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November 7, 2012

Via Federal Express

Mr. Jeff DeRouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

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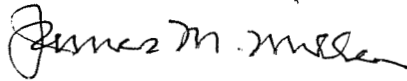
PUBLIC SERVICE
COMMISSION

Re: *In the Matter of: Application of Big Rivers Electric Corporation for Approval to Transfer Control of Transmission Line Easements, P.S.C. Case No. 2012-_____*

Dear Mr. DeRouen:

Enclosed are an original and ten copies of an application of Big Rivers Electric Corporation in the above referenced matter. Please feel free to contact me with any questions.

Sincerely yours,



James M. Miller

JMM/ej
Enclosures

cc: Albert Yockey
J. Christopher Hopgood, Esq.
Gregory Starheim
David Brown, Esq.

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)	
CORPORATION REGARDING TRANSFER)	CASE NO. 2012-_____
OF CONTROL OF TRANSMISSION LINE)	
EASEMENTS)	

APPLICATION

Big Rivers Electric Corporation ("*Big Rivers*") submits this application ("*Application*") to the Public Service Commission ("*Commission*") seeking a finding that Commission approval is not required for Big Rivers to transfer control of certain transmission line easements to Southern Indiana Gas & Electric Co. d/b/a Vectren Energy Delivery of Indiana, Inc. ("*Vectren*") because the book value of the assets involved is zero (less than the \$1,000,000 threshold of KRS 278.218(1)). In the alternative, if the Commission disagrees for any reason with Big Rivers' position, Big Rivers asks that the Commission grant its approval of the proposed transfer of control in accordance with KRS 278.218, which provides that "[t]he commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest." In support of its Application, Big Rivers states as follows:

1. Big Rivers Electric Corporation is a rural electric generating and transmission cooperative corporation organized under KRS Chapter 279. Its mailing address is P.O. Box 24, 201 Third Street, Henderson, Kentucky, 42419.

1 collaborate in the construction of approximately fifteen miles¹ of 345 kilovolt
2 transmission line that would run from Vectren's Brown Power Plant in Posey
3 County, Indiana, to Big Rivers' Reid EHV Substation in Webster County,
4 Kentucky ("*Line Phase 2*"). A copy of the MOU is attached to this Application as
5 Exhibit 1. The MOU provides, among other things:

6 a. Big Rivers will acquire and own the easements for that
7 portion of the Line Phase 2 transmission line located at Kentucky.

8 b. Big Rivers will grant Vectren rights in the Line Phase 2
9 transmission line easements located in Kentucky, as required, for construction,
10 operation and maintenance of the Line Phase 2 on Big Rivers' Reid Station
11 property and on the other transmission line easements acquired by Big Rivers for
12 the Line Phase 2 project in Kentucky. This is the transfer of control of assets that
13 is the subject of this Application, and that will be referred to in this Application
14 as the "*Transaction*").

15 c. Vectren will grant Big Rivers the right of first refusal to
16 purchase the Kentucky portion of the Line Phase 2 if Vectren ever decides to
17 abandon or sell the Kentucky portion of the Line Phase 2. This right of first
18 refusal will not apply to a sale of Line Phase 2 as part of a sale of Vectren's
19 transmission assets or as part of a general sale of Vectren's electric or gas assets
20 or both to a single purchaser.

¹ *Application of Southern Indiana Gas & Electric Co. d/b/a Vectren Energy Delivery of Indiana, Inc. for a certificate to construct an electric transmission line from it's A.B. Brown Plant to the Big Rivers Reid EHV Station, P.S.C. Case No. 2010-00223, order dated December 21, 2010, page 10.*

1 8. The Transaction is the transfer by Big Rivers to Vectren of the
2 rights to use and control certain transmission line easements Big Rivers has
3 acquired that are necessary for Vectren to construct, operate and maintain the Line
4 Phase 2, including but not limited to easements 150 feet in width that will be used
5 for the purposes of constructing, reconstructing, maintaining, replacing, removing,
6 repairing, and operating facilities for the transmission of electric energy, and
7 facilities for the transmission of information by fiber optic cables, coupled with
8 rights to clear the easements and keep them clear, to control vegetation, and rights
9 of reasonable ingress and egress to effectuate the foregoing purposes. The route of
10 the Line Phase 2 is shown on a drawing attached as Exhibit 3 to this Application.
11 Big Rivers has acquired, or is finalizing the acquisition of all the easements in
12 Kentucky required for the Line Phase 2 project. While Big Rivers will have no
13 investment in the easements, which it owns, the total amount paid by Vectren to
14 landowners for the easements exceeds \$2,500,000.

