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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

**APPLICATION OF BIG RIVERS ELECTRIC)
CORPORATION FOR A DECLARATORY)
ORDER)**

**Case No.
2016-00278**

**Response to City of Henderson, Kentucky and Henderson Utility
Commission, d/b/a Henderson Municipal Power & Light's First Request
for Information
dated August 29, 2016**

FILED: September 12, 2016

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DEFINITIONS

A. "Arbitration Award" means the award issued in AAA Arbitration Case No. 52 198 00173 10, which is attached to the Application as Exhibit 9.

B. "Big Rivers" shall mean the applicant Big Rivers Electric Corporation and any agents, representatives, employees, officers, directors, accountants, independent contractors or attorneys of Big Rivers answering these discovery requests.

C. The term "Capacity" means the maximum amount of instantaneous energy output that a power generating facility can produce, regardless of whether or not the facility is producing energy at that level, and is usually measured in megawatts (MW).

D. "Commission" means the Kentucky Public Service Commission.

E. "Energy" means the amount of electricity produced or consumed over time and is usually measured in megawatt-hours (MWh).

F. "Excess Henderson Energy" means Energy associated with the Capacity that is the positive difference between Henderson's Annual Reservation and Henderson's load in any hour to serve its Native Load.

G. "Henderson" shall mean intervenors City of Henderson, Kentucky and City of Henderson Utility Commission, d/b/a Henderson Municipal Power & Light and any agents, representatives, employees, officers, directors, accountants, independent contractors or attorneys of Henderson.

H. "Henderson's Annual Reservation" means the portion of the Capacity of Station Two reserved by Henderson for any contract year in accordance with Section 3.3 of the Power Sales Contract.

I. "Henderson's Native Load" means the Capacity and Energy required in any hour to supply the needs of Henderson and its inhabitants for electric power and energy.

J. "MISO" means the Midcontinent Independent System Operator, Inc., including any agents, representatives, employees, officers, directors, accountants, independent contractors or attorneys of MISO.

K. "Power Plant Construction and Operation Agreement" means the Power Plant Construction and Operation Agreement Between City of Henderson, Kentucky and Big Rivers Rural Electrical Co-Operative Corporation entered into on August 1, 1970, and all subsequent amendments thereto and as interpreted by the Arbitration Award, as defined herein. The Power Plant Construction and Operation Agreement is one of the Station Two Contracts, as defined herein.

L. "Power Sales Contract" means the Power Sales Contract Between City of Henderson, Kentucky and Big Rivers Rural Electrical Co-Operative Corporation entered into on August 1, 1970, and all subsequent amendments thereto and as interpreted by the Arbitration Award, as defined herein. The Power Sales Contract is one of the Station Two Contracts.

M. "Station Two Contracts" means the series of agreements between Big Rivers and Henderson creating the arrangement by which Big Rivers operates and maintains Henderson's Station Two generating station, and purchases certain output from Station Two.

N. "TEA" means The Energy Authority, including any agents, representatives, employees, officers, directors, accountants, independent contractors or attorneys of TEA.

BIG RIVERS ELECTRIC CORPORATION

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1 **Item 1) *Is it Big Rivers' contention that either the approval or denial of***
2 ***its Application for a Declaratory Order will result in a rate increase or rate***
3 ***decrease, or otherwise impact the rates Big Rivers charges its customers for***
4 ***electrical service? If so, please provide all documentation, calculations,***
5 ***reconciliations, and related work papers that support this contention.***

6
7 **Response) A premise of Big Rivers' application is that Henderson's effort to force**
8 **Big Rivers to take uneconomic Excess Henderson Energy will affect the effective rate**
9 **Big Rivers pays Henderson for power under the Power Sales Contract. The provisions**
10 **of the Power Sales Contract, as amended, relating to the allocation of costs of, and**
11 **the payment of \$1.50/MWh for, any Excess Henderson Energy sold to Big Rivers are**
12 **rates under the Commission's jurisdiction pursuant to KRS 278.200.**

13 **Additionally, if Big Rivers is required to take, pay for, and be responsible for**
14 **the variable production costs of uneconomic Excess Henderson Energy, Big Rivers'**
15 **costs of operation are affected. Because Big Rivers is a member-owned, rural electric**
16 **cooperative, it has no shareholders who can bear those losses, and it would expect to**
17 **recover those losses through its rates to its members. The magnitude of those losses**
18 **during the first five months of 2016 is estimated in Exhibits RWB_1 and RWB_2 to**

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1 the Direct Testimony of Robert W. Berry, which is attached as Exhibit 10 to Big
2 Rivers' application in this matter; however, the extent to which this proceeding will
3 ultimately affect Big Rivers' base rates is dependent upon the Commission's review
4 of any request for an adjustment in rates.

5 Finally, whether Big Rivers is required to take uneconomic Excess Henderson
6 Energy also impacts Big Rivers' fuel adjustment clause ("FAC") charges to its
7 members. Because the Station Two units are generally higher cost units, the greater
8 Big Rivers' take from Station Two, the greater the impact of Station Two's costs on
9 Big Rivers' system average fuel costs. Those system average fuel costs are used to
10 determine Big Rivers' FAC charges to its members. Thus, if Big Rivers is required to
11 take the uneconomic Excess Henderson Energy, its FAC charges to its members will
12 generally be greater than they would have been had Big Rivers been able to exercise
13 its contractual right not to take such energy.

