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August 26, 2014

Via Federal Express

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

RECEIVED

AUG 27 2014

PUBLIC SERVICE
COMMISSION

Re: In the Matter of: 2014 Integrated Resource Plan of Big Rivers Electric Corporation, P.S.C. Case No. 2014-00166

Dear Mr. Derouen:

Enclosed for filing are an original and ten copies of Big Rivers Electric Corporation's Response to the Petition for Rehearing filed by Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC. I certify that on this date, a copy of this letter and a copy of the response were served on each of the persons listed on the attached service list by first-class mail.

Sincerely,



Tyson Kamuf

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Enclosures

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1 COMMONWEALTH OF KENTUCKY
2 BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION
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AUG 27 2014

PUBLIC SERVICE
COMMISSION

5 In the Matter of:

6
7 THE 2014 INTEGRATED RESOURCE PLAN OF) CASE NO. 2014-00166
8 BIG RIVERS ELECTRIC CORPORATION)
9

10
11 **RESPONSE OF BIG RIVERS ELECTRIC CORPORATION TO THE PETITION FOR**
12 **REHEARING FILED BY CENTURY ALUMINUM OF KENTUCKY GENERAL**
13 **PARTNERSHIP AND CENTURY ALUIMINUM SEBREE LLC**
14

15 Comes now Big Rivers Electric Corporation (“Big Rivers”), through counsel, and hereby
16 submits its response to the Petition for Rehearing (“Rehearing Petition”) filed jointly by Century
17 Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC (together,
18 “Century”).

19 **I. Introduction**

20 Century filed a Petition to Intervene with the Kentucky Public Service Commission
21 (“Commission”) on June 17, 2014, asserting that, as “a transmission customer,” it had an interest
22 in this proceeding because:

23 (i) the idling of the Coleman Generating Station (“Coleman”) imposes “a
24 significant risk that the transmission system could not reliably deliver the full
25 amount of power needed by the Hawesville smelter;” (ii) Big Rivers’ refusal to
26 agree to perform live-line transmission maintenance “increased the risk that the
27 Hawesville smelter would be curtailed;” and (iii) “Big Rivers’ resource plans will
28 have a direct and substantial impact on the reliability and cost of transmission
29 service to both Century smelters.”¹
30

31 Big Rivers pointed out in response that these concerns raised by Century related to the
32 reliability of the regional transmission system; that regional transmission planning was under the
33 control of the Midcontinent Independent System Operator, Inc. (“MISO”) and the Federal
34 Energy Regulatory Commission (“FERC”), not Big Rivers or the Commission; that these

¹ Big Rivers’ response to Century’s Petition to Intervene at p. 2 (citations omitted).

1 concerns were therefore not relevant to a review of Big Rivers’ Integrated Resource Plan
2 (“IRP”); and that, as a result, Century did not have an interest in this proceeding sufficient to
3 satisfy the statutory and regulatory limitations on intervention.² Century then filed a reply in
4 which it relied entirely on the impact that Big Rivers’ IRP could have on the “wholly unique”
5 contractually relationship between Century and Big Rivers as the basis for satisfying the
6 statutory and regulatory limitations on intervention.³

7 The Commission correctly found that Century had (i) failed to establish the statutorily-
8 required interest in Big Rivers’ Commission-regulated rates or service, and (ii) failed to
9 overcome the regulatory limitation that it “demonstrate a special interest in the proceeding which
10 is not otherwise adequately represented, or that intervention is likely to present issues or develop
11 facts that assist the Commission in fully considering the matter without unduly complicating or
12 disrupting the proceedings.”⁴

13 Century now files its Rehearing Petition, asking the Commission to overturn those
14 findings based upon nothing more than a rehash of the unpersuasive arguments it made in
15 support of its Petition to Intervene. For the reasons explained below, the Commission properly
16 denied Century’s Petition to Intervene, and Century’s Rehearing Petition should be denied.

17 **II. The Commission correctly determined that Century does not have the requisite**
18 **interest in Big Rivers’ Commission-regulated rates or service.**

19 The Commission correctly found in the August 7 Order that Century did not establish the
20 statutorily required interest in Big Rivers’ Commission-regulated rates or service:

21 Petitioners have failed to establish that they have an interest in Big Rivers’ rates
22 or service. Although Petitioners state that they are transmission customers, they
23 do not directly state that they are transmission customers of Big Rivers. We agree

² See Big Rivers’ response to Century’s Petition to Intervene at p. 2.

³ Century’s reply to Big Rivers’ response to Century’s Petition to Intervene at p. 2.

⁴ August 7 Order at pp. 4-5.

