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PUBLIC SERVICE
COMMISSION

Via Overnight Mail

April 2, 2015

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

Re: Case No. 2014-00230 and 2014-00455

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of the KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC'S REPLY TO BIG RIVERS ELECTRIC CORPORATION'S RESPONSE TO MOTION TO COMPEL DISCOVERY for filing in the above-referenced matter.

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

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF) CASE NO. 2014-00230
BIG RIVERS ELECTRIC CORPORATION)
FROM NOVEMBER 1, 2013 THROUGH)
APRIL 30, 2014.)

AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF) CASE NO. 2014-00455
BIG RIVERS ELECTRIC CORPORATION)
FROM NOVEMBER 1, 2012 THROUGH)
OCTOBER 31, 2014.)

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.'S
REPLY TO BIG RIVERS ELECTRIC CORPORATION'S RESPONSE
TO MOTION TO COMPEL DISCOVERY

Kentucky Industrial Utility Customers, Inc ("KIUC") submits this Reply to Big Rivers Electric Corporation's ("Big Rivers") Response to KIUC's March 26, 2015 Motion to Compel Discovery

1. **Big Rivers' Argument That It Should Not Be Compelled To Respond To KIUC 1-1 Because The Requested Information Is Not Relevant Is Flawed.**

Big Rivers contends that it should not be required to provide a response to KIUC 1-1 because the information requested is not relevant¹ As an initial matter, Big Rivers did not object to KIUC 1-1 on relevancy grounds in its responses to KIUC's data requests Big Rivers' response to KIUC 1-1 stated only that it "*objects to [KIUC1-1] on the grounds that it is overly broad and unduly burdensome*" Big Rivers therefore already waived any relevancy objection it had to KIUC 1-1

Moreover, KIUC 1-1 is relevant to this proceeding According to Big Rivers' Response to Commission Staff's Third Request for Information, Item No 1 ("Staff 3-1") in Case No 2014-00230, Big Rivers' customers paid between \$1 22/MWh to \$1 56/MWh in additional costs in each of the six months of the review period due to Big Rivers' fuel allocation methodology² The dollar amount of the harm to customers resulting from Big River's methodology versus a methodology chosen by Staff is relevant to the Commission's consideration of this issue

¹ Big Rivers Response at 2

² See Big Rivers' Response to Commission Staff's Third Request for Information, Item No 1 in Case No 2014-00230

Staff considered this information relevant in the six-month review case and the same information is relevant in Big Rivers' two-year review case.

2. **KIUC 1-1 Is Not Unduly Burdensome Merely Because It Will Take Time To Complete A Response.**

Big Rivers claims that a response to KIUC 1-1 would require forty to sixty hours to prepare and is therefore unduly burdensome.³ Big Rivers cites Kentucky Rules of Civil Procedure, Rule 26.03(1) which provides that "*the court may make any order which justice requires to protect a party or person from... undue burden or expense, including... that discovery not be had...*" KIUC agrees that the Commission has the authority to determine whether KIUC 1-1 constitutes an undue burden on Big Rivers.

As noted in KIUC's Motion to Compel, the regulatory process is often time-consuming. Given this, objecting to a discovery request simply on the basis that it will take some time to prepare is not particularly compelling. When information that is important to the Commission's consideration of issues impacting customers has been requested, the utility should be required to respond to that request even if preparation of that response is somewhat time-consuming.

WHEREFORE, for the foregoing reasons, KIUC respectfully requests that the Commission issue an order directing Big Rivers to provide a complete response to KIUC 1-1.

Respectfully submitted,



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

April 2, 2015

³ BREC Response p. 4.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by regular, U.S. mail, unless other noted, this 2nd day of April, 2015 to the following:



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