14

15 Witness) Lindsay N. Barron

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1 Item 2) *Is it Big Rivers' contention that either the approval or denial of*
2 *its Application for a Declaratory Order will have an impact on the quantity*
3 *and/or quality of service to Big Rivers' customers? If so, please provide an*
4 *explanation of the effect on the quantity of service available to Big Rivers'*
5 *tariffed customers, and the effect on the quality of service available to*
6 *tariffed customers, including all documentation, calculations,*
7 *reconciliations, and related work papers that support these contentions.*

8

9 Response) No. However, a premise of Big Rivers' application is that Henderson's
10 denial of Big Rivers' contractual right to not take all of the Excess Henderson Energy
11 may affect the quantity of power Big Rivers is required to take under the Power Sales
12 Contract. The provisions of the Power Sales Contract, as amended, relating to the
13 sale to Big Rivers of Excess Henderson Energy fall under the Commission's
14 jurisdiction pursuant to KRS 278.200.

15

16 Witness) Robert W. Berry

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1 **Item 3)** *Has Big Rivers notified either the Commission or any of its*
2 *customers that it intends to increase, decrease, or otherwise modify existing*
3 *electrical rates in the event that its Application for a Declaratory Order is*
4 *denied? If so, please provide documentation of such notice. Additionally,*
5 *provide any studies, calculations, or other information supporting the*
6 *purported effect on rates resulting from a Commission decision in this case.*

7

8 **Response)** No. A notice of a rate increase is not filed with the Commission until
9 shortly before changes in rates are proposed to become effective. The ultimate
10 impact of this proceeding on Big Rivers' rates cannot be determined until this
11 proceeding is concluded; however, Big Rivers has provided as an attachment to the
12 testimony of Robert W. Berry (Application Exhibit 10) an estimate of the financial
13 losses it has suffered by taking unprofitable Excess Henderson Energy during the
14 first five months of 2016. Please see also Big Rivers' response to Items 1 and 12 of
15 Henderson's First Request for Information.

16

17 **Witness)** Robert W. Berry

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1 Item 4) *Please refer to the Direct Testimony of Robert W. Berry, submitted*
2 *as Exhibit 10 with Big Rivers' Application for a Declaratory Order, pages 4,*
3 *8, and 13. Confirm that the relief sought by Big Rivers' Application for a*
4 *Declaratory Order requires the Commission to interpret selected provisions*
5 *of the contracts between Big Rivers and Henderson.*

6

7 Response) Big Rivers' primary request for relief asks the Commission to enforce
8 the Power Sales Contract so as to ensure the rates are fair, just and reasonable, which
9 may require the Commission to interpret that contract.

10

11 Witness) Robert W. Berry

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1 Item 5) *Will Big Rivers acknowledge that KRS 278.030 entitles a utility to*
2 *receive "fair, just, and reasonable" rates for services rendered, but is silent*
3 *as to whether the terms of a privately negotiated contract not involving rates*
4 *or service must be similarly "fair, just, and reasonable?" If not, please provide*
5 *a detailed explanation of Big Rivers' position to the contrary.*

6

7 Response) Big Rivers objects to this request on the grounds that it seeks a legal
8 conclusion and is not likely to lead to the discovery of admissible evidence.
9 Notwithstanding these objections, and without waiving them, Big Rivers states as
10 follows.

11

12 No. The fair, just and reasonable standard found in KRS 278.030 applies to
13 the rates under the Power Sales Contract. As the Commission has explained:

14

15 *Simpson County Water District [v. City of Franklin, 872 S.W.2d 460 (Ky.*
16 *1994)] effectively subjects all contracts between municipal utilities and*
17 *public utilities to the Commission's jurisdiction, requires all municipal*
18 *utility transactions with a public utility to comply with the provisions of*

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1 KRS Chapter 278, and makes Commission approval a prerequisite to
2 any change in a rate that a municipal utility assesses a public utility for
3 wholesale utility service.

4
5 The Commission reviews rates to ensure that they are fair, just, and
6 reasonable [citing KRS 278.030].

7
8 *In the Matter of: Proposed Adjustment of the Wholesale Water Serv. Rates of the City*
9 *of Burkesville*, Order, Case No. 2009-00041 (Oct. 12, 2009), at p. 4; *see also In the*
10 *Matter of: Proposed Revision of Rules Regarding the Provision of Wholesale Water*
11 *Serv. by the City of Versailles to Ne. Woodford Water Dist.*, Order, Case No. 2011-
12 00419 (Aug. 12, 2014), at p. 12, n. 43 ("KRS 278.200 expressly provides that the
13 Commission may originate, establish or change any rate or service standard
14 established by a contract between a public utility and a city. KRS 278.030 and KRS
15 278.040 impose a duty upon the Commission to ensure that such rates and service
16 are fair, just, and reasonable") (citation omitted).

