

BOEHM, KURTZ & LOWRY

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

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NOV 26 2013

**PUBLIC SERVICE
COMMISSION**

Via Overnight Mail

November 25, 2013

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

Re: Case No. 2013-00413

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of the KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC's RESPONSE TO MOTION FOR INCORPORATION BY REFERENCE for filing in the above-referenced matter.

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

Very Truly Yours,



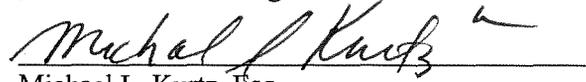
Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Quang Nyugen, Esq.
Richard Raff, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by regular, U.S. mail, unless other noted, this 25TH day of November, 2013 to the following:



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

Edward T Depp
Dinsmore & Shohl, LLP
101 South Fifth Street
Suite 2500
Louisville, KENTUCKY 40202

J. Christopher Hopgood
Dorsey, King, Gray, Norment & Hopgood
318 Second Street
Henderson, KENTUCKY 42420

Honorable James M Miller
Attorney at Law
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KENTUCKY 42302-0727

Jennifer B Hans
Lawrence W. Cook
Dennis G. Howard, II
Assistant Attorney General's Office
1024 Capital Center Drive, Ste 200
Frankfort, KY 40601-8204

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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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. 2013-00413 PUBLIC SERVICE
COMMISSION

**RESPONSE TO MOTION FOR INCORPORATION BY REFERENCE OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

On November 20, 2013, Kenergy Corp. (“Kenergy”) and Big Rivers Electric Corporation (“Big Rivers”) filed a Motion for Incorporation by Reference in the above-captioned proceeding. In their Motion, Kenergy and Big Rivers request that the Kentucky Public Service Commission (“Commission”) issue an order incorporating the record from Case No. 2013-00221 (“Century Hawesville Case”) into the record of this proceeding by reference only.

Kentucky Industrial Utility Customers, Inc. (“KIUC”) does not oppose the incorporation of the Century Hawesville Case record into the record of this proceeding. However, the incorporation of that record should not be used to undermine the due process rights of the parties in this case. The Commission should still grant the parties to this case discovery rights and an opportunity to submit testimony in response to the Application. Further, an evidentiary hearing on the Application should still be held. Though the contractual arrangements at issue in this case are similar to those at issue in the Century Hawesville Case, the circumstances surrounding these cases differ sufficiently to warrant full review in this proceeding.

Kenergy and Big Rivers have requested expedited review of their Application and KIUC does not oppose this request (though KIUC would note that Big Rivers had notice of the Sebree smelter’s contract termination since February 2013 and only filed its Application last week).¹ But the Commission can provide expedited review of the Application while still upholding the due process rights of intervenors. The Commission has already demonstrated its ability to do so in the Century Hawesville Case.

¹ Application at ¶15.

WHEREFORE, KIUC requests that even if the Commission incorporates the Century Hawesville Case record into the record of this proceeding by reference, the Commission should still uphold the due process rights of the parties to this case and establish discovery rights, an opportunity for intervenor testimony to be filed, and a date for an evidentiary hearing date on the Application. The Commission should also hold an informal conference as soon as possible with Staff and the parties to this case to discuss a procedural schedule that will allow for expedited review of the Application without infringing on the due process rights of intervenors.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

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

E-Mail: MKurtz@BKLawfirm.com

KBoehm@BKLawfirm.com

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

November 25, 2013