

**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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COMMISSION

**VIA OVERNIGHT MAIL**

April 22, 2008

Stephanie Stumbo Executive Director,  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

**Re: Case No. 2007-00455**

Dear Ms. Stumbo:

Please find enclosed the original and twelve (12) copies each of the REBUTTAL TESTIMONY OF HENRY FAYNE filed on behalf of ALCAN PRIMARY PRODUCTS CORPORATION AND CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP in the above-referenced matter.

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

Very Truly Yours,



Michael L. Kurtz, Esq.

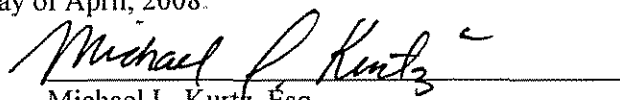
**BOEHM, KURTZ & LOWRY**

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Attachment

cc: David C. Brown, Esq.  
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by regular U.S. mail (unless otherwise noted) to all parties on the 22<sup>nd</sup> day of April, 2008.

  
Michael L. Kurtz, Esq.

Honorable Douglas L Beresford  
Attorney At Law  
Hogan & Hartson, L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

C William Blackburn  
Big Rivers Electric Corporation  
201 Third Street  
P. O. Box 24  
Henderson, KY 42420

David Brown  
Stites & Harbison, PLLC  
1800 Providian Center  
400 West Market Street  
Louisville, KY 40202

George F Hobday, Jr  
Hogan & Hartson, L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

Honorable Dennis G Howard II  
Assistant Attorney General  
Office of the Attorney General Utility & Rate  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601-8204

Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KY 40601

Honorable Frank N King, Jr.  
Attorney at Law  
Dorsey, King, Gray, Norment & Hopgood  
318 Second Street  
Henderson, KY 42420

Honorable Don Meade  
Attorney at Law  
Priddy, Cutler, Miller & Meade  
800 Republic Bldg.  
429 W. Muhammad Ali Blvd.  
Louisville, KY 40202

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

Gary Osborne  
President  
International Brotherhood of Electrical Workers -  
Local Union 101  
2911 W. Parrish Avenue  
Owensboro, KY 42301

Honorable Kendrick R Riggs  
Attorney at Law  
Stoll Keenon Ogden, PLLC  
2000 PNC Plaza  
500 W Jefferson Street  
Louisville, KY 40202-2828

Honorable Allyson K Sturgeon  
Attorney at Law  
E.ON U.S. Services, Inc.  
220 West Main Street  
Louisville, KY 40202

Melissa D Yates  
Attorney  
Denton & Keuler, LLP  
555 Jefferson Street  
P. O. Box 929  
Paducah, KY 42002-0929

RECEIVED COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY  
CASE NO. 2007-00455

APR 23 2008

PUBLIC SERVICE  
COMMISSION

REBUTTAL TESTIMONY OF HENRY W. FAYNE  
ON BEHALF OF RIO TINTO ALCAN  
AND CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP

1 Q: Please state your name and business address.

2 A: My name is Henry W. Fayne. My business address is 1980 Hillside Drive,  
3 Columbus, Ohio 43221.

4 Q: Have you previously testified in this proceeding?

5 A: Yes. I filed direct testimony.

6 Q: What is the purpose of your rebuttal testimony?

7 A: The purpose of my rebuttal testimony is to explain why several of the concerns  
8 raised by Attorney General witness David Brevitz in his direct testimony are  
9 unwarranted.

10 Q: Would you please elaborate.

11 A: In his testimony, Mr. Brevitz has underestimated the smelters' enthusiasm for the  
12 transaction, overestimated the influence the smelters will have and, consequently,  
13 the risk to the non-smelter members, and misinterpreted the context and value of  
14 the Stone & Webster report. As a result, he has recommended approval with  
15 numerous conditions, several of which would undermine the transaction.

16 Q: Would you please explain why you have concluded that Mr. Brevitz has  
17 underestimated the smelters' enthusiasm for the transaction.

18 A: On page 10 of his testimony, Mr. Brevitz correctly states that the smelters support  
19 the transaction as the best alternative available. He then lists several risks that I

1 had identified in my direct testimony and erroneously concludes that the smelters'  
2 support for the transaction is tempered by those risks. Clearly, a contract that  
3 established a low fixed price with no risk would be preferable; a zero-cost energy  
4 supply would be even better. But both are totally unrealistic.

5 More to the point, as Mr. Brevitz notes, the smelters have concluded that it  
6 is reasonable to expect that costs will be within the range projected in the  
7 financial model, if not lower. And if costs are controlled within the range  
8 projected, both smelters expect to be able to continue to operate well beyond the  
9 expiration of their existing contracts. Most importantly, to enhance the  
10 opportunity for continued operation, the smelters have negotiated numerous  
11 options in the proposed retail agreement to provide flexibility if either electric  
12 costs increase or aluminum prices decline significantly.

13 For example, Section 10.3, Potline Reduction Sales, provides each smelter  
14 the opportunity to shut down one of its potlines and to use the proceeds from the  
15 power thereby released and resold by Big Rivers to reduce the cost for its  
16 remaining potlines; this provision is intended to give the smelters the opportunity  
17 to stay in business during a downturn and provide as many jobs as the smelting  
18 business will support.