17
18 Witness) Counsel

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1 **Item 6)** *Will Big Rivers acknowledge that KRS 278.040(2) precludes the*
2 *Commission from infringing upon the contract rights of a municipality*
3 *where neither rates nor services are implicated? If not, please provide a*
4 *detailed explanation of Big Rivers' position to the contrary.*

5

6 **Response)** Big Rivers objects to this request on the grounds that it seeks a legal
7 conclusion and is not likely to lead to the discovery of admissible evidence.
8 Notwithstanding these objections, and without waiving them, Big Rivers states as
9 follows.

10 No. KRS 278.040(2) speaks for itself. Also, Big Rivers is not in a position to
11 state categorically all the ways in which the Commission has jurisdiction over
12 municipalities. The Commission has, and has exercised, jurisdiction over the Station
13 Two Contracts pursuant to KRS 278.200.

14

15 **Witness)** Counsel

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1 **Item 7)** *Please cite the specific contractual provision or other source or*
2 *authority that provides the basis for Big Rivers' contention that Big Rivers is*
3 *required to operate Henderson's Station Two Units at their net rated*
4 *capacity of 312 megawatts.*

5

6 **Response)** Big Rivers does not contend it is required to operate Henderson's Station
7 Two Units at the net rated Capacity of 312 megawatts. In fact, there are many hours
8 of the day that Big Rivers operates the Station Two Units at a much lower output
9 than 312 megawatts due to the fact that the Station Two Units are uneconomic to
10 operate during those hours. During those hours, the Station Two Units are often
11 operated so as to generate only the minimum amount of Energy required to maintain
12 safe and reliable operation, 115 megawatts for Unit 1 and 120 megawatts for Unit 2,
13 a total of 235 megawatts.

14

15 **Witness)** Michael T. Pullen

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1 Item 8) *Please cite the specific contractual provision or other source or*
2 *authority that provides the basis for Big Rivers' contention that Big Rivers is*
3 *required to generate those megawatt hours of electricity which exceed*
4 *Henderson's native load in a given hour, but are equal to or less than the*
5 *number of megawatt hours within Henderson's reserved capacity for that*
6 *hour.*

7
8 Response) On or about June 4, 2015, Mike Pullen, Big River's Vice President of
9 Production suggested to Wayne Thompson, Henderson's Power Production Director,
10 a change in operation which would result in putting Station Two, Unit 2, in standby
11 service for the remainder of the month due to it being uneconomical to operate. In
12 response, Wayne advised Mike that "Henderson does not agree with this at all and,
13 per Henderson's General Manager, Henderson would seek legal action immediately
14 to stop Big Rivers if it proceeded." Wayne also advised Mike that "Big Rivers does
15 not have the authority to operate the units as it sees fit." In other words, Henderson
16 has taken the position that Big Rivers, as the operator of Station Two, does not have
17 the contractual right to place one or both of the Station Two units in standby service

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1 when the Energy being produced by Station Two is uneconomical so as to mitigate
2 losses being incurred by the parties.

3 Again, on March 8, 2016 during an update meeting between Big Rivers and
4 Henderson, Mike Pullen again recommended to Wayne Thompson that putting one
5 or both of the Henderson Station Two units in standby service would be prudent due
6 to the units being uneconomical to operate. Henderson once again rejected this
7 approach, and Wayne again reiterated that Henderson's position on the issue had not
8 changed from their previous discussion.

9

10 Witness) Michael T. Pullen

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1 **Item 9) *Please refer to the Direct Testimony of Robert W. Berry, pages 10***
2 ***and 11. Will Big Rivers acknowledge that, according to Mr. Berry, the***
3 ***minimum amount of energy that the two (2) Station Two Units must generate***
4 ***to remain in safe and continuous operation – 115 megawatt hours per hour***
5 ***for Unit 1, and 120 megawatt hours per hour for Unit 2 – is sufficient to meet***
6 ***Henderson's reserved capacity, with the remaining capacity being allocated***
7 ***to Big Rivers?***

8
9 **Response) Big Rivers objects to this question on the basis that is it ambiguous and**
10 **confuses the concepts of Energy and Capacity. Without waiving that objection, Big**
11 **Rivers states that, as Mr. Berry explained in his testimony on pages 10 and 11,**
12 **Station Two has a Selective Catalytic Reduction ("SCR") system to reduce NOx**
13 **emissions as required by applicable Clean Air Act regulations that affects how Big**
14 **Rivers must operate the units. Specifically, the Station Two units must maintain a**
15 **minimum operating temperature for safe and continuous operation of the SCR**
16 **system. Thus, the SCR system requires the units to generate a minimum amount of**
17 **Energy each hour, 115 MW for Unit 1 and 120 MW for Unit 2, for a total of 235 MW.**
18 **Big Rivers acknowledges that 115 MW is sufficient to meet Henderson's Annual**

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1 Reservation of 115 MW for the current contract year. In addition, Energy associated
2 with Big Rivers' allotted Capacity generated above Henderson's Annual Reservation
3 is allocated to Big Rivers.