15 9. Big Rivers will account for the value of the easements and cost of
16 acquiring those easements on its books in the following manner:

17 a. The MOU between Vectren and Big Rivers provides that Big
18 Rivers will acquire and own, at no cost to Big Rivers, the easements associated with
19 the Kentucky portion of Line Phase 2 of Vectren's 345 kV transmission line.
20 Although the easements carry Big Rivers' name as owner, Big Rivers did not
21 provide the initial funding of the acquisitions. Most of the easements were acquired
22 on behalf of Big Rivers through the services of a third party vendor, which issued

1 drafts drawn against a Vectren account. Easements acquired by Big Rivers in
2 connection with eminent domain proceedings were paid for with checks drawn on
3 Vectren. Vectren accordingly contributed 100% of the funding for the easements,
4 with none of the funds flowing through Big Rivers' books.

5 b. The accounting policies and procedures established by 7 CFR
6 Part 1767, *Accounting Requirements for RUS Electric Borrowers*, and reprinted in
7 RUS Bulletin 1767B-1 (the "*RUS Bulletin*"), *Uniform System of Accounts*, sets forth
8 guidance on accounting for electric plant. Section 1767.16(b)(4) of the RUS Bulletin
9 states:

10 The electric plant accounts shall not include the cost or other value of electric
11 plant contributed to the company. Contributions in the form of money or its
12 equivalent toward the construction of electric plant shall be credited to
13 accounts charged with the cost of such construction. Plant constructed from
14 contributions of cash or its equivalent shall be shown as a reduction to gross
15 plant constructed when assembling cost data in work orders for posting to
16 plant ledgers of accounts

17
18 c. On the basis of this statement from the RUS Bulletin, Big
19 Rivers and its auditors (KPMG) have concluded that the easements recorded in Big
20 Rivers' name, as owner, should be reflected on Big Rivers' books at zero value
21 because (i) Big Rivers did not incur initial funding for the easements, and (ii)
22 Vectren contributed all the required funding upfront, with none of the funds flowing
23 through Big Rivers. Since Vectren contributed 100% of the funding for the
24 easements, the expenditures for the easements must be recorded in Vectren's
25 electric plant accounts as a cost of its 345 kV transmission line. Big Rivers will
26 document in its property records that Big Rivers owns the easements associated

1 with the Vectren 345 kV transmission line, and will record the easements at zero
2 value.

3 The proposed Transaction does not require Commission
4 approval under KRS 278.218

5 10. Big Rivers proposes to transfer to Vectren the right to control assets
6 that have an original book value on Big Rivers' books of less than \$1,000,000.
7 Under these admittedly unusual circumstances, the proposed transfer is exempted
8 from the requirements of KRS 278.218(1) by the threshold test that "the assets have
9 an original book value of one million dollars (\$1,000,000) or more. . . ." For this
10 reason, Big Rivers requests that the Commission find that it is not required to
11 authorize the proposed Transaction under KRS 278.218.

12 If the Commission finds that approval of the proposed Transaction
13 is required by KRS 278.218(1), it should conclude that the proposed Transaction is
14 for a proper purpose, and is consistent with the public interest.

15
16 11. Because Big Rivers is anxious to obtain a ruling on this matter,
17 and without waiving its position that the proposed Transaction is not subject to
18 review under KRS 278.218, Big Rivers states in the alternative that if the
19 Commission finds that approval of the proposed Transaction is required by KRS
20 278.218(1), it should conclude that the proposed Transaction is for a proper purpose
21 and is consistent with the public interest. This type of transaction is integral to the
22 business that Big Rivers is legally authorized and obligated to conduct, and
23 improves Big Rivers' ability to perform those duties in a reliable, efficient manner.

1 12. Big Rivers is in the business of generating and transmitting
2 electricity³ which is one of the primary purposes for which an electric cooperative
3 may be organized in Kentucky. KRS 279.020(1).

4 13. The Transaction proposed by Big Rivers is also consistent with
5 its obligation under KRS 278.030(2) to “furnish adequate, efficient and reasonable
6 service.” The transmission line project of which Line Phase 2 is a part is a
7 Midwest Independent Transmission System Operator, Inc. (“MISO”) – approved
8 Baseline Reliability Project under MISO’s 2006 Transmission Expansion Plan.
9 The purpose of the project is to address current and projected congestion on
10 electric transmission lines in the Southwest Indiana-Northwest Kentucky region
11 within MISO’s system. This resulted in the Federal Energy Regulatory
12 Commission (“FERC”) granting the project incentive rate treatment under
13 Section 219 of the Energy Policy Act of 2005 and FERC Order No. 697 because it
14 will ensure reliability and/or reduce the cost of delivered power by reducing
15 transmission congestion. The Commonwealth of Kentucky allows, as a matter of
16 public policy, recognition in Siting Board proceedings of interstate benefits from
17 construction of electric transmission facilities in the Commonwealth of Kentucky.⁴

18 14. Congestion in MISO has resulted in issues for the Big Rivers
19 transmission system for years regarding importing power, and purchasing power
20 without declaring an Energy Emergency Alert. Big Rivers expects the

³ See Articles of Incorporation of Big Rivers, Application Exhibit 4, Article II.

⁴ KRS 278.714(3) provides that the Siting Board “may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.”

