



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES  
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

July 23, 2013

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

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JUL 23 2013

PUBLIC SERVICE  
COMMISSION

*Via Courier*

**Re: CASE NO. 2013-00221, Response in Opposition to Big Rivers Electric Corporation and Kenergy Corp's Motion to Strike the Comments of Ben Taylor and Sierra Club**

Dear Mr. Derouen:

Enclosed are an original and ten copies of the *Response in Opposition to Big Rivers Electric Corporation and Kenergy Corp's Motion to Strike the Comments of Ben Taylor and Sierra Club* and a certificate of service in docket 2013-00221 before the Kentucky Public Service Commission. This filing contains no confidential information.

Sincerely,

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PUBLIC SERVICE  
COMMISSION

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

**In the Matter of:**

**JOINT APPLICATION OF KENERGY )  
CORP. AND BIG RIVERS ELECTRIC )  
CORPORATION FOR APPROVAL OF )  
CONTRACTS AND FOR A )  
DECLARATORY ORDER )**

**CASE NO. 2013-00221**

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**RESPONSE IN OPPOSITION TO BIG RIVERS ELECTRIC CORPORATION AND  
KENERGY CORP'S MOTION TO STRIKE THE COMMENTS OF  
BEN TAYLOR AND SIERRA CLUB**

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Ben Taylor and Sierra Club (collectively "Sierra Club") hereby respond to Big Rivers Electric Corporation and Kenergy Corp's (collectively "BREC") motion to strike Sierra Club's comments submitted in this proceeding. As BREC correctly notes, Sierra Club filed its comments "almost simultaneously" with the posting of the Commission's July 19, 2013 order denying Sierra Club's motion to intervene as a full party in this proceeding. Contrary to BREC's claim, however, the Commission's intervention ruling does not provide a basis for striking Sierra Club's comments from the record. Instead, Commission rule 807 KAR 5:001, Section 4(9)(d), provides that:

A person who the commission has not granted leave to intervene in a case may file written comments regarding the subject matter of the case. These comments shall be filed in the case record. A person filing written comments shall not be deemed a party to the proceeding and need not be named as a party to an appeal.

Pursuant to 807 KAR 5:001, Section 4(9)(d), Sierra Club respectfully requests that the Commission accept its comments for filing in the case record in this proceeding, and deny BREC's motion to strike those comments.

Respectfully submitted,



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Dated: July 23, 2013

## CERTIFICATE OF SERVICE

I certify that I had served a copy of the Response in Opposition to Big Rivers Electric Corporation and Kenergy Corp's Motion to Strike the Comments of Ben Taylor and Sierra Club via electronic mail and U.S. Mail on July 23, 2013 to the following:

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