4

5 Witness) Michael T. Pullen

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1 **Item 10)** *Please refer to the Direct Testimony of Robert W. Berry, page 11.*
2 *Please describe in detail the process whereby Big Rivers registered, without*
3 *Henderson's approval and over Henderson's objection, the Station Two Units*
4 *and/or capacity with the Midcontinent Independent System Operator, Inc.*
5 *(hereinafter "MISO"), including any statements or other representations*
6 *made to MISO that Big Rivers possessed the right or the authorization to*
7 *register the said Units.*

8
9 **Response)** Big Rivers objects to this request on the grounds that it overly broad,
10 unduly burdensome, and seeks information that is neither relevant nor likely to lead
11 to the discovery of admissible evidence.

12
13 **Witness)** Counsel

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1 **Item 11)** *Please explain in detail Big Rivers' position that it possessed*
2 *the right or authorization to register with MISO that portion of energy*
3 *and/or generating capacity that is within Henderson's annual Station Two*
4 *reserved capacity. Provide any documentation or other work papers*
5 *supporting your position.*

6

7 **Response)** Big Rivers objects to this request on the grounds that it overly broad,
8 unduly burdensome, and seeks information that is neither relevant nor likely to
9 lead to the discovery of admissible evidence.

10

11 **Witness)** Counsel

BIG RIVERS ELECTRIC CORPORATION

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1 *Item 12) Please provide any and all documentation, calculations,*
2 *reconciliations, analyses, or other work papers indicating the amount of*
3 *remuneration Big Rivers has received from MISO and/or other entities in*
4 *exchange for the registration of the Station Two Units, and the amount of*
5 *revenue Big Rivers has received from MISO and/or other entities either*
6 *through the sale or offer of energy and/or capacity within Henderson's*
7 *annual Station Two reserved capacity from the date of the registration*
8 *through the date of the answering of these requests.*

9

10 **Response):** Big Rivers objects to this information request on the grounds that it is
11 overly broad and vague. Additionally, Big Rivers objects to the information request
12 insofar as it equates benefits of "registration" with consideration received for sales of
13 Energy or Capacity. While registration may provide certain benefits relating to
14 access to the MISO market, the proceeds of sales of Energy or Capacity in that market
15 are not remuneration received for registering in MISO.

16 Subject to and without waiving its objections, Big Rivers states that it joined
17 MISO because of its legal and contractual obligation to maintain compliance with
18 regulatory standards and requirements for Station Two, including the contingency

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1 reserve standard of the North American Electric Reliability Corporation ("NERC") as
2 approved by the Federal Energy Regulatory Commission. On page 7 of its order,
3 dated November 1, 2010, in Case No. 2010-00043 (the "November 2010 Order"), the
4 Commission concurred with the parties to that proceeding that joining MISO was "*the*
5 *only feasible alternative . . . for Big Rivers to comply with NERC's contingency reserve*
6 *requirement*" (emphasis added). Indeed, if not for the regulatory requirements and
7 NERC standards, Big Rivers would not have joined MISO. At the time of the
8 November 2010 Order, MISO was the most cost-effective alternative for Big Rivers
9 to meet the regulatory requirements and NERC standards for Station Two. As
10 reported in Big Rivers' *Midcontinent Independent System Operator Annual*
11 *Cost/Benefit Update for Kentucky Public Service Commission*, which Big Rivers files
12 annually pursuant to Finding No. 2 of the November 2010 Order, MISO membership
13 continues to be the most cost-effective alternative.

14 Since joining MISO, Big Rivers has administratively participated in resource
15 auctions in which Big Rivers offers Capacity by participating in the Planning
16 Resource Auction in keeping with the requirements of the MISO Open Access
17 Transmission, Energy and Operating Reserve Markets Tariff. In such situations, Big
18 Rivers offers its Capacity (including Station Two) into the auction, and

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1 simultaneously purchases back its matching load obligation (including Henderson's
2 load). Station Two's Capacity within Henderson's Annual Reservation has never
3 been utilized by Big Rivers for its own benefit or use. A confidential Excel
4 spreadsheet showing the net proceeds/losses incurred by Big Rivers from the sale of
5 Energy associated with Henderson's Annual Reservation since December 1, 2010,
6 through June 2016 is being provided on the attached electronic medium. A document
7 showing the net proceeds/losses incurred by Big Rivers from the sale of Capacity
8 associated with Henderson's Annual Reservation since December 1, 2010 through
9 June 2016 is attached as Attachment 2 to this response.

10 The Energy sold by Big Rivers into MISO associated with Henderson's Annual
11 Reservation that is in excess of Henderson's Native Load in a given hour is Excess
12 Henderson Energy. Any Excess Henderson Energy not taken by Big Rivers, and the
13 net MISO revenues resulting from that Energy being sold to MISO, belong to
14 Henderson, as do the variable costs associated with generating that
15 Energy. Beginning with the June 1, 2016 invoice, Big Rivers paid those revenues
16 directly to Henderson each month by check, although to this point, Henderson has
17 returned those checks.

