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November 21, 2013

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

RECEIVED
NOV 22 2013
PUBLIC SERVICE
COMMISSION

*In The Matter Of: Application of Big Rivers Electric Corporation For A
General Adjustment In Rates - Case No. 2012-00535*

Dear Mr. Derouen:

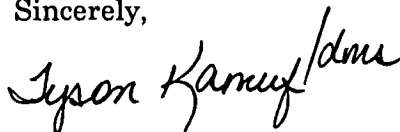
Big Rivers Electric Corporation ("Big Rivers") hereby files an original and ten (10) copies of an updated response to Item 3 of the Public Service Commission Staff's Fourth Request for Information in the above-referenced matter.

Please confirm the Commission's receipt of this information by having the Commission's date stamp placed on the enclosed additional copy and returning to Big Rivers in the self-addressed, postage paid envelope provided.

I certify that on this date, a copy of this letter and a copy of the updated response were served by either first class U.S. postage or overnight express delivery to each of the persons on the attached service list.

Should you have any questions about this matter, please contact me.

Sincerely,



Tyson Kamuf
Counsel for Big Rivers Electric Corporation

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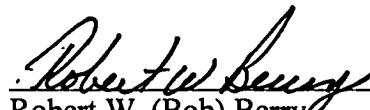
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BIG RIVERS ELECTRIC CORPORATION
APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A GENERAL ADJUSTMENT IN RATES
CASE NO. 2012-00535

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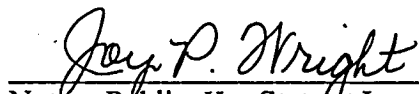
VERIFICATION

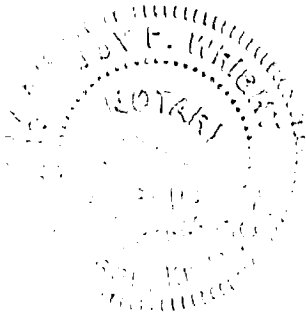
I, Robert W. Berry, verify, state, and affirm that I prepared or supervised the preparation of the updated data response, and attachments filed with this Verification, and the data response and attachments are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.


Robert W. (Bob) Berry

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Robert W. Berry on this
the 20 day of November, 2013.


Notary Public, Ky. State at Large
My Commission Expires _____



Notary Public, Kentucky State-At-Large
My Commission Expires: July 3, 2014
ID 421951

Big Rivers

ELECTRIC CORPORATION

Your Touchstone Energy® Cooperative 

RECEIVED
NOV 22 2013
PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION FOR A) Case No. 2012-00535
GENERAL ADJUSTMENT IN RATES)

Updated Response to Item 3 of the
Public Service Commission Staff's Fourth Request for Information

FILED: November 22, 2013

BIG RIVERS ELECTRIC CORPORATION
APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A GENERAL ADJUSTMENT IN RATES
CASE NO. 2012-00535

*Updated Response to Commission Staff's Fourth Request
for Information dated July 22, 2013*

November 22, 2013

1 **Item 3) *To the extent that MISO requires that Big Rivers operate Coleman for***
2 ***reliability purposes, provide the level of System Support Resource ("SSR") costs that result***
3 ***from Big Rivers' negotiations with MISO regarding an SSR agreement.***

4

5 **Response)** The Attachment Y-1 and the Direct Testimony of Robert W. Berry filed with
6 the Federal Energy Regulatory Committee on November 1, 2013, are attached to this
7 response.

8

9 **Witness)** Robert W. Berry

ATTACHMENT Y-1 Standard Form System Support Resource (SSR) Agreement Version:

4.0.0 Effective: 6/1/2013

ATTACHMENT Y-1

Standard Form System Support Resource (“SSR”) Agreement

Between

Big Rivers Electric Corporation

and

Midcontinent Independent System Operator, Inc.

This SSR Agreement (“Agreement”), effective as of the 1st of September, 2013 (“Effective Date”), is entered into by and between Big Rivers Electric Corporation, a generation and transmission cooperative located in the Commonwealth of Kentucky (“Participant”) and Midcontinent Independent System Operator, Inc. (“MISO,” collectively with Participant, the “Parties”).

Recitals

WHEREAS:

- A. Participant owns or operates one or more Electric Generation Resources or a Synchronous Condenser Unit (“SCU”) as defined in the MISO Tariff, and MISO requires Participant to supply service in the MISO Transmission Provider region (“MISO Region”) in order to maintain the reliability of the Transmission System;
- B. MISO is the Regional Transmission Organization (“RTO”) for the MISO Region; and
- C. The Parties enter into this Agreement in order to establish the terms and conditions by which MISO and Participant will discharge their respective duties and responsibilities under the MISO Tariff.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties hereby agree as follows:

Section 1. Unit-Specific Terms.

- A. Start Date: September 1, 2013.
- B. Start Time: _000 Hrs. _____
- C. Unit: _Coleman Generating Station Units 1-3 (“Unit 1,” “Unit 2,” and “Unit 3”); provided, however, that “Unit” or “Units” shall not include any Unit with respect to which this Agreement is terminated pursuant to the terms hereof.

The units described above may also be referred to as the “Designated Units” or “Units” or “SSR Units” (or in the singular in reference to an individual unit) in this Agreement.

- D. Description of Units: Coleman Generating Station Units 1-3, located in Hawesville, Kentucky, as may be described in more detail on Exhibit 1 attached hereto.
- E. Name Plate Information
- SSR Unit
- (a) SSR Capacity in MW: 443 MW (150 for Unit 1; 138 for Unit 2; 155 for Unit 3)
 - (b) Power Factor Lagging
 - (i) 0.85 (Unit 1 & Unit 2); 0.90 (Unit 3) P.F. (at Generator Main Leads)
 - (ii) N/A _____ P.F. (at high side of Main Power Transformer)

(c) Power Factor Leading

(i) 0.85 (Unit 1 & Unit 2); 0.90 (Unit 3) P.F. (at Generator Main Leads)

(ii) N/A__ P.F. (at high side of Main Power Transformer)

F. Delivery Points: BREC.COLE1; BREC.COLE2; BREC.COLE3

G. Revenue Meter Location (Use Resource IDs): N/A

H. Operational and Environmental Limitations (check and describe all that apply):

SSR Unit:

(a) Operational

Maximum annual hours of operation: _____

Maximum annual MWh: _____

Maximum annual starts: _____

Other: Maximum of one (1) start per week, per unit

(b) Environmental

Maximum annual NO_x emissions: _____

Maximum annual SO₂ emissions: 5.2 lbs/MMBTU daily average for each unit (Unit 1, Unit 2, and Unit 3)

Other: Particulate limit of 0.27 lbs/MMBTU (3 hr. avg.) for each unit (Unit 1, Unit 2, and Unit 3); Trigger opacity limits of 72% (duct), 23.6% (bypass) for Unit 1; 62% (duct), 19.8% (bypass) for Unit 2; and 67% (duct), 22.0% (bypass) for Unit 3

Section 2. Definitions.

