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SERVICE
DIVISION

Via Overnight Mail

September 13, 2013

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

Re: Case No. 2013-00199

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of the PUBLIC VERSION of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.'s MOTION FOR PUBLIC DISCLOSURE AND REQUEST FOR AN EXPEDITED RULING for filing in the above-referenced matter. I also enclose a copy of the CONFIDENTIAL pages to be filed under seal.

The information filed under seal is information that Big Rivers sought confidential treatment through a Petition for Confidential Treatment dated September 3, 2013. KIUC redacted this information in order to protect Big River's interests in keeping this information confidential.

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

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Quang Nyugen, Esq.
Richard Raff, Esq.
Jeff Cline (cover ltr only)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by U.S. Mail, unless other noted, this 13th day of September, 2013 to the following:



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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

SEP 16 2013
PUBLIC SERVICE
COMMISSION

IN THE MATTER OF: THE APPLICATION OF BIG :
RIVERS ELECTRIC CORPORATION FOR AN : Case No. 2013-00199
ADJUSTMENT OF RATES :

(PUBLIC VERSION)

**KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.’S
MOTION FOR PUBLIC DISCLOSURE AND REQUEST FOR AN EXPEDITED RULING**

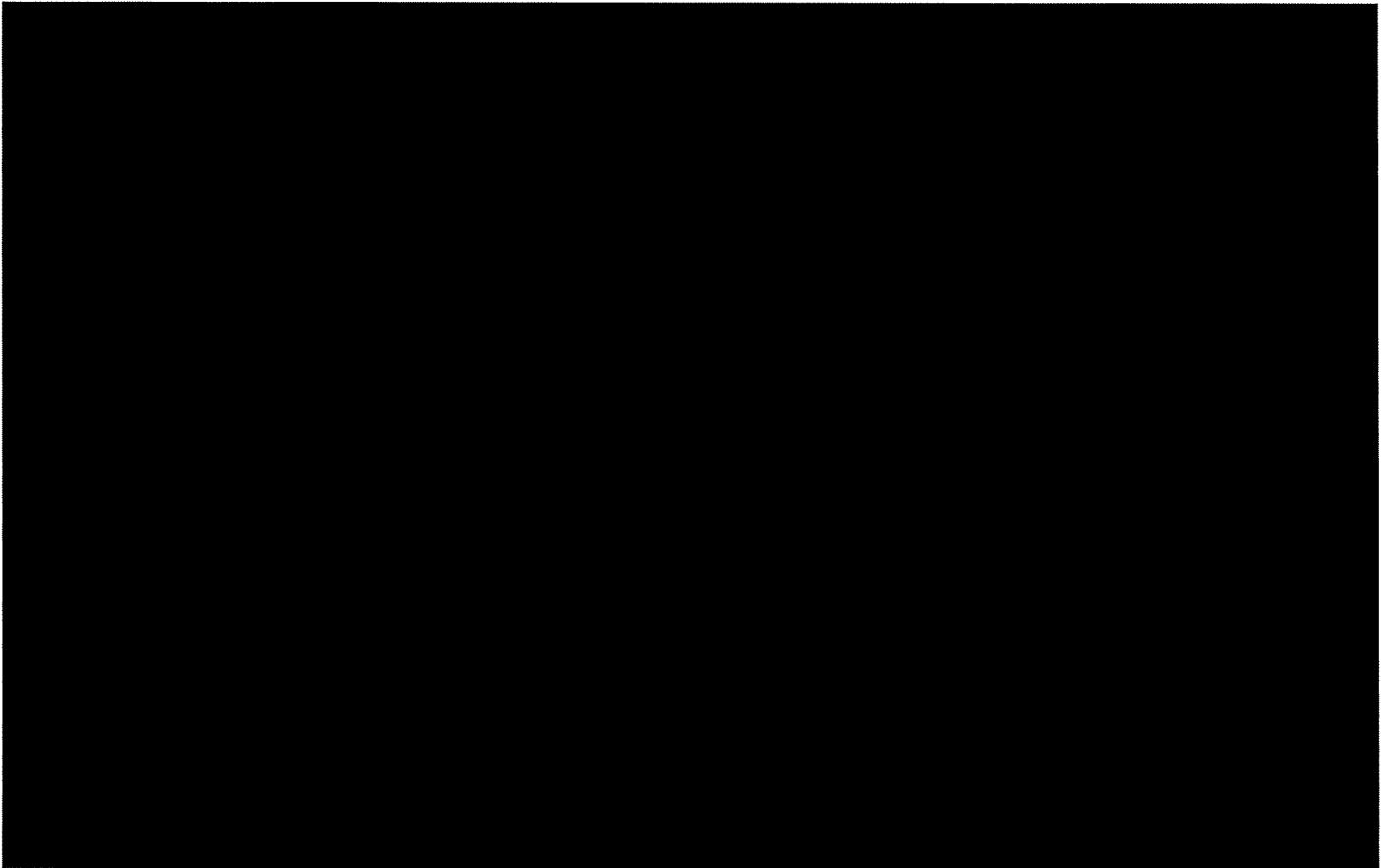
Comes now Kentucky Industrial Utility Customers, Inc. (“KIUC”) and submits this Motion for Public Disclosure of the impacts of Big Rivers Electric Corporation (“Big Rivers”) proposed rate increases on Rural and Large Industrial customers.¹ Specifically, KIUC requests that the Commission make public the rate impact information provided by Big Rivers in response to Attorney General (“AG”) Initial Data Request, Item No. 1-158. Big Rivers alleges that this information should be treated as confidential.