18

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1 Witness) Robert W. Berry and Mark Eacret

In the Matter of:

APPLICATION OF
BIG RIVERS ELECTRIC CORPORATION
FOR A DECLARATORY ORDER

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Case No.
2016-00278

CONFIDENTIAL RESPONSE to
Item 12 of City of Henderson, Kentucky and
Henderson Utility Commission,
d/b/a Henderson Municipal Power & Light's
First Request for Information
dated August 29, 2016

FILED: September 12, 2016

INFORMATION SUBMITTED UNDER PETITION FOR CONFIDENTIAL
TREATMENT

Station Two Capacity Sales - HMPL Reservation

| | | Station Two | MISO Accredited | HMPL | HMPL Share of | HMPL Share of | HMPL | Total HMPL |
|-----------------------|--------|-------------|-----------------|-------------|---------------|---------------|-----------------|---------------|
| | | Capacity | Capacity | Reservation | MISO Capacity | MISO Station | SEPA | MISO Capacity |
| | | mW | (UCAP) mW | mW | adjustment | Two Capacity | Capacity | mW |
| | | | | | (EFORD) mW | mW | mW ² | mW |
| PY 13/14 ¹ | Jun-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Jul-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Aug-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Sep-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Oct-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Nov-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Dec-13 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Jan-14 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Feb-14 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Mar-14 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | Apr-14 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| | May-14 | 312 | 293.1 | 115.0 | 7.0 | 108.0 | 12.0 | 120.0 |
| PY 14/15 | Jun-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Jul-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Aug-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Sep-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Oct-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Nov-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Dec-14 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Jan-15 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Feb-15 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Mar-15 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | Apr-15 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| | May-15 | 312 | 290.4 | 115.0 | 8.0 | 107.0 | 0.0 | 107.0 |
| PY 15/16 | Jun-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Jul-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Aug-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Sep-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Oct-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |

| | Station Two | MISO Accredited | HMPL | HMPL Share of | HMPL Share of | HMPL | Total HMPL | |
|---------|-------------|-----------------|-------------|---------------|---------------|-----------------|---------------|-------|
| | Capacity | Capacity | Reservation | MISO Capacity | MISO Station | SEPA | MISO Capacity | |
| | mW | (UCAP) mW | mW | adjustment | Two Capacity | Capacity | MISO Capacity | |
| | | | | (EFORD) mW | mW | mW ² | mW | |
| | Nov-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Dec-15 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Jan-16 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Feb-16 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Mar-16 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | Apr-16 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| | May-16 | 312 | 292.1 | 115.0 | 7.3 | 107.7 | 10.0 | 117.7 |
| PY16/17 | Jun-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Jul-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Aug-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Sep-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Oct-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Nov-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Dec-16 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Jan-17 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Feb-17 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Mar-17 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | Apr-17 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |
| | May-17 | 312 | 290.3 | 115.0 | 8.0 | 107.0 | 10.0 | 117 |

Please Note:

¹ The MISO Planning Reserve Annual Auction began for PY13/14

² The SEPA Capacity for PY 14/15 did not clear the MISO annual planning year resource auction and was not compensated by MISO

| | | HMPL Load | Excess/(Deficient) | MISO Annual | # of days in | MISO Monthly | |
|-----------------------|----------------|-------------|--------------------|------------------|--------------|--------------------|--------------|
| | HMPL | Capacity | HMPL MISO | Auction Clearing | month | Capacity Revenue - | |
| | Projected Peak | Requirement | Capacity mW | Price(\$/mW-Day) | | HMPL Share | |
| | Demand mW | mW | | | | | |
| PY 13/14 ¹ | Jun-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 30 | (\$113.40) |
| | Jul-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Aug-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Sep-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 30 | (\$113.40) |
| | Oct-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Nov-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 30 | (\$113.40) |
| | Dec-13 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Jan-14 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Feb-14 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 28 | (\$105.84) |
| | Mar-14 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| | Apr-14 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 30 | (\$113.40) |
| | May-14 | 115.0 | 123.6 | (3.6) | \$ 1.05 | 31 | (\$117.18) |
| PY 14/15 | Jun-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 30 | (\$9,547.50) |
| | Jul-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Aug-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Sep-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 30 | (\$9,547.50) |
| | Oct-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Nov-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 30 | (\$9,547.50) |
| | Dec-14 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Jan-15 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Feb-15 | 116.0 | 126 | (19.0) | \$ 16.75 | 28 | (\$8,911.00) |
| | Mar-15 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| | Apr-15 | 116.0 | 126 | (19.0) | \$ 16.75 | 30 | (\$9,547.50) |
| | May-15 | 116.0 | 126 | (19.0) | \$ 16.75 | 31 | (\$9,865.75) |
| PY 15/16 | Jun-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 30 | (\$187.92) |
| | Jul-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| | Aug-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| | Sep-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 30 | (\$187.92) |
| | Oct-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |

