

**BOEHM, KURTZ & LOWRY**

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

**Via Overnight Mail**

October 18, 2012

RECEIVED

OCT 19 2012

PUBLIC SERVICE  
COMMISSION

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

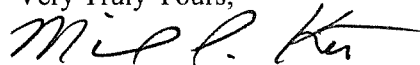
**Re: *In the Matter of: Notice and Application of Big Rivers Electric Corporation for a General Adjustment in Rates, Case No. 2011-00036***

Dear Mr. Derouen:

Kentucky Industrial Utility Customers, Inc. ("KIUC") submits this letter in response to the letter filed by Big Rivers Electric Corporation ("Big Rivers") on October 17, 2012 in the above-captioned docket. Big Rivers' letter responds to a letter sent to Kentucky Senator Dorsey Ridley by Alcan Primary Products Corporation ("Alcan") on October 15, 2012. Alcan's letter summarized its reaction to a recent report by Christenson Associates Energy Consulting LLC entitled *Energy Rate Impacts on Kentucky Industry* ("Report"). Noting that Commissioners of the Kentucky Public Service Commission ("Commission") were copied on Alcan's letter, Big Rivers alleges that the letter "constitutes an inappropriate *ex parte* communication between a party and the decision makers" in the above-captioned case.

Big Rivers' reaction to Alcan's letter is unwarranted. The Commission itself was an integral part of the legislative process that procured the Report. Hence, it is perfectly appropriate for the Commission to read the Report itself and any stakeholder's response to or critique of the Report. Moreover, the Report presents larger global issues that are far different from the discreet issues involved in this case. The Commission is perfectly capable of separating those global issues from the specific issues involved in this case. Further, Alcan's letter was in no way intended to influence the Commission in this case, to become part of the record in this case, or to serve as a basis for the Commission's ultimate decision in this case. The Commission itself has already clarified that events occurring after November 2011 are irrelevant to this case. For these reasons, Alcan's letter is by definition not an *ex parte* communication, and KIUC respectfully takes exception to Mr. Miller's characterization.

Very Truly Yours,



Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

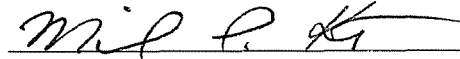
**BOEHM, KURTZ & LOWRY**

MLKkew

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

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) or by mailing a true and correct copy by overnight mail, unless other noted, this 18<sup>th</sup> day of October, 2012 to the following



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Mark A Bailey  
President CEO  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024

Douglas L Beresford  
Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DISTRICT OF COLUMBIA 20004

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

Dennis G. Howard, Esq.  
Lawrence W. Cook, Esq.  
Jennifer Hans, Esq.  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KENTUCKY 40601

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

Gregory J. Starheim  
President and CEO  
Kenergy Corp.  
3111 Fairview Drive  
Owensboro, KY 42302-1389

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

Albert Yockey  
Vice President Government Relations  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024