



November 22, 2013

Via Personal Delivery

Mr. Jeff Derouen, Executive Director
Case No. 2013-00199
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RECEIVED

NOV 22 2013

**PUBLIC SERVICE
COMMISSION**

Re: Case No. 2013-00199 Ben Taylor and Sierra Club's Responses and Objections to Big Rivers Electric Corporation's Requests for Information (Public Version)

Dear Mr. Derouen,

Enclosed please find one original and ten (10) copies of Ben Taylor and Sierra Club's Responses and Objections to Big Rivers Electric Corporation's Requests for Information, filed today in the above-referenced matter via personal delivery. One (1) copy of the confidential version of Ben Taylor and Sierra Club's Responses and Objections will be filed today by local counsel Joe F. Childers via personal delivery. Response No. 1 (pg. 1) includes information that is subject to a petition for confidential treatment filed by James Miller and Tyson Kamuf, Counsel for Big Rivers Electric Corp. By copy of this letter, all parties listed on the Certificate of Service have been served via USPS and e-mail. Please place this document of file.

Sincerely,

Kristin A. Henry
Senior Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105
Phone: (415) 977-5716
kristin.henry@sierraclub.org

RECEIVED

NOV 22 2013

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:)
) CASE NO. 2013-00199
Application of Big Rivers Electric Corporation for)
A General Adjustment in Rates)

**BEN TAYLOR AND SIERRA CLUB’S RESPONSES AND OBJECTIONS TO BIG
RIVERS ELECTRIC CORPORATION’S REQUESTS FOR INFORMATION
(PUBLIC VERSION)**

Intervenors Ben Taylor and Sierra Club (collectively “Sierra Club”) hereby submit their responses and objections to Big Rivers Electric Corporation’s (“BREC” or “the Company”) Requests for Information.

GENERAL OBJECTIONS

- A. Sierra Club objects to Requests that are not relevant to the above referenced proceedings. Kentucky Rule of Evidence 401.
- B. Sierra Club objects to Requests that are not “reasonably calculated to lead to the discovery of admissible evidence.” Kentucky Civil Rule 26.02(1).
- C. Sierra Club objects to Requests that are overly broad, unduly burdensome, oppressive, or calculated to take Sierra Club and its staff away from normal work activities, and require them to expend significant resources to provide complete and accurate answers to BREC’s Request, which are only of marginal value to BREC. Kentucky Civil Rule 26.02.
- D. Sierra Club reserves all of its evidentiary objections or other objections to the introduction or use of any response at any hearing in this action.

- E. Sierra Club does not, by any response to any Request, waive any objections to that Request.
- F. Sierra Club does not admit the validity of any legal or factual contention asserted or assumed in the text of any Request.
- G. Sierra Club reserves the right to assert additional objections as appropriate, and to amend or supplement these objections and responses as appropriate.
- H. The foregoing general objections shall apply to each of the following Requests whether or not restated in the response to any particular response.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 1
Respondent: Frank Ackerman

Request No. 1: What revenue requirement is Mr. Ackerman recommending Big Rivers should be permitted to recover?

Response No. 1:

I recommend that the Commission allow Big Rivers to recover a revenue requirement increase of no more than \$43.8 million (at an annual rate) effective immediately, for the first six months, i.e. from February 1 to August 1, 2014. After August 1, 2014, the annual revenue requirement should be reduced to no more than [REDACTED] million if the Coleman station continues to operate under SSR status, and no more than [REDACTED] million after Coleman leaves SSR status.

As explained in the response to Staff 1-1, the immediate reduction is based on disallowing the depreciation on Coleman and Wilson. These plants represent substantial capacity in excess of what is needed to serve the Company's customers, and the Company proposes to idle both plants. The later reduction also disallows all other fixed costs of Coleman and Wilson, except for interest payments, and further reduces revenue requirements by the amount of the transmission revenues received from the smelters. As confirmed in the response to AG 2-80, these transmission revenues will be \$5.7 million annually from the Sebree (Alcan) smelter, and \$7.5 million from the Hawesville (Century) smelter. The Hawesville smelter transmission payment does not increase the net revenue available to Big Rivers until Coleman leaves SSR

status (before that time, it is subtracted from the SSR payments Big Rivers will receive from MISO); this is why Coleman's SSR status affects my recommendations:

The rationale for deduction of the fixed costs of Wilson and Coleman is that customers should not be paying for idled plants that are not needed to serve load, and are not economic to run as merchant generators. However, to prevent bankruptcy of Big Rivers, the Commission should allow the repayment of debts associated with these plants. For this reason, I have not deducted the interest costs associated with Wilson and Coleman.

Also, as noted in response to Staff 1-1, I am not expressing an opinion, pro or con, on the other adjustments proposed by other witnesses such as Mr. Kollen. If other recommendations by Mr. Kollen are approved, in addition to my recommendations, then the revenue requirements would be even lower.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 2
Respondent: Frank Ackerman

Request No. 2: Refer to the Direct Testimony of Frank Ackerman at page 10, where Mr. Ackerman states, “Since this case was filed, ACES has produced yet another, higher forecast.” Is Mr. Ackerman referencing the August 2013 forecast provided in Big Rivers’ response to PSC 2-14? If not, please identify the forecast Mr. Ackerman is referencing and provide such forecast or the location in the record where such forecast has been filed.

Response No. 2:

Yes, the reference is to the August 2013 forecast.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 3
Respondent: Frank Ackerman

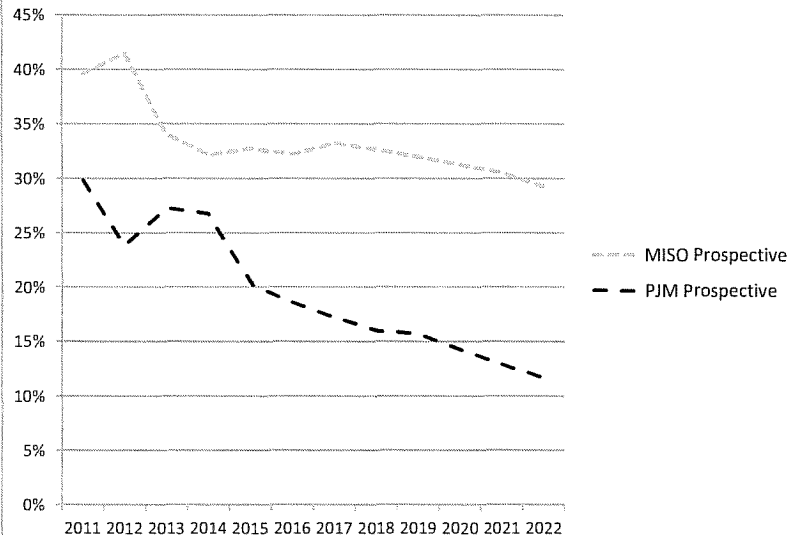
Request No. 3: Refer to the Direct Testimony of Frank Ackerman at page 13, line 11. Please provide support for the assertion that PJM capacity was “tighter” than in MISO in recent years.