| | HMPL Projected Peak Demand mW | HMPL Load Capacity Requirement mW | Excess/(Deficient) HMPL MISO Capacity mW | MISO Annual Auction Clearing Price(\$/mW-Day) | # of days in month | MISO Monthly Capacity Revenue - HMPL Share | |
|---|-------------------------------------|--|--|---|-----------------------|--|--------------|
| | Nov-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 30 | (\$187.92) |
| | Dec-15 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| | Jan-16 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| | Feb-16 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 29 | (\$181.66) |
| | Mar-16 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| | Apr-16 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 30 | (\$187.92) |
| | May-16 | 110.0 | 119.5 | (1.8) | \$ 3.48 | 31 | (\$194.18) |
| PY16/17 | Jun-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 30 | (\$6,696.00) |
| | Jul-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Aug-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Sep-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 30 | (\$6,696.00) |
| | Oct-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Nov-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 30 | (\$6,696.00) |
| | Dec-16 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Jan-17 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Feb-17 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 28 | (\$6,249.60) |
| | Mar-17 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| | Apr-17 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 30 | (\$6,696.00) |
| | May-17 | 110.0 | 120.1 | (3.1) | \$ 72.00 | 31 | (\$6,919.20) |
| Total Capacity Revenue - Station Two HMPL Share: | | | | | | (\$201,301.55) | |

| Effective Planning | | | | | |
|--------------------|--------|----------------|-------------|-------------------|--------------------|
| | | HMPL Projected | Year Margin | Transmission Loss | HMPL Load Capacity |
| | | Peak Demand | Requirement | | Requirement |
| | | mW | (PRMR) % | % | mW |
| PY 13/14 | Jun-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Jul-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Aug-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Sep-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Oct-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Nov-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Dec-13 | 115 | 6.2% | 1.3% | 123.6 |
| | Jan-14 | 115 | 6.2% | 1.3% | 123.6 |
| | Feb-14 | 115 | 6.2% | 1.3% | 123.6 |
| | Mar-14 | 115 | 6.2% | 1.3% | 123.6 |
| | Apr-14 | 115 | 6.2% | 1.3% | 123.6 |
| | May-14 | 115 | 6.2% | 1.3% | 123.6 |
| PY 14/15 | Jun-14 | 116 | 7.3% | 1.3% | 126 |
| | Jul-14 | 116 | 7.3% | 1.3% | 126 |
| | Aug-14 | 116 | 7.3% | 1.3% | 126 |
| | Sep-14 | 116 | 7.3% | 1.3% | 126 |
| | Oct-14 | 116 | 7.3% | 1.3% | 126 |
| | Nov-14 | 116 | 7.3% | 1.3% | 126 |
| | Dec-14 | 116 | 7.3% | 1.3% | 126 |
| | Jan-15 | 116 | 7.3% | 1.3% | 126 |
| | Feb-15 | 116 | 7.3% | 1.3% | 126 |
| | Mar-15 | 116 | 7.3% | 1.3% | 126 |
| | Apr-15 | 116 | 7.3% | 1.3% | 126 |
| | May-15 | 116 | 7.3% | 1.3% | 126 |
| PY 15/16 | Jun-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Jul-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Aug-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Sep-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Oct-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Nov-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Dec-15 | 110 | 7.1% | 1.5% | 119.5 |
| | Jan-16 | 110 | 7.1% | 1.5% | 119.5 |
| | Feb-16 | 110 | 7.1% | 1.5% | 119.5 |
| | Mar-16 | 110 | 7.1% | 1.5% | 119.5 |
| | Apr-16 | 110 | 7.1% | 1.5% | 119.5 |
| | May-16 | 110 | 7.1% | 1.5% | 119.5 |
| PY16/17 | Jun-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Jul-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Aug-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Sep-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Oct-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Nov-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Dec-16 | 110 | 7.6% | 1.6% | 120.1 |
| | Jan-17 | 110 | 7.6% | 1.6% | 120.1 |
| | Feb-17 | 110 | 7.6% | 1.6% | 120.1 |
| | Mar-17 | 110 | 7.6% | 1.6% | 120.1 |
| | Apr-17 | 110 | 7.6% | 1.6% | 120.1 |
| | May-17 | 110 | 7.6% | 1.6% | 120.1 |

BIG RIVERS ELECTRIC CORPORATION

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A DECLARATORY ORDER
CASE NO. 2016-00278

Response to City of Henderson, Kentucky and Henderson Utility Commission,
d/b/a Henderson Municipal Power & Light's First Request for Information
dated August 29, 2016

September 12, 2016

1 Item 13) *Please cite the specific contractual provision or other source,*
2 *authority, or basis upon which Big River relies for its position that it*
3 *possessed the authority to unilaterally reinterpret the terms of the existing*
4 *contracts between Big Rivers and Henderson to permit the change in*
5 *accounting practices communicated to Henderson on May 25, 2016, and*
6 *implemented on June 1, 2016.*

7

8 Response) Big Rivers objects to this information request to the extent that it
9 misstates and mischaracterizes Big Rivers' position communicated in the May 25,
10 2016 letter (Application Exhibit 11), or its actions taken in accordance with that
11 letter. Big Rivers further objects to this information request to the extent that it
12 seeks information protected by the attorney-client and/or work product privileges.
13 Big Rivers also objects to the information request's characterization of actions taken
14 by Big Rivers as constituting a unilateral reinterpretation of the existing contracts
15 between Big Rivers and Henderson or a "change in accounting practices." Big Rivers
16 further objects to the ambiguity associated with the term "accounting practices,"
17 which is not a recognized accounting term.

