I have:

1. Is the ACES database ready to go and back in your hands? If not, when do you expect it?
2. I did not receive PAR documentation and would like to receive that as soon as possible to be prepared for Wed morning. I will send Joe W. an email after this one, and hopefully he can supply that as soon as possible.
3. I would like to download SQL prior to my coming to your offices. Any guidance by Joe McLeer or anyone else as to the correct version to download, would be greatly appreciated. Otherwise, we can do that first thing Wed morning. But it would be best if Joe could give me some guidance on that ahead.
4. Also for Joe, should we plan to meet at 8:30am at Suite 500 in the 400 Perimeter Center Terrace building? Please let me know if that is not convenient.

Thanks very much and looking forward to working with your Staff on Wed.

Phil Hayet

From: Duane Sheffield [mailto:Duane.Sheffield@ventyx.abb.com]
Sent: Monday, June 18, 2012 9:46 AM
To: Philip Hayet
Cc: Joseph McLeer; Michael Kurtz; Brenton Meese
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

000 1170

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Thanks
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Sent: Friday, June 15, 2012 4:06 PM
To: Brenton Meese
Cc: Joseph McLeer; Duane Sheffield; 'Michael Kurtz'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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Phil

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Sent: Thursday, June 14, 2012 12:18 PM
To: Philip Hayet
Cc: Joseph McLeer; Duane Sheffield
Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

000111

Hi Phil,

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000153

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Monday, June 18, 2012 11:47 AM
To: duane.sheffield@ventyx.abb.com
Cc: 'Joseph McLeer'; Michael Kurtz; 'Brenton Meese'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

My apologies, turns out I did receive the PAR documentation. (Item 2 in list below).

Thanks,
Phil

From: Philip Hayet [mailto:philhayet@concentric.net]
Sent: Monday, June 18, 2012 11:05 AM
To: 'Duane Sheffield'
Cc: 'Joseph McLeer'; 'Michael Kurtz'; 'Brenton Meese'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

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000154

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Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Hi Phil-

The SOW that you returned did not include the Consulting Agreement, which is a required item of the set and is referred to in the SOW as the agreement under which services of the SOW will be provided.

Please sign and return both the attached Consulting Agreement and the SOW*.

* Note that the "non-binding" language was removed from the cover page of the SOW as this is the fully executable version and that language should have been removed previously.

Thanks
Duane

From: Philip Hayet [mailto:philhay@concentric.net]
Sent: Friday, June 15, 2012 4:06 PM
To: Brenton Meese
Cc: Joseph McLeer; Duane Sheffield; 'Michael Kurtz'
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

Brenton,

Please see the attached signed Statement of Work and License Amendment. I think everything is in order, and I am planning on coming on Wednesday.

Is Joe located in Suite 500 in the 400 Perimeter Center Terrace Building? Love to start as early as possible.

Also, I need to get documentation ahead as we discussed, and would like to start preparing my laptop for Wednesday, so any instructions I could get now would be much appreciated. I should speak to Joe on Monday if possible.

Are things going smoothly with the strip out effort and when do you plan to have the database back from ACES?

Thanks,

Phil

From: Brenton Meese [mailto:Brenton.Meese@ventyx.abb.com]
Sent: Thursday, June 14, 2012 12:18 PM
To: Philip Hayet
Cc: Joseph McLeer; Duane Sheffield
Subject: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup

000.155

Hi Phil,

Thanks for the voicemails yesterday and the clarifications. As we shared yesterday and as you know through your meetings with stakeholders and ACES, we have begun the database extraction for the Big Rivers database and this is on track. Joe would like to secure next Wednesday and Thursday to perform the training and setup activities with you, in order to adhere to your goal of being ready to model as of next Friday, June 22nd.

Please find attached the final versions of the Statement of Work (SOW) and the Planning & Risk/PROMOD Amendment. We updated each document to include your requested revisions or additions wherever possible. We also updated the dates in the Amendment Enrollment Form to reflect a 3-month initial engagement on PaR, after which we can have you fill out additional Engagement Forms as-needed (reflecting the pricing incentives we discussed as appropriate).

