ORIGINAL

Big Rivers
ELECTRIC CORPORATION

Your Touchstone Energy® Cooperative

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SEP 12 2016
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**

Responses to Commission Staff's First Request for Information dated August 29, 2016

FILED: September 12, 2016

ORIGINAL

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

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

VERIFICATION

I, Michael T. (Mike) Pullen, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Mike Pullen

Michael T. (Mike) Pullen

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Michael T. (Mike) Pullen on this the 8th day of September, 2016.

Paula Mitchell

Notary Public, Kentucky State at Large

My Commission Expires 1-12-17

BIG RIVERS ELECTRIC CORPORATION

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

VERIFICATION

I, Mark J. Eacret, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Mark J. Eacret

Mark J. Eacret

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Mark J. Eacret on this the 8th day of September, 2016.

Paula Mitchell

Notary Public, Kentucky State at Large

My Commission Expires 1-12-17

BIG RIVERS ELECTRIC CORPORATION

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

VERIFICATION

I, Robert W. (Bob) Berry, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Robert W. Berry

Robert W. (Bob) Berry

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Robert W. (Bob) Berry on this the 8th day of September, 2016.

Paula Mitchell

Notary Public, Kentucky State at Large

My Commission Expires 1-12-17

BIG RIVERS ELECTRIC CORPORATION

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

VERIFICATION

I, Lindsay N. Barron, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Lindsay N. B

Lindsay N. Barron

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Lindsay N. Barron on this the 8th day of September, 2016.

Paula Mitchell

Notary Public, Kentucky State at Large

My Commission Expires 1-12-17

Item 1) *Refer to the Application, Exhibit 7, Amendments to Contracts Among City of Henderson, Kentucky; City of Henderson Utility Commission; and Big Rivers Electric Corporation ("1998 Amendments"), page 7, Section 3.8(d), which states:*

> *Big Rivers shall have a reasonable period of time after submission of the City's scheduled energy requirements to decide whether to purchase any Excess Henderson Energy not scheduled by City. Big Rivers agrees to notify City thereafter if it does not intend to purchase such energy, and agrees to give City a response within a reasonable time so that City may take efforts to resell this power to third-parties.*

a. *State how often the "submission of City's scheduled energy requirements" is made by the city of Henderson, Kentucky, city of Henderson Utility Commission ("Henderson") to Big Rivers (i.e., daily, weekly, monthly, etc.)*

b. *Since May 25, 2016, state the number of times Big Rivers gave notification to Henderson, the date and time each notification* *was made, and whether Big Rivers met the notice requirements discussed in Section 3.8(d).*

c. *Explain what is considered a reasonable amount of time.*

Response)

a. Henderson does not submit its daily scheduled Energy requirements needed to serve Henderson's Native Load to Big Rivers, and to the best of my knowledge, has never provided Big Rivers its scheduled Energy requirements.

Annually, normally late in the year, Big Rivers will contact Henderson and request peak and Energy load forecast information for the following year. This information is necessary for internal Big Rivers' budgeting purposes and to determine Henderson's MISO Capacity requirement for the following year. Henderson provides a table showing this information on a total monthly basis.

Each morning, Big Rivers submits an hourly schedule for Henderson's Energy requirements for the following day to MISO. This Energy requirement is combined with that of Big Rivers for submission to MISO. Big Rivers forecasts this Energy requirement with no input from Henderson.

b. Because Henderson never provided Big Rivers with its scheduled Energy requirements, but specifically those needed to fulfill a bona fide offer from a third party, no circumstances have arisen that require Big Rivers to provide notice under Section 3.8(d).

Please note that the Arbitration Award changed the rights and obligations under Section 3.8 of the Power Sales Contract. Under the Award's interpretation, Big Rivers' notice obligations under Section 3.8(d) only apply to situations where Henderson receives a firm bona fide offer from a third party, and notifies Big Rivers of that offer, thereby triggering Big Rivers' obligation to provide Henderson with a response to that offer within a reasonable time.

The Arbitration Award declared that "[w]hen City does not require all of the capacity it in good faith reserved to serve its native load, the excess energy shall be considered to belong to City, which it may offer to third parties subject to Big Rivers' first right to purchase such energy." Under the Arbitration Award, if

Henderson receives a firm bona fide offer from a third party, Henderson would be required to offer the Energy to Big Rivers on the same terms, and Big Rivers would have the right, but not the obligation, to purchase the Energy on those terms. In such case, Big Rivers would be required to provide a notice pursuant to Section 3.8(d). However, Henderson has never presented a firm bona fide offer to Big Rivers and Henderson currently refuses to even discuss Big Rivers' questions about the appropriate procedures for third-party sales in the event Henderson does provide such an offer. Please also see Big Rivers' response to Item 9 of the Commission Staff's First Request for Information.

c. In letters to Big Rivers dated July 13, 2012 and October 27, 2015, Henderson has suggested that two and one-half hours (8:00 a.m. EPT to 10:30 a.m. EPT) is a reasonable amount of time for Big Rivers to respond to a firm bona fide offer under the terms of the arbitration agreement. Big Rivers agrees.