- A. Unless herein defined, all definitions and acronyms found in the MISO Tariff shall be incorporated by reference into this Agreement.
- B. “MISO Tariff” shall mean the document adopted by MISO, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and settlement (including customer registration) policies, rules, guidelines, procedures, standards, and criteria of MISO. For the purposes of determining responsibilities and rights at a given time, the MISO Tariff, as amended in accordance with the change procedure(s) described in the MISO Tariff, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.

Section 3. Term and Termination.

- A. Term.
 - (1) This Agreement is effective beginning on the Effective Date.
 - (2) An SSR Agreement must not exceed a one (1) year term, except in exigent circumstances.
 - (3) The “Term” of this Agreement is a period of twelve (12) months; provided, however, that MISO, in its sole discretion, may terminate this Agreement with respect to any Unit prior to the end of the Term by giving at least sixty (60) days advance written notice to Participant.
 - (4) The period beginning on the Start Date and ending when the Agreement terminates is called the “Full Term” of this Agreement.

(5) An Initial Term may be extended by MISO if MISO provides at least ninety (90) days advance notice of such extension to the Participant.

- B. Termination by Participant. Participant may, at its option, immediately terminate this Agreement upon the failure of MISO to continue to be certified by the Federal Energy Regulatory Commission ("FERC" or the "Commission") as an RTO. Participant may at any time request that MISO terminate this Agreement with respect to (a) Unit 1, or (b) all Units, but the final determination remains with MISO concerning whether the Unit(s) is(are) no longer required to maintain reliability. Participant may also request that MISO terminate this Agreement in conjunction with Participant agreement, in writing, to continue to operate either (a) Unit 2 and Unit 3, or (b) all Units, without an SSR agreement until such time that the Unit(s) is(are) no longer needed to maintain the reliability of the Transmission System. In case of a decision to retire or suspend service from any Unit subsequent to its removal from SSR status pursuant to the terms hereof, Participant shall again submit an Attachment Y notification under the MISO Tariff.
- C. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof with respect to any Unit, the rights and obligations of the Parties hereunder with respect to such Unit shall terminate, except that (1) the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive and (2) the rights and obligations of the Parties relating to any Unit with respect to which this Agreement has not been terminated shall survive.
- D. Notice. All notices (except for the two-hour advance notice specified in Section 7.A(2)) required to be given under this Agreement shall be in writing, and shall be deemed delivered three (3) days after being deposited in the U.S. Mail, first class postage prepaid,

registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Notices required hereunder shall be in accordance with the applicable Sections of the MISO Tariff.

If to MISO:

720 City Center Drive
Carmel, IN 46032
Tel. No. (317) 249-5400

If to Participant:

Robert W. Berry
Chief Operating Officer
Big Rivers Electric Corporation
201 Third Street
P.O. Box 24
Henderson, KY 42419-0024

Section 4. Representations, Warranties, and Covenants.

A. Participant represents, warrants, and covenants that:

- (1) Participant is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized, and is authorized to do business in the Commonwealth of Kentucky, including the MISO Region therein;
- (2) Participant has full power and authority to enter into this Agreement and perform all of Participant's obligations, representations, warranties, and covenants under this Agreement;
- (3) Participant's past, present and future agreements or Participant's organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease,

agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant's obligations under this Agreement;

- (4) The execution, delivery and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;
- (5) Except as set out in an exhibit (if any) to this Agreement, MISO has not, within the twenty-four (24) months preceding the Effective Date, terminated for Default any prior agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;
- (6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4.A(5), either (a) MISO has been paid, before execution of this Agreement, all sums due to it in relation to such prior agreement, or (b) MISO, in its reasonable judgment, has determined that this Agreement is necessary for system reliability, and Participant has made alternate arrangements satisfactory to MISO for the resolution of the Default under the prior agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;
- (7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

- (8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;
- (9) Participant is not Bankrupt (“Bankrupt” means any of the events or occurrences described in Section 7.16.1(e) of the MISO Tariff), does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt;
- (10) Participant acknowledges that it has received and is familiar with the MISO Tariff; and
- (11) Participant acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Full Term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.

B. MISO represents, warrants, and covenants that:

- (1) MISO is the RTO certified under 18 C.F.R. §35.34 for the MISO Region and the subject Electric Generation Resource/SCU is located within the MISO Region;
- (2) MISO is duly organized, validly existing and in good standing under the laws of Delaware, and is authorized to do business in the MISO Region;
- (3) MISO has full power and authority to enter into this Agreement and perform all of MISO’s obligations, representations, warranties, and covenants under this Agreement;
- (4) MISO’s past, present and future agreements or MISO’s organizational charter or

bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which MISO is a party or by which its assets or properties are bound do not materially affect performance of MISO's obligations under this Agreement;

- (5) The execution, delivery and performance of this Agreement by MISO have been duly authorized by all requisite action of its governing body;
- (6) MISO has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;
- (7) MISO is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;
- (8) MISO is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and
- (9) MISO acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Full Term of this Agreement. For purposes of this Section, "materially affecting performance," means resulting in a materially adverse effect on MISO's performance of its obligations under this Agreement.

Section 5. Participant Obligations.

Participant shall comply with, and be bound by, the MISO Tariff as it pertains to the provision of SSR Service.

Section 6. MISO Obligations.