Response No. 3:

The difference in capacity prices through 2015, with MISO capacity prices near zero while PJM capacity prices are significantly higher, provides an important form of support for this statement. A near-zero price, in a competitive market, indicates that a commodity is not scarce; a higher price indicates the presence of scarcity.

Additional support is provided by the data on current and projected reserve margins in the NERC (North American Electric Reliability Corporation) *2011 Long-Term Reliability Assessment*.¹ That report provides estimates for three definitions of reserves – anticipated, prospective, and adjusted – for PJM, MISO, and other ISO/RTOs, from 2011 through 2022. By two of NERC’s three measures, MISO has much greater reserve margins than PJM; the third measure shows roughly comparable reserve margins for both areas. The graph below, using data from the NERC report, shows the summer prospective reserve margins for both areas from 2011 through 2022.

¹ Available at http://www.nerc.com/files/2011ltra_final.pdf.



KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 4
Respondent: Frank Ackerman

Request No. 4: Refer to the Direct Testimony of Frank Ackerman at page 16, where Mr. Ackerman states, “Elasticities of -0.16 to -0.21 are at the low end of the range of published estimates” in response to the question, “What is your evaluation of the rural price elasticities used in this case.” Please list each published estimate of “rural price elasticities” of which Mr. Ackerman is aware, identify the source of the estimate, and provide all source documents.

Response No. 4:

This question is answered in the portion of Frank Ackerman’s direct testimony immediately following the cited passage; please see the remainder of the answer to the cited question. As explained there, my discussion is based on the two national studies of price elasticity supplied by Ms. Barron in her response to SC 1-20. According to Ms. Barron, Big Rivers’ consultants who developed elasticities for this case compared their estimates to these two studies. Like Ms. Barron and her consultants, I did not restrict my attention to others who describe residential customers as “rural” or estimate specifically “rural” elasticities. Instead, following the example of Ms. Barron and her consultants, I have compared Big Rivers’ “rural” elasticity estimates to other estimates of “residential” elasticity.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 5
Respondent: Frank Ackerman

Request No. 5: Refer to the Direct Testimony of Frank Ackerman at page 25. Please list and describe all occasions on which Mr. Ackerman renegotiated debt covenants on behalf of either a utility or a creditor of a utility.

Response No. 5:

None.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 6
Respondent: Frank Ackerman

Request No. 6: Please identify and provide all studies or other documents that show that the electric rates for Big Rivers' members or their retail customers after a Big Rivers bankruptcy filing would be lower than the rates Big Rivers has proposed in this proceeding.

Response No. 6:

Frank Ackerman's testimony in this proceeding does not discuss post-bankruptcy rates; in fact, it includes the statement (on p.24) "I assume that the Commission wants to ensure the continued, non-bankrupted existence of BREC, and therefore will grant rates sufficient to pay BREC's current debts."

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 7
Respondent: Frank Ackerman

Request No. 7: Please provide any analysis Mr. Ackerman has performed of the impact of the reduced equity and available collateral that would result from Big Rivers retiring its Wilson and Coleman generating stations on Big Rivers' ability to borrow or on the interest rates Big Rivers would pay if it were able to borrow.

Response No. 7:

Retiring or selling unneeded, excess capacity will reduce the fixed costs incurred by Big Rivers. At the same time, Commission approval of rates that allow Big Rivers to continue making scheduled payments on its existing debts will reassure current and potential lenders about the reliability of Big Rivers as a borrower. This will create a favorable environment for future borrowing when and if it is needed.

Alternatively, Big Rivers would look much less appealing to lenders if it continues to carry excess capacity, with high fixed costs and impending requirements for expensive environmental controls. In such a scenario, Big Rivers would need rate increases that are high enough to provoke widespread objection and potentially cause significant loss of industrial and rural load.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 8
Respondent: Frank Ackerman

Request No. 8: Please provide a detailed description of Mr. Ackerman's expertise and experience in each of: (i) electric utility restructuring; (ii) Chapter 11 bankruptcies; (iii) Chapter 7 bankruptcies; and (iv) electric cooperative management.

Response No. 8:

An identical question was asked as BREC Data Request 1-4 to Sierra Club in case 2012-00535. For the convenience of readers, the Sierra Club response to that request is reproduced here:

Dr. Ackerman is an economist with broad experience in analyzing the economics of energy and the environment, including many aspects of electric utility operation and finances. In addition to his graduate training, leading to a PhD in economics from Harvard University, his expertise and experience derive from years of work at Tellus Institute (formerly Energy Systems Research Group), studying public utilities and testifying in many regulatory proceedings; at Tufts University and the Stockholm Environment Institute, researching issues in cost-benefit analysis and environmental economics, with a focus on climate change; and more recently at Synapse Energy Economics, again focusing on public utility regulation. Additional information, including an extensive list of publications, is provided in his c.v., Attachment Ackerman-1 to his direct testimony.

Dr. Ackerman's testimony in this case identifies major economic dilemmas facing BREC, and suggests types of strategies that might be necessary to resolve those dilemmas; he does not offer, and does not claim to offer, step-by-step advice in implementing the needed strategies. His expertise is directly relevant to analysis of the economic problems that led to this rate case, and to the discussion of the hard choices and decisions that will lead to fair, just, and reasonable rates.

Also note that, as explained in the response to BREC 1-6, there is no discussion of bankruptcy in Dr. Ackerman's testimony in this case.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 9
Respondent: Kristin Henry, Sierra Club Counsel

Request No. 9: Please provide a copy of all documents showing communications between you and any representative of another intervenor regarding, arising out of, or related to this case.

Response No. 9:

Sierra Club is providing documents responsive to this request, which includes all documents showing such communications that BREC's counsel was not a party to, see attached.



Filing of Joint Motion for Expedited Ruling Regarding Enlargement of Time to File Testimony

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>
To: sfisk@earthjustice.org, kristin.henry@sierraclub.org

Fri, Oct 11, 2013 at 10:31 AM

Shannon and Kristin,

Mike and I just left a message for Shannon on voicemail regarding the fact that PSC has not issued an order officially approving the new revised due dates in the procedural schedule for this case. Mike and I think it's important to do this jointly on behalf of all intervenors, and since you were involved with the informal conference conducted last week, and in fact led the conversation on behalf of the intervenors, we thought you would be in 100% agreement. I am working on preparing the motion. If you get this message in time, please advise if I have permission to sign on your behalf. I will forward the draft motion as soon as it's ready. Thanks.

Yours,

Lawrence W. Cook

Assistant Attorney General

Office of Rate Intervention

1024 Capital Center Dr.

Ste. 200

Frankfort, KY 40601

(502) 696-5300

Fax: (502) 573-8315

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5K

Shannon Fisk <sfisk@earthjustice.org>

Fri, Oct 11, 2013 at 10:37 AM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, "mkurtz@bklawfirm.com" <mkurtz@bklawfirm.com>

Thanks, Larry. I am on a flight for the rest of the afternoon so am adding Thom to this e-mail so he can weigh in on this in the event that I lose my wi-fi access on the airplane. I agree that it would be good to get an order on the schedule change before Friday. However, has anyone checked with Quang as to whether an order may be coming out today? His Oct. 4 memo to the case file noting the proposed schedule changes said that an order revising the procedural schedule should be issued within a week. I would just hate to clutter the docket with another motion if the scheduling order is coming out soon.