1 transmission line to result in lower congestion costs to Big Rivers, and a more
2 robust transmission system that will result in acceptable service being provided
3 to existing customers under a wider range of contingency conditions than the
4 existing system without the interconnection that is enabled by the Transaction.
5 The Siting Board observed in a footnote in the Siting Board Order (page 4) that
6 “[w]hile Big Rivers is not a party to this case, it is likely that it will receive some
7 tangible benefits as a result of the construction of the transmission line by
8 Vectren, including the ability to sell additional amounts of excess power on the
9 wholesale market at times when that power is not needed to meet its native load
10 requirements. (references omitted)”

11 15. The interests in transmission easements are proposed to be
12 transferred by Big Rivers to Vectren to perform Big Rivers’ commitments under
13 the MOU, and to benefit the future operations of the Big Rivers’ system. The
14 transmission line easements will be used for purposes of interstate transmission
15 service. Siting Board Order, page 21.

16 *Other Miscellaneous Filing Requirements*

17 16. The full name and post office address of the applicant are stated
18 in paragraph number 1 of this Application. The facts on which this Application is
19 based are contained entirely in the text of this Application, including its exhibits.
20 The request for the order, authorization, permission or certificate desired by Big
21 Rivers, and a reference to the particular provision of law requiring or providing

1 for same are stated in paragraph numbers 10, 11 and 19 of this Application. 807
2 KAR 5:001§8(1).

3 17. Big Rivers is filing an original and ten copies of this Application.
4 807 KAR 5:001§8(2).

5 18. The articles of incorporation of Big Rivers, and all amendments
6 thereto, are attached as Exhibit 4 to this Application. 807 KAR 5:001§8(3).

7 19. Big Rivers requests that the Commission find that it is not
8 required to authorize the proposed Transaction under KRS 278.218 because the
9 assets involved do not have an original book value of one million dollars
10 (\$1,000,000) or more. In the alternative, Big Rivers seeks an order from the
11 Commission granting its approval of the Transaction, and finding that the
12 Transaction is for a proper purpose and is consistent with the public interest.
13 This relief is authorized by KRS 278.218, and related sections, and 807 KAR
14 5:001, Section 8, and related sections.

15 20. This Application is signed on behalf of Big Rivers, under oath, by
16 David Crockett, its V.P. System Operations.


17 WHEREFORE, Big Rivers respectfully requests that the Commission make
18 an order granting Big Rivers the following relief:

19 1. A finding that the proposed Transaction does not require
20 Commission authorization under KRS 278.218;

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VERIFICATION

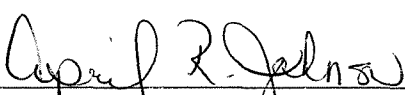
I, David Crockett, Vice President System Operations for Big Rivers Electric Corporation, hereby state that this Application, including the attached exhibits, have been prepared by or under my supervision, I have knowledge of the matters stated therein and the statements contained therein are true and correct to the best of my knowledge and belief, on this the 7th day of November, 2012.



David Crockett
Vice President System Operations
Big Rivers Electric Corporation

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

The foregoing verification statement was SUBSCRIBED AND SWORN to before me by David Crockett, Vice President System Operations of Big Rivers Electric Corporation, on this the 7th day of November, 2012.



Notary Public, Ky. State at Large
My commission expires: 8-9-2014

Application of Big Rivers Electric Corporation

Table of Contents to Exhibits

- Exhibit 1 Memorandum of Understanding dated May 24, 2010, between Big Rivers Electric Corporation and Southern Indiana Gas & Electric Co. d/b/a Vectren Energy Delivery of Indiana, Inc.
- Exhibit 2 Informal Advisory Opinion of Staff of the Public Service Commission of Kentucky dated June 15, 2010
- Exhibit 3 Drawing Showing Line Phase 2 Route
- Exhibit 4 Articles of Incorporation of Big Rivers Electric Corporation

Memorandum of Understanding

Between

Big Rivers Electric Corporation

And

Southern Indiana Gas & Electric Co. d/b/a

Vectren Energy Delivery of Indiana, Inc.

Southern Indiana Gas & Electric Co. d/b/a Vectren Energy Delivery of Indiana, Inc. (hereafter, "Vectren") and Big Rivers Electric Corporation (hereafter, "Big Rivers"), (hereafter, collectively, "the Parties") enter into this Memorandum of Understanding ("MOU"), this 24th day of May, 2010.