1 with Big Rivers' contention that Petitioners purchase transmission services from
2 MISO pursuant to MISO-tariffed rates, which are under FERC's jurisdiction. We
3 note that only those customers of Big Rivers' member cooperatives who receive
4 electricity produced by Big Rivers pay the rates and receive the services which
5 are subject to regulation by this Commission. Thus, only those customers have an
6 interest in those rates and services.⁵

7
8 Century makes little effort in its Rehearing Petition to show that this finding was incorrect
9 beyond "respectfully disagree[ing]" with it.⁶ Although the Commission specifically pointed out
10 that Century did not claim to be a transmission customer of Big Rivers, Century ignores this
11 point and instead simply reasserts that it has an interest in this IRP review proceeding because it
12 is "a firm transmission customer."⁷

13 Century does not claim to be and is not a transmission customer or any other type of
14 customer of Big Rivers. Century takes transmission service from MISO. But Century ignores
15 this important distinction so that it can confuse local transmission planning, which is related to
16 the IRP review process, and regional transmission planning, which is within MISO's purview
17 and subject to FERC's jurisdiction.

18 An IRP is a utility's plan to provide "an adequate and reliable supply of electricity to
19 meet forecasted electricity requirements [for all customers within its service territory] at the
20 lowest possible cost."⁸ Big Rivers' recent and planned transmission system additions discussed
21 in Section 6 of the IRP relate to its plan to provide safe, reliable, and low-cost power for all
22 Member/customers on its system. This local transmission planning is designed to meet the needs
23 of native load Member/customers and to address North American Electric Corporation (NERC)

⁵ August 7 Order at pp. 4-5.

⁶ Rehearing Petition at p. 3.

⁷ Rehearing Petition at p. 3.

⁸ 807 KAR 5:058 Section 8(1); *see also* 807 KAR 5:058 ("This administrative regulation prescribes rules for regular reporting and commission review of load forecasts and resource plans of the state's electric utilities to meet future demand with an adequate and reliable supply of electricity at the lowest possible cost for all customers within their service areas, and satisfy all related state and federal laws and regulations") (emphasis added).

1 compliance issues. It is distinct from MISO’s Transmission Expansion Planning (“MTEP”)
2 process, which is designed to address the reliability of the regional transmission system.

3 Century is not a customer on the Big Rivers system. Century’s transmission service
4 comes entirely from MISO under a FERC-regulated tariff, and all its energy is purchased from
5 the wholesale power market. While Big Rivers’ transmission system is a component of the
6 MISO system, it is MISO, not Big Rivers or the Commission, that assures the reliability of that
7 regional transmission system. And although Big Rivers’ transmission system can affect Century,
8 that does not mean that Century has a legally sufficient interest in Big Rivers’ local transmission
9 planning. Century has no greater interest in Big Rivers’ local transmission planning than the
10 millions of other customers in the 15 states and 1 Canadian province in the MISO footprint.⁹
11 Thus, the Commission properly found that Century does not have the statutorily-required interest
12 in Big Rivers’ Commission-regulated rates or service.

13 Because Century is a customer of the MISO regional transmission system, any concerns
14 Century has about the reliability of transmission service relate to the regional transmission
15 system, are subject to MISO’s planning process, and are within FERC’s (not the Commission’s)
16 jurisdiction. Century, as a member and customer of MISO, can participate in the MISO MTEP
17 process using the MISO MTEP Information Exchange stakeholder process documented on
18 MISO’s website.¹⁰ In fact, the congestion issues that periodically affect Century’s economics all
19 relate to congestion on neighboring transmission systems, not on the Big Rivers transmission
20 system, and the MISO regional planning process has already identified several projects on

⁹ See

<https://www.misoenergy.org/Library/Repository/Communication%20Material/Corporate/Corporate%20Fact%20Sheet.pdf>

¹⁰<https://www.misoenergy.org/Library/Repository/Study/MTEP/MTEP%20Information%20Exchange%20Schedules%20and%20Requirements.pdf>

1 neighboring systems that will relieve Century’s congestion issues.¹¹ But Century’s interest in the
2 reliability of the regional transmission system does not mean it has an interest in Big Rivers’
3 local transmission planning or in the local transmission planning of any other transmission owner
4 in MISO. Thus, Century does not have the statutorily-required interest in Big Rivers’
5 Commission-regulated rates or service and its Rehearing Petition should be denied.

6 **III. The Commission correctly determined that Century does not have a special interest**
7 **in the proceeding that is not otherwise adequately represented.**

8 The Commission accurately concluded in the August 7 Order that Century does not have
9 a special interest in this proceeding:

10 Likewise, the Commission finds that Petitioners have not adequately established
11 that they have a special interest in the instant proceeding. To the extent that
12 Petitioners have any interest in the provision of service by Big Rivers, that interest
13 is derived from the contractual arrangements on which Petitioners currently
14 purchase power at market-based rates. Those contractual arrangements do not
15 sufficiently constitute an interest which would permit Petitioners to intervene in
16 the instant matter. Petitioners are not left without recourse, since they may
17 protect their contractual interest in Big Rivers’ service through enforcement of the
18 provisions of the various contracts themselves.¹²

19
20 Century’s response to this finding is to argue: “Any ‘recourse’ available to Century to
21 protect its contractual interest in Big Rivers’ service would be after-the-fact and insufficient to
22 belatedly address these impacts and their effect on Century’s future operations in Kentucky.”¹³

23 Despite this argument, Century relies entirely on Big Rivers’ contractual obligation to purchase

¹¹ See

<https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/Workshops%20and%20Special%20Meetings/2014/Market%20Congestion%20Planning%20Study%20-%20NC%20Region/20140718/20140718%20MCPS-NC%20Item%2008%20Schedule%20Updates%20and%20Next%20Steps.pdf>;

<https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/Workshops%20and%20Special%20Meetings/2014/Market%20Congestion%20Planning%20Study%20-%20NC%20Region/20140718/20140718%20MCPS-NC%20Item%2006%20Prelim%20Holistic%20Trans%20Solution%20Eval%20Results.pdf>

¹² August 7 Order at p. 5.