AG Data Request, Item No. 1-158 states: *“Please provide copies of the summary results of all Financial Model runs provided to the Big Rivers Board of Directors in the period January 1, 2012 to current.”* In Response to this Data Request, Big Rivers provided an Attachment that includes a page entitled “Rural Revenue” and a page entitled “Large Industrial Revenue.”² These pages show Big Rivers’ projected rates for Rural and Large Industrial customers in the years 2012 through 2027 on both

¹ KIUC is referring to the rate increases that could result from Big Rivers proposals in Case Nos. 2012-00535 and 2013-00199.

² Big Rivers Attachment for Response to AG 1-158 at 11-12 (attachment filed under seal).

a base rate and total revenue basis. Those rate impacts (on a total revenue basis) are summarized in the following chart:



There is no credible argument that the public disclosure of this basic native load rate impact information will do anything to hamper Big Rivers' competitiveness in either the wholesale power markets or the credit markets. Some of the components that make up these rates may be competitively sensitive, but there is no justification for a finding that the rate impact information that is the product of those components is anything other than public information. Public disclosure of this information is absolutely critical to the public's understanding of Big Rivers' rate requests. Consequently, every member of the public has a right to see this information.

Moreover, Big Rivers has already waived claim to confidential protection of this information by selectively disclosing bits and pieces of this data publicly. In a September 11, 2013 article in the *Evansville Courier & Press*, Big Rivers representative Marty Littrel criticized rate impact information provided by KIUC and stated that “*the impact of the two proposed rate increases would be more like 45 percent.*”³ Mr. Littrel’s rate impact estimate can be tied to the confidential information contained on page 11 of Big Rivers’ Response to AG 1-158, however his limited depiction only reflects the Rural customer rate increase from 2012 to 2014 while the reserve funds are still at play. But the public has a statutory right to see the whole picture, including what happens once the reserve funds are exhausted. When that happens, Rural and Large Industrial customers will face an automatic increase in 2015 that will more than double their current rates.

Kentucky Statutes and the Commission’s rules recognize the right of customers to know the total impact of a utility’s proposed rate increase. KRS 278.180 states that no change in rates “*shall be made by any utility in any rate except upon thirty (30) days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect.*” (Emphasis added).