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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September 12, 2016

1 Subject to and without waiving its objections, Big Rivers states that its change
2 in practice communicated in the May 25, 2016 letter was not a "unilateral[]
3 reinterpret[ation]" of the existing contracts or a change in accounting practices.
4 Instead, the letter served to notify Henderson that Big Rivers intended to exercise its
5 contractual right not to take all of the Excess Henderson Energy. Big Rivers' entries
6 in the Station Two books assigning the variable production costs of Excess Henderson
7 Energy to the party to which the Excess Henderson Energy belongs are consistent
8 with the terms of the Station Two Contracts and the way Big Rivers has historically
9 recorded those expenses.

10

11 **Witness)** Robert W. Berry and Counsel

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A DECLARATORY ORDER
CASE NO. 2016-00278**

**Response to City of Henderson, Kentucky and Henderson Utility
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dated August 29, 2016**

September 12, 2016

1 **Item 14)** *Please refer to the Direct Testimony of Robert W. Berry, page 14.*
2 *Please provide all documentation, calculations, analyses, and related work*
3 *papers upon which Mr. Berry relied in reaching his conclusion that*
4 *“Henderson will soon run out of fuel and reagent for production of its*
5 *energy from Station Two.”*

6

7 **Response)** Refer to the Attachment 1 for Coal and Pet Coke Fuel Stock Inventory
8 for June 30, 2016.

9 During June, Henderson's coal inventory decreased by 5,231 tons leaving an
10 ending coal inventory of 23,454 tons on June 30, 2016. If Henderson does not
11 replace the fuel attributable to the Excess Henderson Energy not taken by Big
12 Rivers, Henderson could run out of fuel for production of its Energy from Station
13 Two in September 2016.

14 During June, Henderson's lime reagent inventory decreased by 1,915 tons
15 leaving an ending lime inventory of 1,317 tons on June 30, 2016. If Henderson does
16 not replace the lime reagent attributable to the Excess Henderson Energy not taken

BIG RIVERS ELECTRIC CORPORATION

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1 by Big Rivers, Henderson could run out of lime for production of its Energy from
2 Station Two in September 2016.

3 Please note that Big Rivers has redacted non-relevant information from the
4 attachment.

5

6 **Witness)** Michael T. Pullen

June 30, 2016

Big Rivers Electric Corporation
Coal and Pet Coke Fuel Stock Inventory

| | Beginning Inventory | Purchases | Inventory Adjustments | Tons (Coal) Usage | Ending Inventory | Inc (Dec) |
|-------------|---------------------|---------------|-----------------------|----------------------|------------------|----------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| HMP&L(City) | <u>28,685</u> | <u>25,031</u> | <u>0</u> | <u>30,262</u> | <u>23,454</u> | <u>(5,231)</u> |

| Beginning Inventory | Purchases | Tons (Pet Coke) | | Ending Inventory |
|---------------------|-----------|-----------------------|-------|------------------|
| | | Inventory Adjustments | Usage | |

| | | | | |
|------------|------------|------------|------------|------------|
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
|------------|------------|------------|------------|------------|

| | | | | |
|------------|------------|------------|------------|------------|
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
|------------|------------|------------|------------|------------|

| | | | | |
|------------|------------|------------|------------|------------|
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
|------------|------------|------------|------------|------------|

| Beginning Inventory | Purchases | Tons (Lime and Limestone) | | Ending Inventory |
|---------------------|-----------|---------------------------|-------|------------------|
| | | Physical Inv Adj. | Usage | |

| | | | | | | |
|------|-------|---|---|-------|-------|---------|
| City | 3,232 | 0 | 0 | 1,915 | 1,317 | (1,915) |
|------|-------|---|---|-------|-------|---------|

| | | | | | | |
|------------|------------|------------|------------|------------|------------|------------|
| [REDACTED] |
|------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|------------|------------|------------|------------|------------|------------|------------|
| [REDACTED] |
|------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|------------|------------|------------|------------|------------|------------|------------|
| [REDACTED] |
|------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|------------|------------|------------|------------|------------|------------|------------|
| [REDACTED] |
|------------|------------|------------|------------|------------|------------|------------|

BIG RIVERS ELECTRIC CORPORATION

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A DECLARATORY ORDER
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Response to City of Henderson, Kentucky and Henderson Utility Commission,
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September 12, 2016

1 Item 15) *Please cite the specific contractual provision, or other source or*
2 *authority, upon which Big Rivers relied in making its decision to take*
3 *Henderson's coal and other assets and/or inventories without Henderson's*
4 *express approval beginning in June 2016.*

5

6 Response) Big Rivers objects to this information request to the extent that it
7 misstates and mischaracterizes Big Rivers' position communicated in the May 25,
8 2016 letter (Application Exhibit 11), or its actions taken in accordance with that
9 letter. Big Rivers further objects to this information request to the extent that it
10 seeks information protected by the attorney-client and/or work product privileges.
11 Big Rivers also objects to the information request's characterization of actions taken
12 by Big Rivers as constituting a "taking of Henderson's coal and other assets and/or
13 inventories" or requiring "express approval" of Henderson. Subject to and without
14 waiving its objections, Big Rivers states that it has at all times performed consistently
15 with the terms of the Power Sales Contract, as amended and interpreted by the
16 Arbitration Award, as well as the Power Plant Construction and Operation
17 Agreement.