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]

Sent: Friday, October 11, 2013 1:32 PM

To: Shannon Fisk; kristin.henry@sierraclub.org

Subject: Filing of Joint Motion for Expedited Ruling Regarding Enlargement of Time to File Testimony

Importance: High

[Quoted text hidden]

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Fri, Oct 11, 2013 at 10:40 AM

To: Shannon Fisk <sfisk@earthjustice.org>, kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>, mkurtz@bklawfirm.com

Yes, Mike called this morning and I called this afternoon, but we were both referred to his voicemail. I understand your concern; however, at this point in time I think we need to be able to cover ourselves by saying we relied on PSC staff representations (hopefully not to our detriment!).

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Quang just called. An order will be issued with the dates we discussed. Sorry for the false alarm.

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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Whew! Close call. Thank, Mike and Shannon.

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Sat, Oct 12, 2013 at 3:22 AM

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Good news indeed.

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Dennis Howard, II

Acting Director

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Schedule in Big Rivers rate case - 2013-00199

Kristin Henry <kristin.henry@sierraclub.org>

Wed, Oct 2, 2013 at 12:35 PM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Michael Kurtz <MKurtz@bklawfirm.com>

Larry,

Thanks for sending this email.

Kristin

Kristin Henry
Senior 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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[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Shannon Fisk <sfisk@earthjustice.org>

Thu, Oct 3, 2013 at 6:55 AM

To: "mkurtz@bklawfirm.com" <mkurtz@bklawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, "kboehm@bklawfirm.com" <kboehm@bklawfirm.com>, "jkylernohn@bklawfirm.com" <jkylernohn@bklawfirm.com>
Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>

What are your thoughts on Big Rivers' response? I think we can address the concern about the number of business days that they would have to submit data requests, though I would prefer we do that by moving back the deadline for Big Rivers to serve those data requests from 11/11 to 11/13, rather than moving up the deadline for our expert reports.

I don't think we can agree to not seek any further changes to the procedural schedule as that could hamstring us if we end up in any disputes over Big Rivers' responses to data requests, etc. I would note, however, that the current schedule provides that no motions to reschedule the hearing shall be filed the week before the hearing, so Big Rivers is already protected against any last minute attempts to reschedule the hearing.

Shannon

From: Tyson Kamuf [mailto:tkamuf@smsmlaw.com]

Sent: Thursday, October 03, 2013 8:57 AM

To: Shannon Fisk; Jim Miller; tip.depp@dinsmore.com

Cc: kristin.henry@sierraclub.org; Thomas Cmar; Kurt Boehm; Jody Kyler Cohn; Cook, Larry (KYOAG); Michael Kurtz; jennifer.hans@ag.ky.gov

Subject: RE: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Thu, Oct 3, 2013 at 7:41 AM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Shannon Fisk <sfisk@earthjustice.org>, Michael Kurtz <MKurtz@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>

Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>

Larry,

Mike is out of the office this morning, but he may be available sometime before 3 today. I will check with him and get back to you.

Thanks,

Jody Kyler Cohn

Boehm, Kurtz & Lowry

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Phone: 513.421.2255

Jkylercohn@bklawfirm.com

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]

Sent: Thursday, October 03, 2013 10:40 AM

To: Shannon Fisk; Michael Kurtz; Hans, Jennifer (KYOAG); Kurt Boehm; Jody Kyler Cohn

Cc: kristin.henry@sierraclub.org; Thomas Cmar

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Thu, Oct 3, 2013 at 7:46 AM

To: Shannon Fisk <sfisk@earthjustice.org>, mkurtz@bklawfirm.com, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, kboehm@bklawfirm.com, jkylercohn@bklawfirm.com

Cc: kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>

Did the Sierra Club receive an e-mail from counsel for BREC regarding our proposal? We never received any such message.

From: Cook, Larry (KYOAG)

Sent: Thursday, October 03, 2013 10:40 AM

To: 'Shannon Fisk'; mkurtz@bklawfirm.com; Hans, Jennifer (KYOAG); kboehm@bklawfirm.com; jkylercohn@bklawfirm.com

Cc: Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar

Subject: RE: Schedule in Big Rivers rate case - 2013-00199

I'd like to have a conference call among us, please.

From: Shannon Fisk [mailto:sfisk@earthjustice.org]

Sent: Thursday, October 03, 2013 9:55 AM

To: mkurtz@bklawfirm.com; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG); kboehm@bklawfirm.com; jkylercohn@bklawfirm.com

Cc: Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar

Subject: FW: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Shannon Fisk <sfisk@earthjustice.org>

Thu, Oct 3, 2013 at 7:48 AM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "mkurtz@bklawfirm.com" <mkurtz@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, "kboehm@bklawfirm.com" <kboehm@bklawfirm.com>, "jkylersohn@bklawfirm.com" <jkylersohn@bklawfirm.com>

Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tomar@earthjustice.org>

Late yesterday afternoon, Tyson sent me the same e-mail that (as I requested him to do) he sent to everyone this morning at 8:57am regarding Big Rivers' concerns with the scheduling proposal.

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]

Sent: Thursday, October 03, 2013 10:46 AM

To: Shannon Fisk; mkurtz@bklawfirm.com; Hans, Jennifer (KYOAG); kboehm@bklawfirm.com; jkylersohn@bklawfirm.com

Cc: kristin.henry@sierraclub.org; Thomas Cmar

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Thu, Oct 3, 2013 at 7:55 AM

To: Shannon Fisk <sfisk@earthjustice.org>, mkurtz@bklawfirm.com, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, kboehm@bklawfirm.com, jkylercohn@bklawfirm.com

Cc: kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>

Interesting. So was his message of late yesterday afternoon sent after the 2:38 p.m. message I sent to the PSC? Wonder why he did not reply to all?

From: Shannon Fisk [mailto:sfisk@earthjustice.org]

Sent: Thursday, October 03, 2013 10:48 AM

To: Cook, Larry (KYOAG); mkurtz@bklawfirm.com; Hans, Jennifer (KYOAG); kboehm@bklawfirm.com; jkylercohn@bklawfirm.com

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Kristin Henry <kristin.henry@sierraclub.org>

Thu, Oct 3, 2013 at 8:57 AM

To: Shannon Fisk <sfisk@earthjustice.org>

Cc: "mkurtz@bklawfirm.com" <mkurtz@bklawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, "kboehm@bklawfirm.com" <kboehm@bklawfirm.com>, "jkylercohn@bklawfirm.com" <jkylercohn@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

I agree with Shannon that I would rather move back BREC's deadline for serving disco rather than shorten our time for testimony. I also would not want to foreclose future changes to the schedule as we don't know what the future holds.