Whereas, Vectren is engaged in the design and construction of a certain 345 kV transmission line, planned to run from Duke's Gibson Station in Gibson County, Indiana, to Vectren's Brown Power Plant in Posey County, Indiana (phase 1) and from Vectren's Brown Power Plant in Posey County, Indiana to Big Rivers' Reid EHV Station in Webster County, Kentucky (phase 2), (hereafter, the "Line", or, the "Line Phase 1", or, the "Line Phase 2", as appropriate), spanning a total of approximately 70 miles;

Whereas, the Midwest Independent Transmission System Operator, Inc. (hereafter, "Midwest ISO") has approved the Line as a baseline regional reliability project through Midwest ISO's MTEP regional planning process;

Whereas, the Parties have discussed the Vectren interconnection at Big Rivers' Reid Station and certain other assistance and certain other improvements in and around Big River's Reid Station necessary for the Line;

Whereas, Big Rivers has determined that the Line will benefit Big Rivers in performing its obligations as a generating and transmission cooperative; and

Whereas, the Parties have determined that they should describe certain aspects of those discussions in this MOU;

Now, therefore, the Parties agree as follows:

I. Work to be Performed by Vectren

- A. Vectren will design and construct the Line Phases 1 and 2. Vectren will own (except as otherwise provided in this MOU), operate and maintain the Line, with the design and construction and all related costs to be

paid for by Vectren with no reimbursement required from Big Rivers. Vectren will be responsible for compliance with all requirements under applicable laws associated with owning, operating and maintaining the Line except for the portion of the Big Rivers Addition, as defined below, that is owned by Big Rivers.

- B. Vectren will coordinate the location of the Line Phase 2, with Big Rivers.
- C. Vectren will provide project facilitation services for the Indiana portion of Line Phase 2, as agreed to by the Parties, including right-of-way acquisition (to and including if necessary exercise of its power of condemnation to complete acquisition of rights-of-way) for the Line Phase 2.
- D. Vectren will own the Line Phase 2 transmission line easements located in Indiana, whether those easements are obtained consensually or through condemnation proceedings in Indiana courts.
- E. Vectren will provide Big Rivers with Line Phase 2, design and modeling information to facilitate design and construction of the Line Phase 2, terminus at the Big Rivers Reid EHV Station.
- F. Vectren will provide Midwest ISO with Vectren modeling information and real time system data associated with the new interconnection prior to the scheduled in-service date.
- G. Vectren will reimburse Big Rivers for its documented internal costs of providing the services contemplated in this MOU in connection with the Line Phase 2 project, including the Big Rivers Addition, as defined below. Vectren will reimburse Big Rivers for the Big Rivers Addition for these costs on a quarterly basis, or on such other basis as the Parties may agree.

II. Work to be Performed by Big Rivers

- A. Big Rivers will provide project facilitation services for the Kentucky portion of Line Phase 2, as agreed to by the Parties, including right-of-way acquisition (to and including, if necessary, exercise of its power of condemnation to complete acquisition of rights-of-way) for the Line Phase 2. Big Rivers will own the Line Phase 2 transmission line easements located in Kentucky, whether the easements are acquired consensually or through condemnation proceedings.
- B. Big Rivers will grant Vectren rights under the Line Phase 2 transmission line easements, as required, for construction, operation and maintenance of the Line Phase 2 on Big Rivers' Reid Station property and on the transmission line easements acquired by Big

Rivers for the Line Phase 2 project. Big Rivers will obtain a subordination or release of the liens of Big Rivers' secured creditors on the easements acquired for location of the Line Phase 2 transmission facilities that will be owned, operated and maintained by Vectren, except to the extent that any such transmission facilities are part of the Big Rivers Addition, as defined below.

- C. Big Rivers will design and construct the Reid 345 kV Addition Project (hereafter, "Big Rivers Addition") consisting of a 345 line terminal at Big Rivers' existing Reid 345 kV Substation, to accommodate Vectren's Line Phase 2.
- a. Big Rivers will own, operate, and maintain with the exception set out at II.C.b, below, the Big Rivers Addition.
 - b. Vectren will own, operate and maintain the Vectren SCADA RTU and the associated communication equipment installed as part of the Big Rivers Addition.
 - c. Vectren will reimburse Big Rivers' costs for the Big Rivers Addition (design and construction), provided that Big Rivers allows Vectren to review in advance Big Rivers' design. Vectren shall provide a "notice to proceed" to Big Rivers once it has reviewed the design, with the knowledge that any delay in such notice could affect the in-service date of the Big Rivers Addition. Vectren will not pay a "gross up" or cost for federal tax on the Vectren payment for the Big Rivers Addition.
 1. Big Rivers will provide to Vectren a scope of work for the Big Rivers Addition, including a project description, one-line drawing, general layout, major equipment list, and cost estimate prior to the initiation of work on the Big Rivers Addition and prior to any expenditure exceeding \$100,000 on the materials for the Big Rivers Addition not included in the scope of work.
 2. Big Rivers will provide to Vectren project management and will monitor actual costs and construction schedule, adjust both construction schedule and total project costs on a quarterly basis and provide quarterly updates to Vectren (within 30 days after the close of each calendar quarter) on both actual costs and construction schedule for the Big Rivers Addition.
 3. Vectren's reimbursement to Big Rivers shall not exceed the estimate approved in advance by Vectren by more than ten (10) percent, unless a variance in excess of that

percentage is approved in writing in advance by Vectren, which approval will not be unreasonably withheld.