18

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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September 12, 2016

1 Witness) Robert W. Berry and Counsel

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
FOR A DECLARATORY ORDER
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**Response to City of Henderson, Kentucky and Henderson Utility Commission,
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September 12, 2016

1 **Item 16)** *Please cite the specific contractual provision, or other source or*
2 *authority, upon which Big Rivers relied in changing the Station Two*
3 *accounting records with regard to Henderson's inventories and allocated*
4 *costs beginning in June 2016.*

5
6 **Response)** Big Rivers objects to this information request to the extent that it
7 misstates and mischaracterizes Big Rivers' position communicated in the May 25,
8 2016 letter (Application Exhibit 11), or its actions taken in accordance with that
9 letter. Big Rivers further objects to this information request to the extent that it
10 seeks information protected by the attorney-client and/or work product privileges.
11 Big Rivers also objects to the information request's characterization of actions taken
12 by Big Rivers as "changing the Station Two accounting records." Subject to and
13 without waiving its objections, Big Rivers incorporates by reference its response to
14 Item 13 of Henderson's First Request for Information.

15

16 **Witness)** Robert W. Berry and Counsel

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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**Response to City of Henderson, Kentucky and Henderson Utility Commission,
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September 12, 2016

1 *Item 17) Please state whether Big Rivers has ever taken any of*
2 *Henderson's variable assets at Station Two without Henderson's express*
3 *approval between 1973 and June 2016. If so, please provide documentation,*
4 *calculations, reconciliations and related work papers identifying the nature*
5 *and amount of assets taken, the disposition thereof, and the remuneration, if*
6 *any, received therefor.*

7

8 **Response)** To the best of my knowledge, Big Rivers has at all times performed
9 consistently with the terms of the Station Two Contracts and has not taken or
10 disposed of any assets of Station Two inconsistent with its rights and obligations
11 under the Station Two Contracts.

12

13. **Witness)** Robert W. Berry

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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**Response to City of Henderson, Kentucky and Henderson Utility Commission,
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1 **Item 18)** *Will Big Rivers acknowledge that Big Rivers has refused since*
2 *2009 to allow Henderson to schedule or take all of its energy related to its*
3 *annual Station Two reserved capacity? Please provide all documentation,*
4 *calculations, analyses, and related work papers which support your response*
5 *to this request.*

6

7 **Response)** No. Please see Big Rivers' response to Item 19 of Henderson's First
8 Request for Information.

9

10 **Witness)** Robert W. Berry

BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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**Response to City of Henderson, Kentucky and Henderson Utility Commission,
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1 **Item 19) *Will Big Rivers acknowledge that its denial of Henderson's***
2 ***requests to schedule or take all of Henderson's energy related to Henderson's***
3 ***annual Station Two reserved capacity from 2009 through at least May 24,***
4 ***2016, was based upon a contention that the scheduling mechanism proposed***
5 ***by Henderson was impractical to implement?***

6

7 **Response) Big Rivers objects to this information request because it misstates and**
8 **mischaracterizes events from 2009 through May 24, 2016. Big Rivers further objects**
9 **to this information request to the extent that it involves Energy that is not the subject**
10 **of this proceeding, including but not limited to Energy taken by Henderson to meet**
11 **the needs of itself or its inhabitants.**

12 **Subject to and without waiving the foregoing objections, Big Rivers states that**
13 **it has at all times performed consistently with the terms of the Power Sales Contract**
14 **and has not denied Henderson access to any Energy or Capacity to which Henderson**
15 **is entitled under the Power Sales Contract. Under the Power Sales Contract, as**
16 **amended and interpreted by the Arbitration Award, Big Rivers has the right to**
17 **purchase any Excess Henderson Energy at the price set forth in Section 3.8(c) of the**
18 **Power Sales Contract unless Henderson presents Big Rivers with a firm and bona**

Case No. 2016-00278

Response to Henderson Item 19

Witness: Robert W. Berry and Counsel

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BIG RIVERS ELECTRIC CORPORATION

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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CASE NO. 2016-00278**

**Response to City of Henderson, Kentucky and Henderson Utility Commission,
d/b/a Henderson Municipal Power & Light's First Request for Information
dated August 29, 2016**

September 12, 2016

1 fide third party offer to purchase a particular quantity of Energy, and allows Big
2 Rivers to meet that offer. Henderson has never presented Big Rivers with such an
3 offer.

4 Big Rivers further states that if the "scheduling mechanism" referred to in this
5 information request means the Henderson proposals contained in the letter dated
6 July 13, 2012, from Gary Quick to Mark Bailey, and the letter dated November 2,
7 2015, from Gary Quick to Bob Berry, Big Rivers' responses to those proposals are
8 stated in a letter dated July 20, 2012, from Mark Bailey to Gary Quick, a letter dated
9 November 5, 2012, from Bob Berry to Gary Quick, respectively, and in the protocol,
10 all of which are attached to Big Rivers' response to Item 2 of the Commission Staff's
11 First Request for Information.

12

13 **Witness)** Robert W. Berry and Counsel