MISO shall comply with, and be bound by, all MISO Tariff provisions.

Section 7. Tests for SSR Units.

A. Capacity Tests for SSR Reliability.

- (1) A "Capacity Test" is a one-hour performance test of the SSR Unit by Participant, which shall not include a ramp-up period for the SSR Unit. The capacity as shown by a Capacity Test is called "Tested Capacity" and is determined by the applicable net meter readings during the Capacity Test.
- (2) MISO may require that a Capacity Test be run at MISO's discretion at any time when the SSR Unit is on-line, but MISO may not require more than four (4) Capacity Tests in a contract year. MISO must give Participant at least two (2) hours advance notice, after the SSR Unit is on line, of a Capacity Test required by MISO, unless Market Participant agrees to less than two (2) hours. Participant may perform as many Capacity Tests as it desires, but Participant may not perform a Capacity Test without the prior approval of MISO, which approval MISO may not unreasonably withhold or delay. The Parties will reasonably cooperate to coordinate a Capacity Test. MISO has the right to reasonable advance notice of, and to have personnel present during, a Capacity Test.

B. Test Report. MISO shall give the Capacity Test results in writing (the "Capacity Test

Report”) to Participant within twenty-four (24) hours after the test is run.

C. Effect of Capacity Test for SSR Reliability.

- (1) A determination of Tested Capacity is effective as of the beginning of the hour in which the Capacity Test is started.
- (2) For all hours in which Tested Capacity is less than SSR Capacity (*i.e.*, the capacity eligible for compensation), then Billing Capacity may be reduced as set out in Section 9.D below and remains so reduced until a subsequent Capacity Test establishes that Tested Capacity equals or exceeds SSR Capacity.
- (3) After the Effective Date, MISO shall dispatch, as part of SSR energy, the electrical energy and/or reactive power produced by the SSR Units, including ramping energy and/or reactive power, during a Capacity Test requested by MISO, net of auxiliary equipment and other electrical requirements of the SSR Units that are supplied by the SSR Units. MISO shall also dispatch, as part of SSR energy, any electrical energy and/or reactive power produced by the SSR Units during a Capacity Test requested by Participant to attempt to show that Tested Capacity equals or exceeds SSR Capacity, net of auxiliary equipment and other electrical requirements of the SSR Units that are supplied by the SSR Units.

D. Capacity Tests for Resource Adequacy. If the SSR Unit is designated as a Capacity Resource pursuant to Module E-1 of the MISO Tariff, then the capacity test provisions of Module E-1 shall apply in addition to the Capacity Tests for System Reliability stated elsewhere in this Section 7.

E. Coordination for Other Tests. The Parties shall coordinate scheduling of any testing of the SSR Units that is required consistent with Good Utility Practice (*e.g.*, testing in

accordance with environmental and insurance requirements applicable to the Units), including the use of weekends and hours when the SSR Units are not expected to be used in order to complete the testing. During times for such testing, the SSR Units shall return to full service as dispatched by MISO (rescheduling the applicable testing) in the event of an emergency.

Section 8. Operation.

- A. Designated Unit Maintenance. Before the start of each contract year, Participant shall furnish MISO with its proposed schedule for Generator Planned Outages for inspection, repair, maintenance, and overhaul of the Designated Units for the contract year, in accordance with MISO's outage scheduling system. MISO shall approve or reject Generator Planned Outages in accordance with MISO's Business Practices Manual. MISO shall, if requested by Participant, endeavor to accommodate changes to the schedule to the extent that reliability of the MISO System is not materially affected by those changes. In all cases, MISO must find a time for Participant to perform maintenance in a reasonable timeframe as defined by Good Utility Practice.
- B. Planning Data. Participant shall timely report to MISO those items and conditions necessary for MISO's internal planning and compliance with MISO's guidelines in effect from time to time. The information supplied must include, without limitation, the following:
- (1) Availability Plan for the next day (in accordance with MISO Tariff deadlines).
The information submitted in the Availability Plan will be consistent with the information submitted in the Resource Plan, and shall specify each Designated Unit's availability for the next day consistent with their Resource Adequacy

Requirements;

- (2) Revised Availability Plan reflecting changes in the Availability Plan in accordance with MISO Tariff deadlines; and
- (3) Status of each Designated Unit with respect to Environmental Limitations, if any. Participant shall timely report to MISO the status of the Designated Units with respect to Operational Limitations.

C. Delivery.

- (1) MISO shall notify Participant of the hours and levels, if any, that the Designated Units are to operate through day-ahead commitment and real-time dispatch for system reliability. The set point in the real-time dispatch shall be considered the "Delivery Plan" for the purposes of this Agreement. MISO shall not notify Participant to operate the SSR Units in a way that would violate the limitations on operation set out in Section 1 above. Notwithstanding the foregoing, Participant may offer its SSR Capability as described in Section 1.E into the MISO Energy & Operating Reserves Markets outside of the Delivery Plan when the SSR Units are not needed to address the reliability issues pertaining to this Agreement, consistent with Section 38.2.7(g) of the MISO Tariff. Such offers into MISO Markets shall be cost-based, including (but not limited to) Start-Up, No Load, and Energy Offers. Participant is encouraged to offer available Zonal Resource Credits into the Planning Resource Auction pursuant to the terms of the MISO Tariff.
- (2) Participant shall produce and deliver electrical energy and/or reactive power from

the SSR Units to the Delivery Point at the levels specified in the Delivery Plan.

- (3) MISO may dispatch the Designated Units only when necessary to ensure transmission system security, including any emergency situation. MISO may not dispatch the Designated Units if compliance with the dispatch would cause the Designated Units to exceed the Operational and Environmental Limitations, if any, set forth in Section 1 above or at levels greater than are shown in the Availability Plan. Notwithstanding the foregoing, Participant retains the responsibility for operating the Designated Units in accordance with limits provided by applicable law.
- (4) During the hours of operation of the SSR Units specified in the Delivery Plan, Participant may only participate in the MISO Energy and Operating Reserve Markets from the SSR Units in accordance with the relevant conditions in the MISO Tariff.

Section 9. Payment Provisions.