I will try to make the 3:00 call but I cannot do a call this morning with intervenors due to a conflict.

Kristin Henry
Senior 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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[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Thu, Oct 3, 2013 at 10:27 AM

To: Kristin Henry <kristin.henry@sierraclub.org>, Shannon Fisk <sfisk@earthjustice.org>

Cc: mkurtz@bklawfirm.com, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, kboehm@bklawfirm.com, jkylercohn@bklawfirm.com, Thomas Cmar <tcmar@earthjustice.org>, "Howard, Dennis (KYOAG)" <dennis.howard@ag.ky.gov>

Jackson Purchase has filed a motion asking for a "continuance" of the hearing on the grounds that its CEO will be on vacation and has paid for non-refundable tickets; see link below. I'm sure we'll be hearing about this on today's conference call.

http://www.psc.ky.gov/PSCSCF/2013%20cases/2013-00199/20131003_Jackson_Purchase_Motion.pdf

Yours,

Larry

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

Sent: Thursday, October 03, 2013 11:58 AM

To: Shannon Fisk

Cc: mkurtz@bklawfirm.com; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG); kboehm@bklawfirm.com; jkylercohn@bklawfirm.com; Thomas Cmar

Subject: Re: FW: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Jody Kyler Cohn <jkylercohn@bkllawfirm.com>

Thu, Oct 3, 2013 at 11:39 AM

To: Kristin Henry <kristin.henry@sierraclub.org>, Shannon Fisk <sfisk@earthjustice.org>

Cc: Michael Kurtz <MKurtz@bkllawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bkllawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

KIUC agrees with Shannon/Kristen's approach.

Thanks,

Jody Kyler Cohn

Boehm, Kurtz & Lowry

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Phone: 513.421.2255

Jkylercohn@bkllawfirm.com

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

Sent: Thursday, October 03, 2013 11:58 AM

To: Shannon Fisk

Cc: Michael Kurtz; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov); Kurt Boehm; Jody Kyler Cohn; Thomas Cmar

Subject: Re: FW: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Shannon Fisk <sfisk@earthjustice.org>

Thu, Oct 3, 2013 at 11:47 AM

To: Jody Kyler Cohn <jkylercohn@bklawfirm.com>, Kristin Henry <kristin.henry@sierraclub.org>

Cc: Michael Kurtz <MKurtz@bklawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Do we want to send a quick response to Tyson in advance of the call? Something along the lines of:

Thanks, Tyson, for the response to Intervenors' proposed schedule. In order to address your concern about the days that Big Rivers would have to submit data requests on Intervenors, we would propose changing the deadline for those requests from 11/11 to 11/13 rather than moving up the deadline for Intervenors' testimony to 10/25.

KIUC, the AG, and Sierra Club cannot agree to not seek any further changes to the procedural schedule. While we do not currently believe that any further changes would be needed, we do not know what the future holds. We would note, however, that the current schedule provides that no motions to reschedule the hearing shall be filed the week before the hearing, so Big Rivers is already protected against any last minute attempts to reschedule the hearing.

Or should we just wait and see how the call goes?

From: Jody Kyler Cohn [mailto:jkylercohn@bklawfirm.com]

Sent: Thursday, October 03, 2013 2:39 PM

To: 'Kristin Henry'; Shannon Fisk

Cc: Michael Kurtz; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov); Kurt Boehm; Thomas Cmar

Subject: RE: FW: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Thu, Oct 3, 2013 at 11:51 AM

To: Shannon Fisk <sfisk@earthjustice.org>, Jody Kyler Cohn <jkylercohn@bkllawfirm.com>, Kristin Henry <kristin.henry@sierraclub.org>

Cc: Michael Kurtz <MKurtz@bkllawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bkllawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

I'm inclined to wait and see how it goes, especially since BREC/JPEC are trying to mess everything up.

From: Shannon Fisk [mailto:sfisk@earthjustice.org]

Sent: Thursday, October 03, 2013 2:48 PM

To: Jody Kyler Cohn; 'Kristin Henry'

Cc: Michael Kurtz; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG); Kurt Boehm; Thomas Cmar

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Jody Kyler Cohn <jkylercohn@bkllawfirm.com>

Thu, Oct 3, 2013 at 11:50 AM

To: Shannon Fisk <sfisk@earthjustice.org>, Kristin Henry <kristin.henry@sierraclub.org>

Cc: Michael Kurtz <MKurtz@bkllawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bkllawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Shannon,

We think it's fine to give Tyson a heads-up in the manner you recommend.

Thanks,

Jody Kyler Cohn

Boehm, Kurtz & Lowry

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Phone: 513.421.2255

Jkylercohn@bkllawfirm.com

From: Shannon Fisk [mailto:sfisk@earthjustice.org]

Sent: Thursday, October 03, 2013 2:48 PM

To: Jody Kyler Cohn; 'Kristin Henry'

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Kristin Henry <kristin.henry@sierraclub.org>

Thu, Oct 3, 2013 at 12:01 PM

To: Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Cc: Shannon Fisk <sfisk@earthjustice.org>, Michael Kurtz <MKurtz@bklawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Can you send the call in information again?

Kristin Henry
Senior 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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[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Shannon Fisk <sfisk@earthjustice.org>

Thu, Oct 3, 2013 at 12:01 PM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, Kristin Henry <kristin.henry@sierraclub.org>

Cc: Michael Kurtz <MKurtz@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Ok, I held off from sending anything.

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]
Sent: Thursday, October 03, 2013 2:51 PM
To: Shannon Fisk; Jody Kyler Cohn; Kristin Henry
Cc: Michael Kurtz; Hans, Jennifer (KYOAG); Kurt Boehm; Thomas Cmar
Subject: RE: Schedule in Big Rivers rate case - 2013-00199

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Shannon Fisk <sfisk@earthjustice.org>
To: Kristin Henry <kristin.henry@sierraclub.org>

Thu, Oct 3, 2013 at 12:02 PM

866-906-9888, passcode: 518-4986#

From: Kristin Henry [mailto:kristin.henry@sierraclub.org]
Sent: Thursday, October 03, 2013 3:02 PM
To: Jody Kyler Cohn
Cc: Shannon Fisk; Michael Kurtz; Cook, Larry (KYDAG); Hans, Jennifer (KYDAG) (jennifer.hans@ag.ky.gov); Kurt Boehm; Thomas Cmar

[Quoted text hidden]

[Quoted text hidden]



Schedule in Big Rivers rate case - 2013-00199

Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Thu, Oct 3, 2013 at 12:02 PM

To: Kristin Henry <kristin.henry@sierraclub.org>

Cc: Shannon Fisk <sfisk@earthjustice.org>, Michael Kurtz <MKurtz@bklawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov)" <jennifer.hans@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Number: 866-906-9888

Passcode: 518-4986#

Thanks,

Jody Kyler Cohn

Boehm, Kurtz & Lowry

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Phone: 513.421.2255

Jkylercohn@bklawfirm.com

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

Sent: Thursday, October 03, 2013 3:02 PM

To: Jody Kyler Cohn

Cc: Shannon Fisk; Michael Kurtz; Cook, Larry (KYOAG); Hans, Jennifer (KYOAG) (jennifer.hans@ag.ky.gov); Kurt Boehm; Thomas Cmar

[Quoted text hidden]

[Quoted text hidden]



BREC Procedural Scheduling Change

Michael Kurtz <MKurtz@bklawfirm.com>

Tue, Oct 1, 2013 at 3:02 PM

To: Shannon Fisk <sfisk@earthjustice.org>, "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>

It looks like BREC is trying to avoid discussing this. If we don't hear from them by noon we should send Richard and Quang an email asking for a procedural conference call.