Note: The blanks in the Amendment for the dates in the preamble will be filled in by Ventyx when we sign. Please leave these blank as noted by Gail's comment. To process the Amendment for clean copy signature, simply print a "Final without Markup" copy in MS Word and her comment will disappear.

For both agreements, please let us know if you have any further questions. The internal process for processing any additional revisions is cumbersome and timely, so we appreciate that you and your legal can focus only on material changes, if you have any. We believe the agreements reflect all aspects of the project and license appropriately and are ready for signatures. Regarding signatures, please print, sign, scan and return all pages of each agreement via PDF to my email attention. We will countersign, fill in blanks, and send you PDF versions for your legal records.

Regarding delivery of the software, Joe and the PaR Team will stand ready to initiate delivery of the software once the agreements are fully executed. Joe and Team will also coordinate the delivery of the Big Rivers-ACES extracted database, which will load directly into the EPM PaR software.

Looking forward to receiving the executed agreements, and beginning this important project with you, Phil.

Kind Regards,
Brenton

BRENTON MEESE
Executive Account Manager

Email: Brenton.Meese@ventyx.abb.com
(O) 678.825.1467
(M) 404.964.8882

VENTYX
an ABB company
www.ventyx.com
400 Perimeter Center Terrace | Suite 500 | Atlanta GA 30346 | United States

Please note my office phone number and address have changed to our new North American Headquarters in Atlanta.

000-156

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000157

Michael Kurtz

From: Tyson Kamuf [tkamuf@smsmlaw.com]
Sent: Monday, June 18, 2012 5:15 PM
To: Michael Kurtz
Cc: Jim Miller; Brown, David; Kurt Boehm; Philip Hayet
Subject: RE: ECR Data Responses

Mike:

With regard to the files that will not open, I am able to open them from the flash drive I received. I checked with a couple of folks at Big Rivers, and they were also able to open the files from the flash drives they received. So, I am not sure what the problem is. Have you checked both of the flash drives you received?

With regard to the files that contain unreadable content, neither I nor the Big Rivers folks I checked with get a message about unreadable content.

Our suggestions are that you should not update links and that you should make sure you are using the current version of Excel.

Tyson Kamuf
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street, P.O. Box 727
Owensboro, Kentucky 42302-0727
tkamuf@smsmlaw.com
(270) 926-4000
(270) 683-6694 fax

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 18, 2012 8:48 AM
To: Tyson Kamuf
Cc: Jim Miller; 'Brown, David'; Kurt Boehm; 'Philip Hayet'
Subject: ECR Data Responses

000 158

Tyson.

Some of the information you sent to us on flash drive will not open or are unreadable. See below. Can you please email revised responses.

Could not be Opened

Big Rivers 2012-2026 (CSAPR-MATS by equip) sens 2 exhibits determin Rev 1 no smltrs (2-14-12).xlsx
Big Rivers 2012-2026 (CSAPR-MATS by gen) sens 1 v-limits exhibits determin no smltrs (2-23-12).xlsx

Unreadable Content

Financial Forecast (2012-2026) Build 03-08-2012.xlsx
Financial Forecast (2012-2026) Buy 03-08-2012.xlsx

Even though a message came up about unreadable content, I could cause that to go away and the following appeared.

Removed Records: Formula from /xl/worksheets/sheet11.xml part

Removed Records: Formula from /xl/worksheets/sheet14.xml part

Removed Records: Formula from /xl/calcChain.xml part (Calculation properties)

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLawfirm.com

000 119

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Monday, June 18, 2012 5:51 PM
To: 'Tyson Kamuf'; Michael Kurtz
Cc: 'Jim Miller'; 'Brown, David'; Kurt Boehm
Subject: RE: ECR Data Responses

Mike,

I will try again, and can also check on another computer. If it continues to be a problem, I will check with someone at the Sierra Club to see if they are having the same problem.