- A. For the transfer of any funds under this Agreement directly between MISO and Participant and pursuant to the Settlement procedures described in the MISO Tariff, the following shall apply:
 - (1) Participant appoints MISO to act as its agent with respect to such funds transferred and authorizes MISO to exercise such powers and perform such duties as described in this Agreement or the MISO Tariff, together with such powers or duties as are reasonably incidental thereto.

(2) MISO shall not have any duties, responsibilities to, or fiduciary relationship with Participant and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement except as expressly set forth herein or in the MISO Tariff.

B. Compensation for the SSR Unit. MISO shall compensate Participant according to the terms of Exhibit 2 to this Agreement.

C. Settlement Provisions for the SSR Unit. At the conclusion of each calendar month, MISO shall conduct a settlement process for the SSR Units, consistent with the MISO Tariff requirements.

D. Performance-Related Payment Adjustments.

(1) For a SSR Unit, a "Misconduct Event" means any hour or hours during which Participant is requested to, but does not, deliver to MISO electrical energy and/or reactive power at a level of at least 98% on each hour (on a kilowatt-hour/hour or MVAR/hour basis) of the level shown in the Delivery Plan.

(2) Each day that a Misconduct Event continues after Participant receives written notice from MISO of the Misconduct Event is a separate Misconduct Event. A Misconduct Event is measured on a daily basis.

(3) Participant is excused from the Misconduct Event payment reduction arising from any Misconduct Event that is (a) not due to intentionally incomplete, inaccurate, or dishonest reporting to MISO by Participant of the availability of the Designated Unit, or (b) caused by a failure of the MISO Transmission System.

- (4) If a Misconduct Event is not excused, then to reflect this lower-than-expected quality of firmness, MISO's payments to Participant are reduced by the Unexcused Misconduct Amount not to exceed \$10,000 per day for all SSR units.
- (5) MISO shall inform Participant in writing of its determination if a Misconduct Event is unexcused.
- (6) MISO may offset any amounts due by Participant to MISO under this section against any amounts due by MISO to Participant under this Agreement.
- (7) Subject to the maximum amount set forth in clause (4) above, the Unexcused Misconduct Amount reduces payments to Participant (see Exhibit 2), and is composed of two parts:
 - (a) A fixed component equal to a proportionate reduction in the Monthly SSR Payment to Participant (see Exhibit 2) according to the reduction in Billing Capacity below the SSR Capacity, calculated for that portion of the month during which such reduction occurs. Billing Capacity is the lower of (i) the SSR Capacity and (ii) the Tested Capacity if lower than SSR Capacity for reasons not reported through the Outage Scheduler or if such reporting to MISO is intentionally incomplete, inaccurate, or dishonest.
 - (b) A variable component equal to the product of: (i) the difference between:
 - a) the level shown in the Delivery Plan and
 - b) the amount of electrical energy and/or reactive power delivered to MISO;and (ii) an SSR Unit's Hourly Ex Post LMP in any hour or hours in which a Misconduct Event occurs.

E. Compensation for Unanticipated Repairs. During the Term of this Agreement, any

necessary repair or repairs to the SSR Units shall not entitle Participant to any additional compensation under this Agreement, except as provided herein. For the purposes of this Section, “unanticipated” repairs are those for which compensation is not provided for in the Annual SSR Amount contained in Exhibit 2 to this SSR Agreement. If the need arises to make an unanticipated repair to the SSR Units, Participant shall notify MISO before incurring said repair costs, together with reasonable information in support thereof. Upon such notification, MISO shall notify Participant either that: (i) it elects to exercise its rights to terminate this Agreement because the unanticipated repairs could not be accomplished in a manner that would preserve system reliability; or (ii) it agrees that Participant shall make such repairs, subject to the terms of parts 1 and 2 of this Section 9.E. In no circumstances shall the costs of repairs authorized by MISO pursuant to this Agreement be the responsibility of Participant. Participant shall not be deemed to have a Misconduct Event, nor shall Participant be subject to any other performance penalties under this Agreement or the MISO Tariff for the period of time after Participant notifies MISO of the need for repairs as provided in this Section 9.E and MISO provides to Participant written notification that it agrees to fund the costs of such repairs and directs Participant to make such repairs.

(1) Non-Emergency Repairs. Except as provided for in part 2 of this Section 9.E, before MISO may issue a notice to fund unanticipated repairs, MISO shall make and receive approval of a Federal Power Act (“FPA”) Section 205 filing at the Commission to modify this Agreement to provide for the recovery of such repair costs and shall serve such filing on all parties to whom such repair costs would be allocated. Participant shall not make such unanticipated repairs unless

and until MISO informs Participant in writing that it has received FERC approval to modify this Agreement to provide for the recovery of such costs.

(2) Emergency Repairs. If MISO reasonably believes that system security and reliability require any unanticipated repairs to be made before FERC can act on a Section 205 filing (“Emergency Repairs”), then MISO shall so notify Participant in writing and direct Participant to make such Emergency Repairs and MISO shall make a Section 205 filing at FERC as soon as reasonably practicable thereafter to modify this Agreement to provide for recovery of such repair costs. In the case of Emergency Repairs, if FERC later determines MISO’s decision to approve such Emergency Repairs was imprudent or otherwise does not accept such modifications to the Agreement, then the costs of the Emergency Repairs shall be allocated pursuant to Section 38.2.7.k of the MISO Tariff (as filed in FERC Docket No. ER12-2302 on December 18, 2012).

F. Allocation of SSR Compensation. MISO will charge the LSEs that benefit from operation of the subject SSR Units in accordance with MISO Tariff Schedule 43F.

Section 10. Default.

A. Event of Default.

(1) Failure to make payment or transfer funds as provided in the MISO Tariff shall constitute a material breach and shall constitute an event of default ("Default") unless cured within three (3) Business Days after delivery by the non-breaching Party of written notice of the failure to the breaching Party. Provided further that if such a material breach, regardless of whether such breach is cured within the

allotted time after notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth such breach shall constitute a Default by the breaching Party.