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

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Tue, Oct 1, 2013 at 7:55 PM

To: Michael Kurtz <MKurtz@bklawfirm.com>, Shannon Fisk <sfisk@earthjustice.org>, kristin.henry@sierraclub.org, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>
Cc: "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>

Agreed. Sounds like they have their own plans to fill the void.

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

Sent: Tue 10/1/2013 6:02 PM

To: Shannon Fisk; kristin.henry@sierraclub.org; Cook, Larry (KYOAG); Kurt Boehm; Jody Kyler Cohn

Subject: BREC Procedural Scheduling Change

[Quoted text hidden]

Shannon Fisk <sfisk@earthjustice.org>

Wed, Oct 2, 2013 at 6:52 AM

To: Michael Kurtz <MKurtz@bklawfirm.com>, "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, Thomas Cmar <tcmar@earthjustice.org>

Tyson e-mailed late yesterday and said he thought he would have a response to us today. But I agree we need to get this to Staff fairly soon, so if it looks like Big Rivers is dragging its feet beyond that, we should go ahead and contact Richard and Quang.

11/21/13

Sierra Club Mail - BREC Procedural Scheduling Change

I will be out of e-mail contact for a large portion of today, but Thom or Kristin will be covering this on our end.

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, October 01, 2013 6:02 PM
To: Shannon Fisk; kristin.henry@sierraclub.org; 'Cook, Larry (KYOAG)'; Kurt Boehm; Jody Kyler Cohn
Subject: BREC Procedural Scheduling Change

It looks like BREC is trying to avoid discussing this. If we don't hear from them by noon we should send Richard and Quang an email asking for a procedural conference call.

[Quoted text hidden]



Big Rivers schedule

Shannon Fisk <sfisk@earthjustice.org>

Mon, Sep 30, 2013 at 10:12 AM

To: "mkurtz@bkillawfirm.com" <mkurtz@bkillawfirm.com>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>

Following up on our conversation, Mike, and on the voice mail that we left for Larry, below is a proposed modified schedule for the Big Rivers proceeding in light of the Commission's decision to schedule the hearing in January. Delaying the deadline for our expert reports would give us more time, and would also give the Commission more time to get a ruling issued in the first rate case before we have to file our testimony in the second case.

In the interests of fairness, we also suggest proposing to give Big Rivers some extra time on its rebuttal testimony, and have attempted to set forth a schedule that works around Thanksgiving and the fact that one of Big Rivers' witnesses will be on vacation. Doing so does crunch the amount of time we have to respond to Big Rivers' discovery a bit, but we'd rather have more time for doing testimony even if it means less time to respond to discovery.

Let us know if you have any thoughts or would like to propose other dates. Then once we've reached agreement, we can all reach out to Big Rivers about this.

Thanks,

Shannon

Intervenor Expert Reports – currently 10/14 → propose 10/31

BREC data requests to Intervenor – currently 10/25 → propose 11/11

Intervenor responses to data requests due – currently 11/7 → propose 11/18

BREC Rebuttal Testimony due - currently 11/20 → propose 12/13

11/21/13

Sierra Club Mail - Big Rivers schedule

Shannon Fisk
Managing Attorney, Coal Program

Earthjustice
1617 John F. Kennedy Blvd., Suite 1675

Philadelphia, PA 19103
T: 215-717-4522
C: 215-327-9922

earthjustice.org



Because the earth needs a good lawyer

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Michael Kurtz <MKurtz@bklawfirm.com>

Mon, Sep 30, 2013 at 10:18 AM

To: Shannon Fisk <sfisk@earthjustice.org>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Shannon.

Your proposed schedule looks good.

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: Shannon Fisk [mailto:sfisk@earthjustice.org]
Sent: Monday, September 30, 2013 1:12 PM
To: Michael Kurtz; Cook, Larry (KYOAG)
Cc: Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar
Subject: Big Rivers schedule

[Quoted text hidden]

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov> Mon, Sep 30, 2013 at 12:34 PM
To: Michael Kurtz <MKurtz@bklawfirm.com>, Shannon Fisk <sfisk@earthjustice.org>
Cc: kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Mike, we're getting in touch with all our folks, and hope to get back with you and Shannon tomorrow. Thanks.

Yours,
Larry

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Mon 9/30/2013 1:18 PM
To: 'Shannon Fisk'; Cook, Larry (KYOAG)
Cc: Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar; Kurt Boehm; Jody Kyler Cohn
Subject: RE: Big Rivers schedule

[Quoted text hidden]

Michael Kurtz <MKurtz@bklawfirm.com> Mon, Sep 30, 2013 at 12:43 PM
To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Shannon Fisk <sfisk@earthjustice.org>
Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Thanks Larry.

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: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]
Sent: Monday, September 30, 2013 3:34 PM

11/21/13

Sierra Club Mail - Big Rivers schedule

To: Michael Kurtz; Shannon Fisk

Cc: kristin.henry@sierraclub.org; Thomas Cmar; Kurt Boehm; Jody Kyler Cohn

[Quoted text hidden]

[Quoted text hidden]

Michael Kurtz <MKurtz@bklawfirm.com>

Tue, Oct 1, 2013 at 6:14 AM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Shannon Fisk <sfisk@earthjustice.org>

Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>

Larry, We should probably contact BREC today to see if we can work out a new procedural schedule. When will you know the position you are going to take?

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: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]

Sent: Monday, September 30, 2013 3:34 PM

To: Michael Kurtz; Shannon Fisk

Cc: kristin.henry@sierraclub.org; Thomas Cmar; Kurt Boehm; Jody Kyler Cohn

[Quoted text hidden]

[Quoted text hidden]

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Tue, Oct 1, 2013 at 8:21 AM

To: Michael Kurtz <MKurtz@bklawfirm.com>, Shannon Fisk <sfisk@earthjustice.org>

Cc: kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm

<KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, jennifer.hans@ag.ky.gov

Sorry for being slow on this, but I've been under the weather. Regarding due dates for responses to DRs posed to intervenors, we have a potential schedule conflict with making that on Nov. 18, so we'd like to see it fall on the 21st (Thur.) or the 22nd (Fri.).