¹³ Rehearing Petition at p. 4.

1 MISO transmission service for Century as the basis for its claim that it has a special interest in
2 this IRP review proceeding.¹⁴ But Century’s reassertion of this contractual obligation does not
3 change the fact that Century’s interest in Big Rivers’ local transmission planning is no different
4 than the millions of other customers in the MISO footprint. Century’s Rehearing Petition is
5 insufficient to counter the Commission’s finding that Century’s contractual arrangements do not
6 constitute a special interest. Even Vice Chairman Gardner’s dissenting opinion to the August 7
7 Order agreed that the Century contracts were not a relevant subject in this IRP review
8 proceeding.¹⁵

9 **IV. The Commission correctly determined that Century failed to show that it would be**
10 **able to present issues or develop facts that would assist the Commission in fully considering**
11 **the matter without unduly complicating or disrupting the proceedings.**

12 In the August 7 Order, the Commission correctly found that Century “failed to show that,
13 if allowed to intervene, [it] would be able to present issues or develop facts that would assist us
14 in fully considering the matter without unduly complicating or disrupting the proceedings.”¹⁶
15 While Century entirely ignores this finding, Century has demonstrated that it will not be able to
16 assist the Commission without unduly complicating or disrupting the proceedings. Its Petition to
17 Intervene relied on its “claimed interests in having Big Rivers perform live-line transmission
18 maintenance and as a possible purchaser of the Coleman Generating Station,” which the
19 Commission has determined “are not relevant to the instant proceeding.”¹⁷ And its Rehearing
20 Petition relies on Big Rivers’ contractual obligation to purchase MISO transmission service for
21 Century as the interest Century has in this proceeding, despite the fact that the Commission

¹⁴ See Rehearing Petition at p. 4.
¹⁵ See August 7 Order, Dissenting Opinion of vice Chairman James W. Gardner.
¹⁶ August 7 Order at p. 5.
¹⁷ August 7 Order at p. 5.

1 already found that the contractual arrangements did not constitute a special interest in the
2 proceeding. Thus, the Commission properly determined that Century failed to show that it
3 would be able to present issues or develop facts that would assist the Commission in fully
4 considering the matter without unduly complicating or disrupting the proceedings; that finding is
5 unchallenged by Century, and Century's Rehearing Petition should therefore be denied.

6 **V. Conclusion.**

7 The Century Rehearing Petition simply rehashes the arguments it made in support of its
8 failed Petition to Intervene, except those arguments that disclose its goals of relitigating live-line
9 maintenance, and pursuing its interest in purchasing the Coleman Plant. The Commission has
10 consistently held that a party cannot support a request for rehearing with a mere "recitation of the
11 arguments that it presented in its complaint, in filed testimony, at oral argument and in its post-
12 hearing briefs."¹⁸ For the foregoing reasons, Century's Rehearing Petition should be denied.

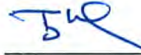
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¹⁸ Order dated March 2, 2012, in *In the Matter of DIP Teleconnect, LLC v. BellSouth Telecomm., Inc.*, Case No. 2009-00127; *see also* Order dated December 15, 2009, in *In the Matter of Complaint of Sprint Comms. Co. LP Against Brandenburg Tele. Co. and Request for Expedited Relief*, Case No. 2008-00135 (denying motion for rehearing after finding that the moving party's arguments for rehearing were "merely a rehash of its old arguments"); Order dated January 18, 2008, in *In the Matter of: Petition of Bellsouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law*, Case No. 2004-00427 (denying motion for rehearing because it presented no "new evidence or arguments which were not previously considered by the Commission"); Order dated August 21, 2006, in *In the Matter of: Joint Application for Approval of the Indirect Transfer of Control Relating to the Merger of AT&T Inc. and Bellsouth Corp.*, Case No. 2006-00136 ("Intervenors have raised no evidence or arguments not previously considered by the Commission. Thus, the Commission will not grant rehearing").

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On this the 26th day of August, 2014.

Respectfully submitted,



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Certificate of Service

I certify that a true and accurate copy of the foregoing was served by Federal Express or by regular mail upon the persons listed on the accompanying service list, on or before the date the foregoing is filed with the Kentucky Public Service Commission.

On this the 26th day of August, 2014,



Counsel for Big Rivers Electric Corporation