(2) For any material breach other than a failure to make payment or transfer funds, the occurrence and continuation of any of the following events shall constitute an event of Default by Participant:

(a) Except as excused under subsection (4) or (5) below, a material breach, other than a failure to make payment or transfer funds, of this Agreement by Participant, including any material failure by Participant to comply with the MISO Tariff, unless cured within fourteen (14) Business Days after delivery by MISO of written notice of the material breach to Participant. Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by MISO of written notice of such material breach by Participant and must prosecute such work or other efforts with reasonable diligence, consistent with Good Utility Practice, until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth (4th) such breach shall constitute a Default.

(b) Participant becomes Bankrupt, except for the filing of a petition in involuntary bankruptcy, or similar involuntary proceedings that is dismissed within ninety (90) days thereafter.

- (c) The Designated Unit's operation is abandoned without intent to return it to operation during the Full Term; or
 - (d) Three or more unexcused Misconduct Events occur during a contract year.
- (3) Except as excused under subsection (4) or (5) below, a material breach of this Agreement by MISO, including any material failure by MISO to comply with the MISO Tariff, other than a failure to make payment or transfer funds, shall constitute a Default by MISO unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to MISO. MISO must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by MISO and must prosecute such work or other efforts with reasonable diligence, consistent with Good Utility Practice, until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth such breach shall constitute a Default.
- (4) For any material breach other than a failure to make payment or transfer funds, the breach shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) calendar days, prompt written notice is provided by the breaching Party to the other Party, and the breaching Party began work or other efforts to cure the breach within three (3) Business Days after delivery of the notice to the breaching Party and prosecutes the curative work or efforts with reasonable diligence, consistent with Good Utility Practice, until the curative

work or efforts are completed.

- (5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.

B. Remedies for Default.

- (1) MISO's Remedies for Default. In the event of a Default by Participant, MISO may pursue any remedies MISO has under this Agreement, at law, or in equity, subject to the provisions of Section 12: Dispute Resolution of this Agreement. In the event of a Default by Participant, if the MISO Tariff does not specify a remedy for a particular Default, MISO may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice.

(2) Participant's Remedies for Default.

- (a) Unless otherwise specified in this Agreement or in the MISO Tariff, and subject to the provisions of Section 12: Dispute Resolution of this Agreement, in the event of a Default by MISO, Participant's remedies shall be limited to:

- (i) Immediate termination of this Agreement upon written notice to MISO,
- (ii) Monetary recovery in accordance with the Settlement procedures set forth in the MISO Tariff, and
- (iii) Specific performance.

- (b) However, in the event of a material breach by MISO of any of its

representations, warranties or covenants, Participant's sole remedy shall be immediate termination of this Agreement upon written notice to MISO.

- (c) If as a final result of any dispute resolution MISO, as the settlement agent, is determined to have over-collected from a Market Participant(s), with the result that refunds are owed by Participant to MISO, as the settlement agent such Market Participant(s) may request MISO to allow such Market Participant to proceed directly against Participant, in lieu of receiving full payment from MISO. In the event of such request, MISO, in its sole discretion, may agree to assign to such Market Participant MISO's rights to seek refunds from Participant, and Participant shall be deemed to have consented to such assignment. This subsection (c) shall survive termination of this Agreement.

- (3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the MISO Tariff.

C. Force Majeure.

- (1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days,

after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.

- (2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the MISO Tariff or under this Agreement, except that the excuse from Default provided by subsection 10.A(5) above is still effective.

- D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

Section 11. Limitation of Damages and Liability and Indemnification.

- A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR MISO BUSINESS PRACTICES, MISO OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN MISO PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER INDIANA LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A

DEFAULT UNDER THIS AGREEMENT, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.

- B. The Parties have expressly agreed that, other than subsections A and B of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with the Choice of Law and Venue subsection 13.A of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the MISO Tariff (outside of this Agreement).

Section 12. Dispute Resolution.

- A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the MISO Tariff.
- B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys' fees, court costs, and its share of any mediation or arbitration fees.

Section 13. Miscellaneous.

- A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into in Indiana and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted

in accordance with the laws of the State of Indiana that apply to contracts executed in and performed entirely within the State of Indiana, without reference to any rules of conflict of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Indiana, and the Parties hereby waive any defense of *forum non-conveniens*.

B. Assignment.

- (1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with MISO):
 - (a) Where any such assignment or transfer is to an Affiliate of the Party; or
 - (b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its facilities; or
 - (c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party will notify the other Party of any such assignment. Prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement entered into by either Party pursuant to this Section, the assigning Party, the secured creditor, the trustee or mortgagee will notify the other Party of the

date and particulars of any such exercise of assignment right(s). If requested by the Party making any such collateral assignment to a secured party, trustee or mortgagee (any such secured party, trustee, or mortgagee is hereinafter referred to as a "Financing Person"), the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notices of Default, and an opportunity for the Financing Person to cure Defaults.

- (2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party's obligations be enlarged, in whole or in part, by reason thereof.

C. No Third Party Beneficiary. Except with respect to the rights of other Market Participants in Section 10.B and the Financing Persons in Section 13.B, (1) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (2) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (3) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

- D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (1) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (2) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party's covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.
- E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties' intentions with respect thereto.
- F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within fourteen (14) days, either Party shall have the right to terminate this Agreement on three

(3) days written notice.

- G. Entire Agreement. Any exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties' final and mutual understanding with respect to its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding.
- H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying the MISO Tariff described in the MISO Tariff. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties.
- I. MISO's Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment or computation delivered to MISO under the MISO Tariff. Such records shall be retained and shall be available for audit or examination by MISO as hereinafter provided. MISO has the right during Business Hours and upon reasonable written notice and reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment or computation made under this Agreement. If any such examination reveals any inaccuracy in any information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in

supporting its ongoing accuracy will be promptly made.

- J. Participant's Right to Audit MISO. Participant's right to data and audit of MISO shall be as described in the MISO Tariff and shall not exceed the rights described in the MISO Tariff.
- K. Further Assurances. Each Party agrees that during the term of this Agreement it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.
- L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to MISO of any such conflict affecting Participant. In the event of a conflict between the MISO Tariff and this Agreement, the provisions expressly set forth in this Agreement shall control.
- M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent

or representative of, or to otherwise bind, the other Party except as provided in Section 9.A.