Yours,

Larry

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, October 01, 2013 9:15 AM
To: Cook, Larry (KYOAG); Shannon Fisk

[Quoted text hidden]

[Quoted text hidden]

Michael Kurtz <MKurtz@bklawfirm.com> Tue, Oct 1, 2013 at 8:30 AM
To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Shannon Fisk <sfisk@earthjustice.org>
Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, "jennifer.hans@ag.ky.gov" <jennifer.hans@ag.ky.gov>

That change is good. Can all or most of us call in today at 11:45 to discuss. 866-906-9888 code 518-4986.

Then the plan would be to call BREC this afternoon.

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: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]
Sent: Tuesday, October 01, 2013 11:22 AM
To: Michael Kurtz; Shannon Fisk
Cc: kristin.henry@sierraclub.org; Thomas Cmar; Kurt Boehm; Jody Kyler Cohn; jennifer.hans@ag.ky.gov

[Quoted text hidden]

[Quoted text hidden]

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov> Tue, Oct 1, 2013 at 8:34 AM
To: Michael Kurtz <MKurtz@bklawfirm.com>, Shannon Fisk <sfisk@earthjustice.org>
Cc: kristin.henry@sierraclub.org, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>

Works for the AG.

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, October 01, 2013 11:31 AM
To: Cook, Larry (KYOAG); Shannon Fisk
Cc: kristin.henry@sierraclub.org; Thomas Cmar; Kurt Boehm; Jody Kyler Cohn; Hans, Jennifer (KYOAG)

[Quoted text hidden]

[Quoted text hidden]

Shannon Fisk <sfisk@earthjustice.org> Tue, Oct 1, 2013 at 8:37 AM
To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, Michael Kurtz <MKurtz@bklawfirm.com>
Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>

I'm fine with Larry's change. That probably means we should move the deadline for BREC's rebuttal testimony back a few days also.

I can call in at 11:45.

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]
Sent: Tuesday, October 01, 2013 11:35 AM
To: Michael Kurtz; Shannon Fisk

[Quoted text hidden]

[Quoted text hidden]

Shannon Fisk <sfisk@earthjustice.org> Tue, Oct 1, 2013 at 8:53 AM
To: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>

I just spoke briefly with Mike and Larry. They would like us to make Larry's change to the proposed schedule, and then send an e-mail to Big Rivers' counsel with the proposed schedule change and proposing that we have a call this afternoon to see if we can reach agreement. Unless anyone objects, I will do that soon.

With Larry's change, the schedule will be as follows. We may get some push back given the vacation scheduled for one of BREC's witnesses, but they would still have two weeks between when they receive our discovery responses and when their witness goes on vacation, which is as much time as they would have under the current schedule anyways.

Intervenor Expert Reports – currently 10/14 → propose 10/31

BREC data requests to Intervenorors – currently 10/25 → propose 11/11

Intervenor responses to data requests due – currently 11/7 → propose 11/22

BREC Rebuttal Testimony due - currently 11/20 → propose 12/17

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, October 01, 2013 11:31 AM
To: 'Cook, Larry (KYOAG)'; Shannon Fisk

[Quoted text hidden]

[Quoted text hidden]

Kristin Henry <kristin.henry@sierraclub.org>
To: Shannon Fisk <sfisk@earthjustice.org>
Cc: Thomas Cmar <tcmar@earthjustice.org>

Tue, Oct 1, 2013 at 10:06 AM

This is a definite improvement. Let's hope they are amenable.

Kristin Henry
Senior 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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[Quoted text hidden]



Future Motions

Kristin Henry <kristin.henry@sierraclub.org>
To: Michael Kurtz <MKurtz@bkllawfirm.com>

Mon, Sep 23, 2013 at 10:33 AM

Hi Mike,

I just wanted to let you know that if KIUC files future motions for public disclosure in the Big Rivers' docket, Environmental Intervenors would be interested in joining.

Thanks,

Kristin Henry
Senior 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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Michael Kurtz <MKurtz@bkllawfirm.com>
To: Kristin Henry <kristin.henry@sierraclub.org>
Cc: Kurt Boehm <KBoehm@bkllawfirm.com>, Jody Kyler Cohn <jkylercohn@bkllawfirm.com>

Mon, Sep 23, 2013 at 11:21 AM

Thanks Kristen.

We believe that BREC is trying to hide the whole truth from ratepayers and is using the confidentiality argument for that purpose. We welcome your suggestion.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

11/21/13

Sierra Club Mail - Future Motions

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLawfirm.com

From: Kristin Henry [mailto:kristin.henry@sierraclub.org]
Sent: Monday, September 23, 2013 1:34 PM
To: Michael Kurtz
Subject: Future Motions

[Quoted text hidden]

Kristin Henry <kristin.henry@sierraclub.org>
To: Shannon Fisk <sfisk@earthjustice.org>

Mon, Sep 23, 2013 at 1:00 PM

Kristin Henry
Senior 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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[Quoted text hidden]



Call Tomorrow With SC on BREC

Michael Kurtz <MKurtz@bklawfirm.com>

Wed, Sep 18, 2013 at 10:47 AM

To: "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, "Howard, Dennis (KYOAG)" <dennis.howard@ag.ky.gov>, "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Shannon Fisk <sfisk@earthjustice.org>, "Joe Childers (childerslaw81@gmail.com)" <childerslaw81@gmail.com>

Tomorrow at 3:00 we are going to have a conference call with the Sierra Club (including witnesses) to discuss the Big Rivers rate case. Please join if you can.

Call in number 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

Cook, Larry (KYOAG) <larry.cook@ag.ky.gov>

Thu, Sep 19, 2013 at 7:02 AM

To: Michael Kurtz <MKurtz@bklawfirm.com>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, "Howard, Dennis (KYOAG)" <dennis.howard@ag.ky.gov>

Cc: kristin.henry@sierraclub.org, Shannon Fisk <sfisk@earthjustice.org>, childerslaw81@gmail.com

Mike, the AG plans on joining the call. Thanks.

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

Sent: Wednesday, September 18, 2013 1:48 PM

To: Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)

Cc: Kristin Henry (kristin.henry@sierraclub.org); 'Shannon Fisk'; Joe Childers (childerslaw81@gmail.com)

Subject: Call Tomorrow With SC on BREC

[Quoted text hidden]

11/21/13

Sierra Club Mail - Call Tomorrow With SC on BREC

Michael Kurtz <MKurtz@bklawfirm.com>

Thu, Sep 19, 2013 at 8:30 AM

To: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>, "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, "Howard, Dennis (KYOAG)" <dennis.howard@ag.ky.gov>
Cc: "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, Shannon Fisk <sfisk@earthjustice.org>, "childerslaw81@gmail.com" <childerslaw81@gmail.com>

Great. Thanks Larry.

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: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]

Sent: Thursday, September 19, 2013 10:03 AM

To: Michael Kurtz; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG)

Cc: kristin.henry@sierraclub.org; Shannon Fisk; childerslaw81@gmail.com

Subject: RE: Call Tomorrow With SC on BREC

[Quoted text hidden]



FW: BREC Testimony

Shannon Fisk <sfisk@earthjustice.org>

Wed, Sep 18, 2013 at 9:08 AM

To: Michael Kurtz <MKurtz@bklawfirm.com>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, "Joe Childers (childerslaw81@gmail.com)" <childerslaw81@gmail.com>

Mike,

Thanks for reaching out. Would it be possible to do a call at 3pm eastern on Thursday, rather than 2pm?