19 Q: Would you please explain why you have concluded that Mr. Brevitz has  
20 overestimated the influence the smelters will have, and how he has thereby  
21 exaggerated the risk to the other members.

22 A: On pages 14 and 15 of his direct testimony, Mr. Brevitz states that "the Smelters  
23 have a strong incentive to take any available actions to minimize or otherwise

1 reduce rates charged to the Smelters. The Smelters have the ability to take direct  
2 action on this incentive in a variety of ways, including ...through Sections 3.4 and  
3 4.1 of the Coordination Agreement with BREC... Clearly, the Smelters are  
4 entwined with BREC management and have the ability for substantial influence  
5 on BREC operating and financial matters in support of Smelter interests in lower  
6 power rates.” Subsequently on page 34 of his direct testimony, Mr. Brevitz then  
7 explains that “the TIER adjustment payment from the Smelters is capped and  
8 limited, such that the remaining ‘uncapped’ costs of achieving a TIER level will  
9 fall back to the remaining customers other than the Smelters.” (Emphasis added.)  
10 Mr. Brevitz’s characterization is incorrect in numerous respects.

11 First, the Coordinating Committee is simply a consultation and  
12 information-sharing forum which is intended to provide BREC management the  
13 benefit of input from the smelters as well as from the three coop members. More  
14 importantly, the Coordinating Committee and its members are only advisors; they  
15 have no vote or veto power. It is only BREC management and its Board of  
16 Directors that have decision-making authority.

17 Second, the smelters and the other members have a common interest. All  
18 BREC customers want a long-term reliable energy supply at the lowest cost  
19 consistent with prudent utility practice. The smelters recognize that simply  
20 cutting operating or capital costs will not produce the lowest-cost energy supply;  
21 the trade-off between system reliability and purchased power is critical to all Big  
22 Rivers’ customers. We will be working with Big Rivers and the other members to

1 determine the appropriate balance between reliability targets and the amount of  
2 money spent on maintenance and capital expenditures.

3 And finally, both the smelters and the other members share the costs,  
4 albeit the smelters pay first up to the TIER caps. Contrary to Mr. Brevitz's  
5 assertion, however, costs in excess of the TIER caps can be recovered by Big  
6 Rivers only through a general rate increase, which would be applicable to all  
7 members including the smelters.

8 Q: You indicated that Mr. Brevitz misinterpreted the context and value of the Stone  
9 & Webster report. Would you please elaborate.

10 A: On page 29 of his direct testimony, Mr. Brevitz states that "the Smelters may be  
11 at odds with their own consultant's report. The Smelters state a goal of reducing  
12 capital spending by BREC, while Stone and Webster states a view that more  
13 capital spending will be required." And subsequently on page 51, Mr. Brevitz  
14 recommends that Big Rivers revise the financial model to incorporate the  
15 additional capital spending identified in the Stone & Webster report.

16 Mr. Brevitz incorrectly treats the Stone & Webster report as a work plan.  
17 It is not. Rather the report broadly evaluates Big Rivers' maintenance and capital  
18 spending plans for reasonableness and identifies specific capital spending that  
19 may be required over a period of years based on industry experience. Both Big  
20 Rivers and the smelters recognize the projects identified in the Stone & Webster  
21 report may need to be incorporated into the work plans; however, the  
22 determination of when the projects should be implemented and whether there are  
23 other projects that may be deferred to offset the cost of higher priority projects is

1 work that most appropriately will be done as part of the annual budgeting process,  
2 with input from the Coordinating Committee and after the additional testing  
3 recommended by Stone & Webster is completed. It is for that reason that the  
4 smelters have accepted the overall capital spending program for planning  
5 purposes, even with recognition of the Stone & Webster report.

6 Q: Finally, you indicated that Mr. Brevitz has recommended approval with numerous  
7 conditions, several of which would undermine the transaction. Would you please  
8 explain.

9 A: Overall, Mr. Brevitz imposes conditions on Big Rivers (such as filing annual  
10 budgets with the Commission and maintaining workforce levels) that are  
11 significantly more burdensome than any imposed on other utilities subject to  
12 KPSC jurisdiction. Moreover, such conditions seem to be entirely without merit  
13 since the KPSC continues to have jurisdiction over any rate changes to the non-  
14 smelter members and thereby has access to all relevant information should a rate  
15 change be requested.

16 However, the most egregious recommendation is reflected on page 50 of  
17 Mr. Brevitz's direct testimony, where he suggests that the impact of any open  
18 issues (e.g. due diligence finalization, credit restructuring, City of Henderson  
19 matters, or consent fees and agreements) that would unfavorably impact results  
20 should be borne by E.ON and the smelters. Interestingly, Mr. Brevitz does not  
21 address the treatment if the open issues are resolved in a beneficial manner  
22 compared to the financial model. In any event, the recommendation is  
23 unacceptable to the smelters. It represents a substantive change in a set of

1 relationships that has been carefully negotiated over several years. But more  
2 importantly, it fundamentally changes the risk profile of each of the participants.  
3 None of the parties expects the financial model to be precisely correct; the  
4 contract provides a mechanism for the allocation of additional costs (or savings)  
5 as actual results unfold. There is no reason why changes associated with the  
6 issues identified in Mr. Brevitz's recommendation should be treated differently.

7 Q: Does this complete your rebuttal testimony?

8 A: Yes, it does.