N. No State Public Utility Created. This Agreement may not be interpreted or construed as modifying the jurisdictional status of MISO, including, but not limited to establishment of MISO as a state public utility under the laws of any jurisdiction, as a result of MISO's performance under this Agreement.

O. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:

- (1) The singular includes the plural, and the plural includes the singular.
- (2) The present tense includes the future tense, and the future tense includes the present tense.
- (3) Words importing any gender include the other gender.
- (4) The word "shall" denotes a duty.
- (5) The word "must" denotes a condition precedent or subsequent.
- (6) The word "may" denotes a privilege or discretionary power.
- (7) The phrase "may not" denotes a prohibition.
- (8) References to statutes, tariffs, regulations or the MISO Tariff include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations or the MISO Tariff referred to.
- (9) References to "writing" include printing, typing, lithography, and other means of reproducing words in a tangible visible form.

- (10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”
- (11) Any reference to a day, week, month or year is to a calendar day, week, month or year unless otherwise indicated.
- (12) References to Articles, Sections (or subdivisions of Sections), Exhibits, annexes or schedules are to this Agreement, unless expressly stated otherwise.
- (13) Unless expressly stated otherwise, references to agreements, the MISO Tariff and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.
- (14) References to persons or entities include their respective successors and permitted assigns and, for governmental entities, entities succeeding to their respective functions and capacities.
- (15) References to time are to Eastern Standard Time.
- (16) References to any capitalized word or phrase not defined herein shall have the meanings from the MISO Tariff.

P. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

SIGNED, ACCEPTED AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.

Midcontinent Independent System Operator, Inc.:

By: _____

Name: Stephen Kozey

Title: Sr. Vice President and General Counsel

Date: November 1, 2013

Participant:

By: /s/ Robert W. Berry_____.

Name: Robert W. Berry

Title: Chief Operating Officer

Date: November 1, 2013

EXHIBIT 1

Detailed Description of SSR Units

Coleman Generating Station

Unit Nos. 1-3

4982 River Road

Hawesville, KY 42348

UNIT DESCRIPTION

Initial service date – Unit 1 (1969); Unit 2 (1970); Unit 3 (1971)

Coal Fired Steam Boiler

Bituminous Coal Fueled

EXHIBIT 2

Description of SSR Unit Going-Forward Compensation

A. Fixed Component of Compensation

Pursuant to Section 9 of the Agreement, MISO shall pay Participant a Monthly SSR Payment of \$3,414,502 for Units 1-3, representing monthly allocations of budgeted fixed costs from an Annual SSR Amount for all Units to each month during the term of the SSR Agreement. If (i) this Agreement is terminated with respect to Unit 1 and (ii) Units 2 and 3 remain SSR Units, MISO shall pay Participant a Monthly SSR Payment of \$2,250,936, representing monthly allocations of budgeted fixed costs from an Annual SSR Amount for Units 2-3 to each month during the term of the SSR Agreement. Each such Monthly SSR Payment shall be made regardless of dispatch of the SSR Unit during that month. If this SSR Agreement is terminated for any Unit, effective during the course of a calendar month, then the corresponding Monthly SSR Payment shall be prorated for that month.

The MISO payment to Participant is subject to true up for the SSR Units based upon the actual costs incurred by Participant in operating the SSR Units, which shall be settled within 55 days after the last day of the month for each month of the Agreement. For the completion of the true up calculations, Participant shall submit the actual costs to MISO such that the information is received by MISO within 50 days after the last day of the month for each month of the Agreement. Such submissions to MISO shall be sent to MISO at the address stated in Section 3.D of this Agreement, to the attention of the Manager of Market Settlements. Both Parties acknowledge that actual costs under this Agreement may be larger or smaller than the agreed upon (budgeted) Monthly SSR Amount for each Unit. Actual plant O&M and maintenance capital costs sustained in accordance with Good Utility Practice and any unit operational requirements dictated under the

terms of this agreement will form the basis for the tried up amount paid or charged to Participant by MISO.

The compensation provided for under this Agreement may be further modified pursuant to Section 7 (adjustment to Monthly SSR Payment based on Capacity Tests) and/or Section 9.D (“Performance-Related Payment Adjustments) and/or Section 9.E (“Compensation for Unanticipated Repairs”) of the Agreement. Compensation shall be settled on a monthly basis.

B. Variable Component of Compensation

Pursuant to Section 9 of the Agreement, MISO shall pay Participant its Production Cost for the amount of Actual Energy Injections (as defined in Module A Section 1.1a of the MISO Tariff) and Operating Reserve Cost in each instance that MISO dispatches the SSR Unit. For purposes of this Agreement, “Production Cost” shall mean the Energy output cost of the SSR Unit based upon Start Up, No Load, and Energy Offer cost components that reflect the actual costs of physically operating the SSR Unit, and “Operating Reserve Cost” shall mean the actual cost to provide Operating Reserves. All Production Costs and Operating Reserve Costs will be subject to audit by MISO, and will be subject to audit and enforcement by the Independent Market Monitor (“IMM”) (such audit and enforcement provision shall not be interpreted as a limitation on MISO and IMM activities or responsibilities).

Through the MISO settlement process, MISO will ensure that Participant is paid the “SSR Unit Compensation,” which is equal to the sum of Production Cost and Operating Reserve Cost over all the SCUC Instructed Hours of Operation in the Day for that SSR Unit. MISO will compare the SSR Unit Compensation to the “SSR Unit Energy and Operating Reserve Credit.” The SSR Unit Energy and Operating Reserve Credit are those charges and credits calculated pursuant to Sections 39.3 Day-Ahead Energy and Operating Reserve Market and 40.3 Real Time

Energy and Operating Reserve Market Settlement of the MISO Tariff, plus any revenues from Schedule 2 associated with the SSR Unit or from Planning Resource designation and any charges assessed through Schedule 17 and Schedule 24. In those hours where the SSR Unit Compensation is greater than the SSR Unit Energy and Operating Reserve Credit, MISO will make the applicable make-whole payment to Participant (such make-whole payment to be equal to the difference between the SSR Unit Compensation and the SSR Unit Energy and Operating Reserve Credit). In those hours where the SSR Unit Compensation is less than the SSR Unit Energy and Operating Reserve Credit, MISO will debit from Participant (such debit to be equal to the difference between the SSR Unit Energy and Operating Reserve Credit and the SSR Unit Compensation).