4. Vectren will reimburse Big Rivers for the Big Rivers Addition on a quarterly basis, or on such other basis as the Parties may agree, for actual incurred costs.
5. Big Rivers will provide to Midwest ISO all Big Rivers modeling information associated with the Vectren - Big Rivers Reid interconnection prior to Vectren's scheduled in-service date for the Line Phase 2, which is October 2011.
6. The Parties agree that Big Rivers will expeditiously perform its engineering project investigation with the goal of achieving an in-service date for the Big Rivers Addition of October, 2011.

III. Work to be Performed by Both Parties

- A. The Parties agree to each identify a project manager who will serve as a single point of contact for all communications to and from the other Party.
 - a. The Project Managers shall arrange monthly meetings to coordinate and monitor progress related to the Line design and construction.
 - b. The Project Managers shall confer between such meetings as necessary to further the design and construction of the Line.
- B. The Parties agree to negotiate arrangements for metering, SCADA, and communication and to work collaboratively to meet each Party's needs for such information.

IV. Additional Provisions

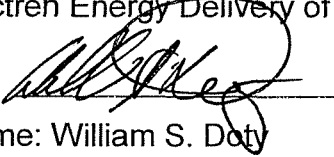
- A. The Parties acknowledge that each may provide the other with confidential information during the course of this Project. The Parties agree to mark any such information as "confidential" and the receiving Party agrees to handle such confidential information with the same level of care as it would its own confidential information. When the receiving Party no longer requires the confidential information provided to it, the receiving Party agrees to either return that confidential information or indicate that it has been destroyed. If any third party should seek information confidential information from the receiving Party, the receiving Party agrees to provide notice and an opportunity to take appropriate legal measures to protect that confidential

information, prior to the receiving Party releasing any such confidential information.

- B. The Parties agree to work collaboratively on any issues that may arise between them related to this Line, regardless of whether specific arrangements for those issues are set out herein.
- C. The Parties agree to cooperate in the preparation of appropriate interconnection documentation and to coordinate submission of that documentation to third parties, including Midwest ISO, as necessary.
- D. The Parties agree that such documentation should be effective prior to the Line Phase 2 and Big Rivers Addition in-service date.
- E. If Vectren cancels the Line for any reason, Vectren will compensate Big Rivers for all costs actually incurred to the time of cancellation. Vectren will also compensate Big Rivers for any costs associated with cancelling orders or contracts related to any interconnection facilities and equipment for the Line, and any costs related to the return of the Big Rivers transmission facilities to their pre-Line project condition.
- F. Vectren will grant Big Rivers the right of first refusal to purchase the Kentucky portion of the Line Phase 2 if Vectren ever decides to abandon or sell the Kentucky portion of the Line Phase 2. This right of first refusal will not apply to a sale of Line Phase 2 as part of a sale of Vectren's transmission assets or as part of a general sale of Vectren's electric or gas assets or both to a single purchaser.
- G. This MOU constitutes and sets forth the entire agreement between Vectren and Big Rivers with respect to the subject matter herein and supersedes any and all prior and contemporaneous oral or written agreements or understandings between them with respect to the services provided for herein. This MOU cannot be amended, modified or supplemented in any respect, except by a subsequent written agreement signed by both parties hereto.
- H. The Parties acknowledge that Big Rivers' performance of certain of its undertakings in this MOU is subject to Big Rivers obtaining authorization or consent from regulatory agencies having jurisdiction, and one or more of its creditors.

Wherefore the Parties indicate their agreement with the provisions herein, by the signatures of their duly authorized representatives as of the date set out above.

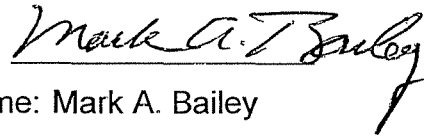
For Southern Indiana Gas & Electric Co, d/b/a
Vectren Energy Delivery of Indiana, Inc.

By: 

Name: William S. Doty

Title: President

For Big Rivers Electric Corporation

By: 

Name: Mark A. Bailey

Title: President and CEO



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
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David L. Armstrong
Chairman

James W. Gardner
Vice-Chairman

Charles R. Borders
Commissioner

June 15, 2010

Hon. James M. Miller
Sullivan, Mountjoy, Stainback & Miller PSC
100 St. Ann Building
P.O. Box 727
Owensboro, Kentucky 42302-0727

Dear Mr. Miller:

PSC STAFF OPINION NO. 2010-009

Commission Staff is in receipt of your letter dated May 26, 2010, requesting an opinion as to whether Big Rivers Electric Corporation ("Big Rivers") is required to apply for a certificate of public convenience and necessity ("CPCN") from the Commission prior to constructing improvements to one of its substations and acquiring and holding easements in Kentucky to be used by Vectren Energy Delivery of Indiana, Inc. ("Vectren") to construct a transmission line that will be subject to the issuance of a construction certificate by the Kentucky State Board on Electric Generation and Transmission Siting ("Siting Board").