Shannon

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, September 17, 2013 2:10 PM
To: Shannon Fisk; 'Joe Childers'
Cc: Kurt Boehm; Jody Kyler Cohn; 'Lane Kollen'; 'Philip Hayet'
Subject: BREC Testimony

Shannon/Joe.

Is it possible to arrange a conference call with our group and you and your consultants to trade notes on where we see this case going? Would Thursday or Friday afternoon at 2:00 EST work?

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



FW: BREC Testimony

Michael Kurtz <MKurtz@bkllawfirm.com>

Wed, Sep 18, 2013 at 9:15 AM

To: Shannon Fisk <sfisk@earthjustice.org>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, "Joe Childers (childerslaw81@gmail.com)" <childerslaw81@gmail.com>, Kurt Boehm <KBoehm@bkllawfirm.com>, Jody Kyler Cohn <jkylercohn@bkllawfirm.com>, Lane Kollen <lkollen@jkenn.com>, Phillip Hayet <philhayet@concentric.net>

Shannon.

Yes, 3:00 eastern Thursday. We can use this call in number: 866-906-9888 pass code 518-4986.

Thanks for getting back with us.

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: Shannon Fisk [mailto:sfisk@earthjustice.org]**Sent:** Wednesday, September 18, 2013 12:08 PM**To:** Michael Kurtz**Cc:** Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar; Joe Childers (childerslaw81@gmail.com)**Subject:** RE: BREC Testimony

[Quoted text hidden]



FW: BREC Testimony

Shannon Fisk <sfisk@earthjustice.org>

Wed, Sep 18, 2013 at 9:38 AM

To: Michael Kurtz <MKurtz@bklawfirm.com>

Cc: "Kristin Henry (kristin.henry@sierraclub.org)" <kristin.henry@sierraclub.org>, Thomas Cmar <tcmar@earthjustice.org>, "Joe Childers (childerslaw81@gmail.com)" <childerslaw81@gmail.com>, Kurt Boehm <KBoehm@bklawfirm.com>, Jody Kyler Cohn <jkylercohn@bklawfirm.com>, Lane Kollen <lkollen@jkenn.com>, Philip Hayet <philhayet@concentric.net>

Thanks, Mike. Look forward to speaking with you all then.

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

Sent: Wednesday, September 18, 2013 12:16 PM

To: Shannon Fisk

Cc: Kristin Henry (kristin.henry@sierraclub.org); Thomas Cmar; Joe Childers (childerslaw81@gmail.com); Kurt Boehm; Jody Kyler Cohn; 'Lane Kollen'; 'Philip Hayet'

Subject: RE: BREC Testimony

[Quoted text hidden]

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From: Michael Kurtz <MKurtz@bklawfirm.com>
To: Shannon Fisk <sfisk@earthjustice.org>
Cc: "Joe Childers (childerslaw81@gmail.com)" <childerslaw81@gmail.com>
Date: Tue, 17 Sep 2013 11:56:37 -0700
Subject: RE: BREC Testimony

OK

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: Shannon Fisk [mailto:sfisk@earthjustice.org]
Sent: Tuesday, September 17, 2013 2:54 PM
To: Michael Kurtz
Cc: Joe Childers (childerslaw81@gmail.com)
Subject: RE: BREC Testimony

Thanks for the e-mail, Mike. Let me check with Sierra Club and Synapse and then I'll get back to you.

Shannon

From: Michael Kurtz [mailto:MKurtz@bklawfirm.com]
Sent: Tuesday, September 17, 2013 2:10 PM
To: Shannon Fisk; 'Joe Childers'
Cc: Kurt Boehm; Jody Kyler Cohn; 'Lane Kollen'; 'Philip Hayet'
Subject: BREC Testimony

Shannon/Joe.

Is it possible to arrange a conference call with our group and you and your consultants to trade notes on where we see this case going? Would Thursday or Friday afternoon at 2:00 EST work?

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

——— Forwarded message ———

From: Michael Kurtz <MKurtz@bkllawfirm.com>

To: Shannon Fisk <sfisk@earthjustice.org>, 'Joe Childers' <joe@jchilderslaw.com>

Cc: Kurt Boehm <KBoehm@bkllawfirm.com>, Jody Kyler Cohn <jkylercohn@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>, 'Phillip Hayet' <philhayet@concentric.net>

Date: Tue, 17 Sep 2013 11:10:29 -0700

Subject: BREC Testimony

Shannon/Joe.

Is it possible to arrange a conference call with our group and you and your consultants to trade notes on where we see this case going? Would Thursday or Friday afternoon at 2:00 EST work?

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

——— Forwarded message ———

From: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>
To: Shannon Fisk <sfisk@earthjustice.org>, "mkurtz@bklawfirm.com" <mkurtz@bklawfirm.com>, "KBoehm@bklawfirm.com" <KBoehm@bklawfirm.com>
Cc: "Hans, Jennifer (KYOAG)" <jennifer.hans@ag.ky.gov>, Thomas Cmar <tcmar@earthjustice.org>
Date: Fri, 28 Jun 2013 13:29:43 -0700
Subject: RE: BREC Rate Case # 2 App Just Filed

No, just hard copy. It probably won't make it onto the PSC website until Monday. Obviously, you can see a lot of deliberation here on the part of BREC. I'm going to try to take a look at least at the petition to get a grasp of the numbers involved so that at least we can know that going into Monday's hearing. I'll let you guys know what I find. More later. Many things going on right now!

From: Shannon Fisk [mailto:sfisk@earthjustice.org]
Sent: Friday, June 28, 2013 4:21 PM
To: Cook, Larry (KYOAG); mkurtz@bklawfirm.com; KBoehm@bklawfirm.com
Cc: Hans, Jennifer (KYOAG); Thomas Cmar
Subject: RE: BREC Rate Case # 2 App Just Filed

Thanks for the heads up, Larry. Did you receive the filing electronically? I haven't received anything by mail or FedEx yet, and am concerned that I won't receive it before I get on my flight for Kentucky tomorrow.

From: Cook, Larry (KYOAG) [mailto:larry.cook@ag.ky.gov]
Sent: Friday, June 28, 2013 4:22 PM
To: mkurtz@bklawfirm.com; Shannon Fisk; KBoehm@bklawfirm.com
Cc: jennifer.hans@ag.ky.gov
Subject: BREC Rate Case # 2 App Just Filed

All,

Just wanted to give you the heads up that a few moments ago, we were served with the application in BREC's next rate case (Alcan load). I'm assuming you should receive a copy sometime soon.

Yours,

Lawrence W. Cook
Assistant Attorney General
Office of Rate Intervention

1024 Capital Center Dr.
Ste. 200
Frankfort, KY 40601
(502) 696-5300
Fax: (502) 573-8315

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All,

Just wanted to give you the heads up that a few moments ago, we were served with the application in BREC's next rate case (Alcan load). I'm assuming you should receive a copy sometime soon.