We can get back to the Company if it continues to be a problem.

Thanks,
Phil

From: Tyson Kamuf [mailto:tkamuf@smsmlaw.com]
Sent: Monday, June 18, 2012 5:15 PM
To: Michael Kurtz
Cc: Jim Miller; Brown, David; Kurt Boehm; Philip Hayet
Subject: RE: ECR Data Responses

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000120

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Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

000-161

Michael Kurtz

From: Wayne Harris [WayneH@acespower.com]
Sent: Tuesday, June 19, 2012 12:04 PM
To: Michael Kurtz
Subject: Hayet Power System Consulting
Attachments: Non-Disclosure Certification (Hayet - APM NDA).docx; NDA - Between Hayet and ACES Power Marketing (6-15-12).docx

Mr. Kurtz:

I represent ACES Power Marketing LLC. It is my understanding that you are counsel for KIUC and that you or KIUC has retain Phil Hayet of Hayet Power System Consulting with regard to the case currently before the Kentucky Public Service Commission under Case No. 2011-00401, and captioned as "*In the Matter of: Application of Kentucky Power Company For Approval Of Its 2011 Environmental Compliance Plan, For Approval Of Its Amended Environmental Cost Recovery Surcharge Tariff, And For the Grant Of A Certificate Of Public Convenience And Necessity For The Construction And Acquisition Of Related Facilities*". It is further my understanding that Hayet Power System Consulting desires to have access to the Big Rivers' portion of ACES Power Marketing's Ventyx Planning & Risk (PaR) proprietary database for use exclusively in the aforementioned case after Hayet Power System Consulting has obtained a license from Ventyx.

As may have been communicated to you by counsel for Big Rivers, APM is willing to disclose the Big Rivers portion of the ACES Power Marketing's Ventyx Planning & Risk (PaR) proprietary database to Hayet Power System Consulting and Phil Hayet, subject to: (1) the execution by Hayet Power System Consulting and Phil Hayet of the attached Non-Disclosure Agreement and Non-Disclosure Certification; and (2) verification that Hayet Power System Consulting has executed a license agreement with Ventyx for the Planning & Risk (PaR) software.

Please review the attachments and advise me at your convenience of your client's/expert's approval to these terms.

Sincerely,

Wayne Harris
Chief Counsel
ACES Power Marketing LLC
4140 West 99th Street
Carmel, IN 46032
Email: wayneh@acespower.com
Tele.: (317) 344-7017

000 182

Think before you print

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Michael Kurtz

From: Brenton Meese [Brenton.Meese@ventyx.abb.com]
Sent: Tuesday, June 19, 2012 12:48 PM
To: Philip Hayet
Cc: Joseph McLeer; Duane Sheffield; Michael Kurtz
Subject: RE: Ventyx - Final Statement of Work and Amendment for PaR License-Training-Setup
Attachments: Hayet Power Systems SOW-ADV-NA-120476_06.18.12.pdf; Hayet Power Systems Consulting PROMOD_PaR Amendment No. 1_06.18.12.pdf; Hayet Power Systems Consulting PaR Client Engagement Form_06.18.12.pdf; Hayet Power Systems Consulting Agreement_06.18.12.pdf

Hi Phil,

Please find attached the four fully executed Agreements to secure the project work (License Amendment, Engagement Form, Consulting Agreement and SOW).

We look forward to working together this week to support your modeling efforts with Planning & Risk.

Regards,
Brenton

BRENTON MEESE
Executive Account Manager
(O) 678.825.1467
(M) 404.964.8882

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www.ventyx.com

From: Philip Hayet [mailto:philhay@concentric.net]
Sent: Friday, June 15, 2012 4:06 PM
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000163

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(M) 404.964.8882

VENTYX
an ABB company
www.ventyx.com
400 Perimeter Center Terrace | Suite 500 | Atlanta GA 30346 | United States

Please note my office phone number and address have changed to our new North American Headquarters in Atlanta.

000164

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