In your letter, you present the following facts: Vectren is currently designing and constructing a 70-mile 345 kV transmission line in two phases. Phase 1 involves constructing a portion of the line in Indiana. The majority of the line will be sited in Indiana. Phase 2 of the project will involve extending the 345 kV transmission line from Vectren's Brown Power Plant in Indiana, across the Ohio River, through Henderson County, Kentucky, and tying into Big Rivers' Reid high-voltage substation in Webster County, Kentucky ("Reid Substation").

Vectren is a regulated utility in Indiana, but it is not a regulated utility in Kentucky and is not subject to the jurisdiction of the Kentucky Public Service Commission. As a utility not regulated by the Commission, Vectren understands that, under KRS 278.714, it must obtain a construction certificate issued by the Siting Board before beginning construction of any new, non-regulated transmission line in Kentucky.¹

¹ On June 3, 2010, Vectren filed notice with the Siting Board of its intent to file an application for a non-regulated electric transmission line construction certificate.

Pursuant to a memorandum of agreement (“MOU”) signed by Big Rivers and Vectren on May 24, 2010, a copy of which was enclosed with your letter, Big Rivers will acquire the necessary right-of-way easements for the Kentucky portion of the transmission line and will design and construct the terminal at the Reid Substation where the Vectren transmission line will connect with the Big Rivers transmission system. All Big Rivers’ costs incurred in connection with the Phase 2 project will be paid by Vectren. However, Big Rivers will own the terminal facilities and will hold title to the property easements.

According to Section II of the MOU, “Big Rivers will grant Vectren *rights* under the Line Phase 2 transmission line easements, as required, for construction, operation and maintenance of the Line Phase 2 on Big Rivers’ Reid Station property and on the transmission line easements acquired by Big Rivers for the Phase 2 project.” (Emphasis added.) The term “rights” is not specifically defined in your letter or by the language of the MOU.

In your letter, you list a number of benefits which Big Rivers believes will accrue to it as a result of the construction of the Vectren transmission line. These benefits include:

- Improving Big Rivers’ export and import capabilities;
- Reducing congestion in the southern Indiana/western Kentucky region;
- Reducing Midwest ISO congestion costs and transaction curtailments;
- Improving reliability by providing an additional transmission path into the Reid Station area;
- Improving area voltages and reducing existing lower-voltage line loadings during multiple generator or transmission outages; and
- Lessening the likelihood that Big Rivers would have to drop load in the Reid area or that Century Aluminum or Rio Tinto Alcan (the two largest industrial customers on Big Rivers’ system) would have to rotate their aluminum smelter potlines during multiple outage events.

You note that Big Rivers will enjoy these benefits without having to expend any of its own funds on this project.

Your letter states that there is no language in KRS Chapter 278 that requires Big Rivers to obtain a CPCN prior to undertaking the tasks it has assumed under the May 24, 2010 MOU. You also state that KRS 278.020(1) “expressly embraces the concept that ‘construction’ is the activity for which a CPCN is required,” but that the only construction to be performed by Big Rivers associated with the Vectren project is the “discreet modification” of its Reid Substation described above. Such minor

modifications, you note, have “always been treated as an ‘ordinary extension in the usual course of business’ by the Commission which do not require a CPCN prior to their undertaking.”

Based upon the facts you presented, Commission Staff is of the opinion that Big Rivers is not required to obtain a CPCN prior to undertaking the activities described in the May 24, 2010 MOU regarding Vectren’s construction of a 345 kV transmission line in Kentucky. Big Rivers’ only construction activities will be minor modifications to its existing Reid substation, and all costs of those construction activities are to be borne by Vectren. Commission Staff agrees with Big Rivers’ assertion that such construction activities are normally considered to be ordinary extensions in the course of business, which are specifically exempt from the requirement to obtain a CPCN pursuant to KRS 278.020(1).

With regard to the future transfer to Vectren of rights in the Kentucky property easements acquired by Big Rivers, the information presented in your letter does not clearly state the basis for Big Rivers to record the value of the property easements at zero (\$0) upon initially acquiring them from the property owners. It would appear that proper accounting methods would require Big Rivers to record the easements at their actual value at the time that they are acquired. The fact that Vectren will reimburse Big Rivers for the value of the easements does not mean they can be initially assigned a zero value, which would undermine the intent of KRS 278.218.

KRS 278.218(1) provides that:

No person shall acquire or transfer ownership of or control, or the right to control, any assets that are owned by a utility as defined under KRS 278.010(3)(a) without prior approval of the commission, if the assets have an original book value of one million dollars (\$1,000,000) or more and:

- (a) The assets are to be transferred by the utility for reasons other than obsolescence; or
- (b) The assets will continue to be used to provide the same or similar service to the utility or its customers.

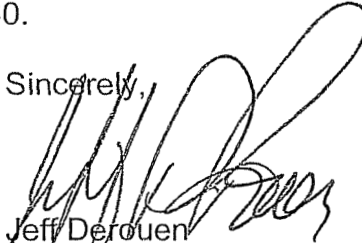
If Big Rivers’ granting of rights in the easements to Vectren constitutes the transfer of “control” of the easements, and if the total value of the property easements transferred by Big Rivers exceeds the one million dollar (\$1,000,000) threshold established under KRS 278.218(1), then it may be necessary for Big Rivers to seek Commission approval prior to transferring any rights in the easements to Vectren.