807 KAR 5:001Section 17(2)(4) states that when filing an application for a general rate adjustment, a utility shall provide:

(b) The present rates and proposed rates for each customer classification to which the proposed rates will apply;

(c) The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply;

These provisions are intended to provide the public with accurate information regarding their utility’s proposed rate increase. Big Rivers’ practice of disclosing only a one-year sliver of rate impact

³ See attached.

information, while maintaining that all other information regarding customer rate impacts is confidential, violates the spirit and letter of these rules and regulations.

Accordingly, the Commission should require Big Rivers to make the rate impact provided in its Response to AG 1-158 available to the public. KIUC also respectfully requests that the Commission issue an expedited ruling on this Motion so that this matter can be completely resolved prior to the hearing in this case. This will allow the public to review this rate impact information and participate in public hearings if they so choose.

Respectfully submitted,



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

September 13, 2013

ATTACHMENT

Century Aluminum power ruling appealed by large industries

By Chuck Stinnett

Wednesday, September 11, 2013

Three large industries that use Big Rivers Electric Corp.'s power will appeal a recent ruling by state regulators that caused their electric rates to jump.

The Kentucky Public Service Commission last month approved agreements that allowed Big Rivers' biggest customer, Century Aluminum's 700-employee smelter at Hawesville, to leave the Big Rivers' system and buy cheaper power on the open market.

That has left Big Rivers' remaining 112,000 customers in Western Kentucky paying higher electric rates to cover fixed costs — such as debt payments on Big Rivers' power plants and the cost of operating its transmission system — that Century formerly helped pay.

Big Rivers raised electric rates by \$68.6 million per year effective Aug. 20, primarily to make up for the loss of Century. Rates rose an average of 19 percent for rural residential and commercial customers, and 17 percent for large industrial customers.

The PSC hasn't officially approved the rate increase yet, but allowed Big Rivers to charge the higher rates subject to refunding customers money if a small increase is approved later. A ruling on the proposed rate increase is expected in "a matter of weeks," PSC spokesman Andrew Melnykovich said Wednesday.

In the meantime, Kentucky Industrial Utility Customers has filed a notice that it will appeal the PSC allowing Century to leave the Big Rivers system to Franklin Circuit Court in Frankfort. KIUC represents the Kimberly Clark paper mill near Owensboro and the Domtar paper mill and Aleris aluminum rolling mill near Hawesville in the matter.

"Our position at the commission was, we did not oppose market pricing for Century, but we asked the commission (to insist that) ... once the Hawesville smelter became profitable (thanks to buyer cheaper power on the open market) that Century could pay for stranded costs or the excess (generating) capacity on the Big Rivers system to reduce the burden on the remaining customers," KIUC attorney Mike Kurtz said Wednesday.

"The commission didn't accept (that proposal), so we've appealed to the courts," he said.

A second shoe is yet to drop; on Jan. 31, 2014, Century's 500-employee Sebree smelter will also leave the Big Rivers system. Big Rivers has already filed for a second rate increase to address the loss of that revenue, although it says it can delay the implementation of a second rate hike by using special reserve funds.

Kurtz said the combined effect of the two rate increases would mean electric rates would increase 72 percent, or \$881 per year, starting in April 2015 for the average rural residence that gets power from Big Rivers (such as customers of the Kenergy Corp. rural electric co-op) while rates for 19 large industries would jump 110 percent by July 2014.

(Big Rivers spokesman Marty Littrel called those figures "misleading," saying the impact of the two proposed rate increases would be more like 45 percent.)

"KIUC is hopeful in the rate case decisions that the PSC will not place the whole burden" of Big Rivers' stranded costs on remaining customers, Kurtz said. "We believe that (Big Rivers') creditors and all stakeholders should shoulder the financial problems of Big Rivers."

Melnykovich said the PSC had no immediate comment on KIUC's court appeal.



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