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Midcontinent Independent
System Operator, Inc.**

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Docket No. ER14-

**DIRECT TESTIMONY
OF
ROBERT W. BERRY**

October 30, 2013

1 **Q. Please state your name and business address.**

2 A. My name is Robert W. Berry. My business address is 201 Third Street, Henderson,
3 Kentucky 42420. I am employed by Big Rivers Electric Corporation, a Kentucky electric
4 generation and transmission cooperative (“Big Rivers”).

5 **Q. What is your current position with Big Rivers?**

6 A. I am the Chief Operating Officer.

7 **Q. What are your duties and responsibilities in your current role as Chief Operating**
8 **Officer?**

9 A. In this role, I am responsible for the operations and maintenance activities at Big Rivers’
10 four generating stations, including the Kenneth C. Coleman Generating Station in
11 Hawesville, Kentucky (“Coleman Station”). I am also responsible for Energy Services,
12 Energy Control and Transmission System activities.

13 **Q. What is the purpose of your testimony?**

14 A. I am presenting this testimony in support of the System Support Resource (“SSR”)
15 Agreement between Big Rivers and the Midcontinent Independent System Operator
16 (“MISO”) relating to the continued operation of the Coleman Station generating units.

17 **Q. Please describe the Coleman Station plant.**

18 A. Coleman Station is a coal-fired steam electric generation facility located near Hawesville,
19 Kentucky. It consists of three generating units with a combined net megawatt (“MW”)
20 capacity of 443 MW. The net capacity of the individual units is as follows: 150 MW for
21 Unit 1, 138 MW for Unit 2, and 155 MW for Unit 3.

1 **Q. Were you involved in the preparation of Big Rivers' Attachment Y notification?**

2 A. Yes. On May 24, 2013, Big Rivers submitted a completed Attachment Y notice to MISO
3 requesting permission to suspend from service the Coleman Station units effective
4 September 1, 2013.

5 **Q. Why did Big Rivers submit an Attachment Y for the Coleman Station units?**

6 A. As of August 20, 2013, a large industrial customer of one of Big Rivers' member
7 distribution cooperatives, Kenergy Corp., is no longer being served from Big Rivers'
8 generating resources. Due to the loss of this large industrial customer, Big Rivers
9 determined that it was no longer economic to continue operating the Coleman Station
10 units until such time the wholesale market prices improve or until it can sell the capacity
11 and energy previously utilized by the large industrial customer. Under the MISO Tariff,
12 a Market Participant that plans to retire or suspend all or a portion of a generation
13 resource must notify MISO by submitting a completed Attachment Y. If MISO
14 determines that continued operation of the generation resource is required to maintain the
15 reliability of the MISO-operated transmission system, MISO will designate the resource a
16 SSR and tender a draft SSR Agreement to ensure continued operation of and appropriate
17 compensation for the SSR units.

18 **Q. What was MISO's response to Big Rivers' Attachment Y notification?**

19 A. In response to Attachment Y notification, MISO informed Big Rivers that Big Rivers
20 must maintain availability of the Coleman Station units. MISO tendered a draft of the
21 SSR Agreement to Big Rivers on August 12, 2013. Subsequently, MISO completed a
22 reliability assessment confirming that the continued operation of the Coleman Station
23 units was necessary to avoid violations of applicable reliability standards.

1 **Q. Has Big Rivers maintained the availability of the Coleman Station units since**
2 **receiving notice from MISO?**

3 A. Yes. Big Rivers has complied with MISO's request and continued to operate the plant
4 beyond the date specified in Big Rivers' Attachment Y notice.

5 **Q. Absent the request from MISO to maintain the availability of the Coleman Station**
6 **units, would Big Rivers have maintained the availability of those units?**

7 A. No. Big Rivers, having satisfied its Attachment Y notice requirements, would have
8 begun to suspend the operation of the Coleman Station units to limit continued
9 operational losses.

10 **Q. Has Big Rivers incurred costs and or losses during the time since MISO requested**
11 **that the Coleman Station units remain available?**

12 A. Yes. The Coleman Station units continue to lose money because the costs to operate and
13 maintain the units exceed wholesale market revenues.

14 **Q. Has Big Rivers received any SSR compensation for the continued availability of the**
15 **Coleman Station units?**

16 A. No.

17 **Q. Were you involved in developing the proposed SSR Agreement and the costs**
18 **recovery provided therein?**

19 A. Yes.

20 **Q. Please describe that process.**

21 A. Since being notified that the Coleman Station units would be needed for reliability, Big
22 Rivers engaged with MISO in a series of discussions regarding compensation necessary
23 for the continued availability of the Coleman Station units. Big Rivers provided cost data

1 to MISO, and worked closely with MISO to determine the appropriate level of
2 compensation for maintaining the availability of the Coleman Station units for reliability.

3 **Q. Was the MISO Independent Market Monitor (“IMM”) also involved in those**
4 **discussions?**

5 A. Yes. Representatives of the IMM were involved in these discussions, and reviewed the
6 cost data.

7 **Q. Did Big Rivers make any adjustments in response to the IMM’s comments?**

8 A. Yes. In response to comments from the IMM, Big Rivers re-allocated its capital costs to
9 fixed costs, and limited some other costs, including property taxes, insurance, plant labor,
10 and operations and maintenance. I sometimes refer in my testimony to these other costs
11 as “O&M”. Big Rivers limited O&M to the difference between what O&M would be if
12 the Coleman Station units were suspended from operation versus what O&M would be if
13 Big Rivers were required to maintain the units’ availability for reliability.