This letter represents Commission Staff’s interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the

Hon. James M. Miller
June 15, 2010
Page 4

Commission should the issues herein be formally presented for resolution by the Commission. Questions concerning this opinion should be directed to Rick Bertelson, Staff Attorney, at (502) 564-3940, Extension 260.

Sincerely,



Jeff Derouen
Executive Director

RB:ew

VECTREN
AB BROWN
PLANT

INDIANA
SECTION

HENDERSON

OHIO RIVER
CROSSING

KENTUCKY
SECTION

BIG RIVERS REID
STATION



2012 ALIGNMENT EXHIBIT
BROWN-REID 345KV TRANSMISSION LINE
POSEY / VANDERBURGH COUNTY, INDIANA
HENDERSON / WEBSTER COUNTY, KENTUCKY



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NO SCALE

PROJ. # 08700

OCTOBER 2012

SHEET 1

63

AMENDED

RECEIVED & FILED
82.00
98 JUL 10 PM 2:33

ARTICLES OF INCORPORATION
OF
BIG RIVERS ELECTRIC CORPORATION

JERRY BROWN III
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY

BY Adt

The Board of Directors of Big Rivers Electric

Corporation having approved the amendment of the Articles of Incorporation as herein contained at a special meeting called for that purpose on June 29, 1998 by the margin required by KRS 279.050 and the Members of Big Rivers Electric Corporation having approved the amendment of the Articles of Incorporation as herein contained at a special meeting called for that purpose on July 10, 1998 by the margin required by KRS 279.050:

Pursuant to KRS 279.050, Big Rivers Electric Corporation does hereby amend Articles I-X of its Articles of Incorporation in their entirety as follows:

ARTICLE I

The name of the corporation shall be "BIG RIVERS ELECTRIC CORPORATION".

ARTICLE II

The purpose or purposes for which the corporation is formed are to promote and encourage the fullest possible use of electric energy in the Commonwealth of Kentucky, by making electric energy available by production,

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transmission, distribution, or by otherwise securing the same for inhabitants of and persons, including natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic and corporate, in rural areas of the Commonwealth of Kentucky, at the lowest cost consistent with sound business methods and prudent management of the business of the corporation and also by making available to the said inhabitants and persons, including natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic and corporate, electrical devices, equipment, wiring, appliances, fixtures, supplies and machinery (including any fixtures or property, or both, which may by its use be conducive to a more complete use of electricity or electric energy) operated by electricity or electric energy, and accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services of all kinds, and any other services that are requested or deemed advisable or desirable in the conduct of the business of the corporation or in the business of any natural persons, firms,

associations, corporations, business trusts, partnerships and bodies politic and corporate, in rural areas of the Commonwealth of Kentucky. In addition, the purpose or purposes for which the corporation is formed are, without limiting the generality of the foregoing:

(a) to generate, manufacture, purchase, transport, acquire and accumulate electric energy for its members and non-members to the extent permitted by the Act under which the Corporation is formed and to transmit, distribute, furnish, sell, and dispose of such electric energy to its members and non-members to the extent permitted by the Act under which the Corporation is formed, and to construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, apparatus, equipment and electric transmission and distribution lines or systems necessary, convenient or useful for carrying out and accomplishing any or all of the foregoing purposes;

(b) to acquire, own, hold, use, exercise and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate and in any manner dispose of franchises, rights,

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privileges, licenses, rights of way and easements necessary, useful or appropriate to accomplish any or all of the purposes of the Corporation;

(c) to purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, use, convey, sell, lease as lessor, exchange, mortgage, pledge or otherwise dispose of any and all real and personal property or any interest therein necessary, useful or appropriate to enable the Corporation to accomplish any or all of its purposes;

(d) to assist its members to wire their premises and install therein electrical and plumbing appliances, fixtures, machinery, supplies, apparatus and equipment of any and all kinds and character (including, without limiting the generality of the foregoing, such as are applicable to water supply and sewage disposal) and, in connection therewith and for such purposes, to purchase, acquire, lease, sell, distribute, install and repair electrical and plumbing appliances, fixtures, machinery, supplies, apparatus and equipment of any and all kinds and character (including, without limiting the generality of the foregoing, such as are applicable to water supply and sewage

Book 26 Page 205

disposal) and to receive, acquire, endorse, pledge, guarantee, hypothecate, transfer or otherwise dispose of notes and other evidences of indebtedness and all security therefor;

(e) to borrow money, to make and issue bonds, notes and other evidences of indebtedness, secured or unsecured, for monies borrowed or in payment for property acquired, or for any of the other objects or purposes of the Corporation; to secure the payment of such bonds, notes or other evidences of indebtedness by mortgage or mortgages, or deed or deeds of trust upon, or by the pledge of or other lien upon, any or all of the property, rights, privileges or permits of the Corporation, wheresoever situated, acquired or to be acquired;

(f) to do and perform, either for itself or its members, any and all acts and things, and to have and exercise any and all powers, as may be necessary or convenient to accomplish any or all of the foregoing purposes or as may be permitted by the Act under which the Corporation is formed, and to exercise any of its power anywhere.