Yours,

Lawrence W. Cook
Assistant Attorney General
Office of Rate Intervention
1024 Capital Center Dr.
Ste. 200
Frankfort, KY 40601
(502) 696-5300
Fax: (502) 573-8315

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—— Forwarded message ——

From: "Cook, Larry (KYOAG)" <larry.cook@ag.ky.gov>
To: "mkurtz@bkllawfirm.com" <mkurtz@bkllawfirm.com>, Shannon Fisk <sfisk@earthjustice.org>, "KBoehm@bkllawfirm.com" <KBoehm@bkllawfirm.com>
Cc: "jennifer.hans@ag.ky.gov" <jennifer.hans@ag.ky.gov>
Date: Fri, 28 Jun 2013 13:21:53 -0700
Subject: BREC Rate Case # 2 App Just Filed

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 10
Respondent: Kristin Henry, Sierra Club Counsel

Request No. 10: Please provide a copy of all documents showing communications between you and any person not a party to this case regarding, arising out of, or related to this case.

Response No. 10:

Sierra Club states that it has had no communications within the possession or control that are not subject to attorney-client privilege or work product protection.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 11
Respondent: Kristin Henry, Sierra Club Counsel

Request No. 11: Please provide a copy of all documents showing internal communications within Sierra Club regarding, arising out of, or related to this case.

Response No. 11:

Sierra Club states that it has had no internal communications that are not subject to attorney-client privilege or work product protection.

Request No. 12: Has Sierra Club, Mr. Ackerman, or Synapse evaluated whether the possibility of increased environmental regulation associated with “fracking” in connection with the production of natural gas could increase the market price and/or decrease the supply of natural gas fuel? If so, please describe the conclusions of that evaluation in detail, and provide all studies and other documents supporting those conclusions.

Response No. 12:

A nearly identical question was asked as part of BREC Data Request 1-8 to Sierra Club in case 2012-00535. For the convenience of readers, the relevant portion of the Sierra Club response to that request is reproduced here:

Fracking is a new technology, with a still-evolving regulatory framework. New regulations on fracking could increase the price and/or decrease the supply of natural gas, just as new regulations on mountaintop removal or other coal mining practices could increase the price and/or decrease the supply of coal.

A 2012 study from the International Energy Agency, “Golden Rules for a Golden Age of Gas,”² responding to the development of unconventional gas supplies in North America, attempts to delineate “the highest practicable environmental and social standards at all stages of the development process” (p.9). The study estimates that applying these “Golden Rules” could increase shale-gas development costs by 7% for a single well, or less for larger projects with multiple wells (p.10).

U.S. regulation of fracking is in its early stages, and does not incorporate the IEA’s proposed standards. The cost impacts of actual and near-term regulations could, therefore, be less than the IEA’s projection of 7%. Moreover, some regulations save money for the industry, by requiring recovery of valuable gas and other resources that were formerly lost to fugitive emissions. In 2012, EPA announced the first federal air pollution regulations directed at fracking, noting in

² http://www.worldenergyoutlook.org/media/weowebsite/2012/goldenrules/WEO2012_GoldenRulesReport.pdf

an accompanying fact sheet [attached as SC Resp. to BREC 1-8 Attachment 1 in case 2012-99535], that:

“Today’s cost-effective rules will yield significant reductions in air pollution while offsetting the costs to industry. EPA estimates the combined rules will yield a cost savings of \$11 to \$19 million in 2015, because the value of natural gas and condensate that will be recovered and sold will offset costs.”³

³ See <http://www.epa.gov/airquality/oilandgas/pdfs/20120417fs.pdf>, quote from p.2.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 13

Respondent: Kristin Henry, Sierra Club Counsel and Frank Ackerman

Request No. 13: Please describe in detail Sierra Club's position on the practice of "fracking" in connection with the production of natural gas.

Response No. 13:

Sierra Club objects to this request as it is overly broad, unduly burdensome, oppressive, and calculated to take Sierra Club and its staff away from normal work activities, and require them to expend significant time and resources to determine how to provide complete and accurate answers to BREC's request for information, which are only of marginal value to BREC, Kentucky Civil Rule 26.02. Subject to and without waiving the foregoing objections, Sierra Club states that Sierra Club's position on fracking can be found at:

<http://www.sierraclub.org/policy/conservation/NaturalGasFracking.pdf>

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 14
Respondent: Frank Ackerman

Request No. 14: Has Sierra Club, Mr. Ackerman, or Synapse evaluated whether increased exports of natural gas could increase the market price of natural gas fuel? If so, please describe the conclusions of that evaluation in detail, and provide all studies and other documents supporting those conclusions.

Response No. 14:

A nearly identical question was asked as part of BREC Data Request 1-9 to Sierra Club in case 2012-00535. For the convenience of readers, the relevant portion of the Sierra Club response to that request is reproduced here:

Increased exports of either coal or natural gas – both of which have recently been proposed by the respective industries – could raise the domestic prices of those fuels.

A recent report to the Sierra Club from Synapse Energy Economics examined the question of natural gas exports.⁴ That report evaluated and criticized a report from NERA Economic Consulting; NERA argued that natural gas exports would be beneficial for the U.S. economy as a whole. Synapse identified numerous problems and omissions in the NERA report, including its failure to provide useful, detailed information on the price impacts of gas exports. Synapse did not attempt an independent calculation of the effects of exports on prices.

⁴ See <http://www.synapse-energy.com/Downloads/SynapseReport.2013-01.SC.LNG-Exports-Benefits.13-009.pdf>.

KPSC Case No. 2013-00199
SC Response to BREC Requests
Item No. 15
Respondent: Frank Ackerman

Request No. 15: Has Sierra Club, Mr. Ackerman, or Synapse evaluated whether an increasing incidence of coal-fired generating plants converting to or being replaced by natural-gas fired generating plants could increase the market price of natural gas fuel and/or lower the price of coal fuel? If so, please describe the conclusions of that evaluation in detail, and provide all studies and other documents supporting those conclusions.

Response No. 15:

In terms of economic theory, it is of course possible that increased demand for natural gas and decreased demand for coal could increase the price of natural gas and/or decrease the price of coal. Detailed empirical analysis of a specific scenario, however, would be required to determine whether these effects are large or small.

It seems likely that price forecasts in use in this or any other current utility proceeding rest on specific assumptions about fuel-switching and fuel choices for new power plants. Unfortunately, due to Big Rivers' inability or unwillingness to describe the detailed input assumptions underlying the forecasts used in the Company's analysis, it is difficult for intervenors to determine whether appropriate fuel-switching assumptions are being used.

CERTIFICATE OF SERVICE

I certify that I mailed a copy of Ben Taylor and Sierra Club's Responses and Objections to Big Rivers Electric Corporations' Request for Information by e-mail and/or US First Class mail on November 22, 2013 to the following:

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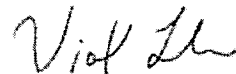
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