14 **Q. Did Big Rivers and MISO agree on the compensation that should be provided under**
15 **the SSR Agreement?**

16 Yes.

17 **Q. Please describe the compensation provided under the SSR Agreement.**

18 A. The SSR Agreement provides for recovery of going-forward fixed and variable costs to
19 maintain the availability of the Coleman Station units for reliability. The fixed cost
20 component is based on an annual revenue requirement to cover some fixed costs related
21 to maintaining the availability of the Coleman Station units. This revenue requirement is
22 referred to in the SSR Agreement as the “Annual SSR Amount.” Subject to the terms of
23 the SSR Agreement, MISO will pay the revenue requirement for all three Coleman

1 Station units through monthly payments of \$3,414,502, representing monthly allocations
2 of the Annual SSR Amount. If the SSR Agreement is terminated with respect to Unit 1,
3 the monthly SSR payments for the remainder of the term of the SSR Agreement will be
4 reduced to \$2,250,936. The SSR Agreement separately provides for variable generation
5 costs reimbursement when the units are dispatched for reliability.

6 **Q. Please explain the cost components of the Annual SSR Amount.**

7 **A. The Annual SSR Amount is based on the 2013 budgets for the Coleman Stations units,**
8 **and includes the following cost components:**

9 (1) Fixed Costs: For the one-year SSR Agreement term, fixed costs for operating
10 all three of the Coleman Station units are estimated to be \$32,057,717, or
11 \$24,408,837 if the SSR Agreement is terminated with respect to Unit 1. Included
12 in this estimate is the cost of non-labor O&M costs, plant labor, general and
13 administrative costs, and property taxes and insurance.

14 (2) Capital: Capital costs during the one-year SSR Agreement term for operating
15 all three of the Coleman Station units are estimated to be \$8,200,658, or
16 \$1,886,754 if the SSR Agreement is terminated with respect to Unit 1. A detailed
17 list of the capital items included in this estimate was provided with the SSR
18 budget. The replacement of these items is necessary to maintain the operation of
19 the Coleman Station units during the term of the SSR Agreement.

20 (3) Return on Net Rate Base: The Annual SSR Amount includes a 7.85% return
21 on net rate base (carrying costs for fuel inventory, reagent, and materials and
22 supplies), calculated as a percentage of the total inventory and capital required to
23 operate the units during the term of the SSR Agreement. The return on net rate

1 base for the operation of (1) all three units, or (2) Unit 2 and Unit 3 is estimated to
2 be \$715,643

3 **Q. Does the SSR compensation account for other sources of revenue Big Rivers may**
4 **receive for the Coleman Station units during the term of the SSR Agreement?**

5 **A. Yes. As described in the SSR Agreement, any supplemental revenue received through**
6 **the MISO markets beyond the SSR compensation will be debited or credited against the**
7 **SSR compensation in the settlements process to prevent double-recovery by Big Rivers.**
8 **These additional revenue streams include Schedule 2 payments for reactive power and**
9 **capacity revenues, if any, attributable to the Coleman Station units.**

10 **Q. Please explain the variable generation payment to be paid by MISO when the units**
11 **are dispatched for reliability.**

12 **A. Because the Annual SSR Amount covers certain fixed costs that do not include the**
13 **marginal cost of generating, the SSR Agreement also provides for a separate payment**
14 **when the unit is dispatched. The SSR Agreement does not establish a fixed price for**
15 **these payments, but will instead provide for reimbursement of the actual costs of each**
16 **dispatch. Specifically, under the terms of the SSR Agreement, Big Rivers will offer the**
17 **Coleman Station units in each available hour at its marginal cost of generating.**
18 **Accordingly, every time MISO dispatches the Coleman Station units for reliability,**
19 **MISO will provide Big Rivers with the costs of its three-part offer, consisting of start-up**
20 **costs, no-load costs, and incremental energy costs. The incremental energy component**
21 **will be based on average fuel cost.**

22 **Q. How will Energy and Ancillary Services revenues be accounted for when the units**
23 **are dispatched for reliability?**

1 A. Because the MISO settlement process is based on market-clearing prices, MISO will
2 implement an additional step in the settlement process for the Coleman Station units.
3 This step is intended to make Big Rivers whole when market-clearing prices are lower
4 than its three-part offer for the Coleman Station units, and to debit Big Rivers' account
5 with MISO when market-clearing prices exceed the three-part offer. This process
6 ensures that Big Rivers does not stand to recover more than its cost-based offer from
7 MISO's reliability-related dispatches, while receiving SSR compensation.

8 **Q. Is there any other provision of the SSR Agreement that ensures that SSR**
9 **compensation will not exceed actual costs of operating the Coleman Station units for**
10 **reliability?**

11 A. Yes. Exhibit 2 includes a provision to "true-up" actual fixed costs with compensation
12 under the SSR Agreement for budgeted fixed costs. That exhibit provides that the
13 Monthly SSR Payment to Big Rivers will be subject to true-up upon termination of the
14 SSR Agreement for any Unit, based on actual costs incurred by Big Rivers in operating
15 the Coleman Station units. The amount paid or charged to Big Rivers by MISO will
16 reflect actual plant O&M and maintenance capital costs incurred in accordance with
17 Good Utility Practice and any unit's operational requirements under the SSR Agreement.

18 **Q. Does the SSR Agreement address any environmental limitations of the Coleman**
19 **Station units?**

20 A. Yes. The SSR Agreement specifies certain limitations on the output of the Coleman
21 Station units for SO₂ and NO_x. Under the pro forma SSR Agreement, MISO cannot
22 dispatch a unit if the dispatch would cause it to violate applicable environmental

1 restrictions. The same would be true for the Coleman Station units under the SSR
2 Agreement.

3 **Q. Does this conclude your testimony?**

4 **A. Yes.**

5 **[Next page is signature page]**

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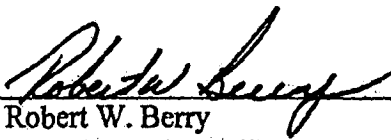
UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent
System Operator, Inc.

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Docket No. ER14-____

I, Robert W. Berry, Chief Operating Officer for Big Rivers Electric Corporation, verify, state and affirm that the foregoing testimony is true and correct to the best of my knowledge and belief.



Robert W. Berry
Chief Operating Officer
Big Rivers Electric Corporation

SUBSCRIBED AND SWORN to before me by Robert W. Berry, Chief Operating Officer of Big Rivers Electric Corporation, on this the 30th day of October, 2013.



Notary Public