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ARTICLE III

The principal office of the Corporation shall be located at Henderson, Kentucky.

ARTICLE IV

The operations of the Corporation may be conducted in any state in the United States of America and in such other places as may be provided from time to time in the Bylaws of the Corporation.

ARTICLE V

The number of directors of the Corporation shall be not less than five (5) nor more than sixteen (16). Unless otherwise provided in the Bylaws, the number of directors shall be five (5).

ARTICLE VI

The duration of the Corporation is perpetual.

ARTICLE VII

Section 1: The Corporation shall have no capital stock and the property, rights and interests of each member shall be equal. The corporation shall not be authorized to issue any non-voting equity securities.

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Section 2: Any person, firm, corporation, body politic, or other organization may become a member in the Corporation by:

- (a) paying the membership fee specified in the Bylaws;
- (b) agreeing to purchase from the Corporation electric energy as specified in the Bylaws; and
- (c) agreeing to comply with and be bound by these articles of incorporation and the Bylaws of the Corporation and any amendments thereto, and such rules and regulations as may from time to time be adopted by the Board of Directors;

provided, however, that no such firm, person, corporation, body politic or other organization shall become a member unless and until he or it has been accepted for membership by the Board of Directors or the members in the manner provided in the Bylaws. No person, firm, corporation, body politic or other organization may own more than one (1) membership in the corporation.

Section 3: Membership in the Corporation shall be terminated by cessation of existence, expulsion, or withdrawal of a member as provided in the Bylaws of the Corporation. Subject to any capital credits provision

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contained in the Bylaws, termination of membership in any manner shall operate as a release of all right, title and interest of the member in the property and assets of the Corporation; provided, however, that such termination of membership shall not release the member from the debts or liabilities of such member of the Corporation.

Section 4: The private property of the members of the Corporation shall be exempt from execution for the debts of the Corporation and no member or incorporator shall be individually liable or responsible for any debts or liabilities of the Corporation.

Section 5: The Bylaws of the Corporation may fix other terms and conditions upon which other persons shall be admitted to and retain membership in the Corporation not inconsistent with these articles of incorporation or the Act under which the Corporation is organized.

ARTICLE VII

The Board of Directors shall have the power to make and adopt such rules and regulations not inconsistent with these articles of incorporation or the Bylaws of the Corporation as it may deem advisable for the management, administration

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and regulation of the business and affairs of the Corporation.

ARTICLE IX

The Corporation may amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner now or hereafter prescribed by law.

ARTICLE X

No director of the corporation shall be personally liable to the corporation or its members for monetary damages for breach of his duties as a director, except for liability (i) for any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its members, or (ii) for acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law, or (iii) for the types of liability set forth in KRS 271B.8-330, or (iv) for any transaction from which the director derived an improper personal benefit. If the general corporation laws of Kentucky are amended after the effective date of this article to authorize corporate action further limiting the personal liability of directors, then the liability of a

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director of the corporation shall be limited to the fullest extent permitted by such general corporation laws as so amended. Any repeal or modification of this Article by the members of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

IN WITNESS WHEREOF, the Board of Directors of Big Rivers Electric Corporation have executed these AMENDED ARTICLES OF INCORPORATION of the said Corporation for and on behalf of the said Corporation as of this 10th day of July, 1998.

BIG RIVERS ELECTRIC CORPORATION

Sandra B. Wood
Sandra B. Wood, Board Chair

ATTEST:

Johnny L. Hamm
Johnny L. Hamm,
Secretary Treasurer

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STATE OF KENTUCKY)
COUNTY OF DAVIESS)

SUBSCRIBED AND SWORN TO before me, by Sandra B. Wood
and Johnny L. Hamm, this 10th day of July, 1998.

James M. Miller
Notary Public KY STATE AT LARGE
My Commission Expires: April 30, 2002

STATE OF KENTUCKY
COUNTY OF HENDERSON. Sect.

I, Wilma G. Martin, Clerk of Henderson County, certify that the
foregoing amendment was this day at 10:24 O'clock A. M.
lodged in my said office for record and that I have recorded it, the
foregoing and this certificate in my said office.

Given under my hand this 7 day October 1998

BY: Penney Matthews WILMA G. MARTIN
D.C.

RECEIVED
WILMA G. MARTIN
HENDERSON CO. CLERK

63/26

OCT 7 10 24 AM '98

Recorded this the 7 day of Oct 1998
At 10:24 Recorded in Book 26 Page 201
Henderson County Clerk WILMA G. MARTIN
By: Debra J. Fisher D.C.

S, M, S, M

Sullivan Property Services & Miller
100 St. Ann St. 25.00
Covington, LA 70033