Witness) Mark J. Eacret

Item 2) *In the event the Excess Henderson Energy is offered to third parties, generally explain, to the best of Big Rivers' knowledge, how that energy is marketed, offered, sold, and transmitted to a third-party purchaser and describe Big Rivers' role, if any, in that process.*

Response) In Henderson's letters of July 13, 2012 (Attachment 2, page 1) and October 27, 2015 (Attachment 2, page 4) ("Process Letters"), Henderson indicates that it would calculate the hourly amount of Excess Henderson Energy for the following day by subtracting its hourly forecasted loads from Henderson's Capacity Reservation for that year. Copies of Big Rivers' responses to the Process Letters are also attached as follows: the letter from Big Rivers to Henderson dated July 20, 2012 is Attachment 3, page 1, and the letter from Big Rivers to Henderson dated November 5, 2015, is Attachment 3, page 3. Henderson does not address whether it would use its own hourly forecast of loads or whether it would use the hourly forecast of loads that is currently calculated by Big Rivers for submission to MISO. If Henderson proposes to use its own forecast of loads, it does not address how to reconcile differences between the two forecasts, although it contends that the process would not change the current scheduling process for Henderson's Native Load.

After the amount of Excess Henderson Energy for each hour of the following day is calculated, a trading desk, either established or contracted by Henderson, would presumably poll other market participants to determine the market price for the Excess Henderson Energy for the following day. If Henderson received a firm, bona fide offer for its Excess Henderson Energy from a third party, under the terms of the Arbitration Award, Henderson would be required to offer that Energy to Big Rivers on the same terms. The offer to Big Rivers would include the hourly quantities and pricing.

If Big Rivers chose not to match the firm, bona fide offer, Henderson would execute the transaction with the third party.

It would be difficult, but not impossible, for Henderson to sell the Excess Henderson Energy in anything other than the next-day market. Offers for longer periods of time would involve the assumption of risks by one party or the other in any transaction around generation performance, load forecasts, and market prices.

In the Process Letters, Henderson proposes to use a MISO process called a Financial Schedule ("FinSched") to facilitate transactions. A FinSched is a process under which MISO revenue is transferred from one MISO market participant to another at a specific MISO pricing point.

Currently, because it serves as the MISO Market Participant for Henderson load and Station Two, Big Rivers receives all of the MISO revenue attributable to Station Two generation and pays all of the MISO costs of purchasing Energy required for Henderson's Native Load. At a high level, the Station Two MISO revenue received by Big Rivers in any given hour can be thought of as falling into three separate categories:

1. Part of the MISO revenue offsets the cost of MISO purchases of Energy for Henderson's Native Load.
2. Part of the MISO revenue represents the difference between the Henderson Annual Reservation and Henderson Native Load (Henderson Excess Energy Revenue).
3. Part of the MISO revenue is attributable to Big Rivers' Capacity share.

If Henderson were to accept a firm bona fide offer for its Excess Henderson Energy, Henderson proposes to use a FinSched to transfer the Excess Henderson Energy Revenue from Big Rivers to Henderson. Presumably, Henderson would then use another FinSched to transfer that revenue to the third-party buyer, though that is not clear from the Process Letters.

The third-party buyer would then be free to simply accept the MISO revenues at that point and realize a gain or loss on the difference between those MISO revenues and the firm price paid to Henderson, or purchase transmission to move the Energy out of MISO.

Big Rivers believes the process Henderson set forth in the Process Letters is incomplete and unworkable, and there is currently no agreement between Big Rivers and Henderson about the process by which Henderson will take and market Excess Henderson Energy consistent with the Arbitration Award. In an effort to resolve the issues on this subject, Big Rivers has proposed to Henderson a process or "protocol" for how Excess Henderson Energy would be offered to third parties that would establish basic terms for marketing of that Energy, properly allocate the risks of the transaction, correct the deficiencies in the Process Letters, and establish an agreement about Big Rivers' role in that process. That proposed protocol, which has been rejected without explanation by Henderson, is attached to this response as Attachment 1. Henderson has declined to even discuss the proposed protocol with Big Rivers.

Witness) Mark J. Eacret

Procedure for Administering Excess Henderson Energy

July 8, 2016

Preliminary

1. Henderson Municipal Power and Light ("HMPL") will be registered as a MISO Asset Owner ("AO") under The Energy Authority ("TEA") as a market participant.
2. TEA will post Contracts 1 and 2 as described below in the MISO Portal with HMPL as the Buyer and BREC as the Seller. One contract will specify Unit 1 as the source and the other will specify Unit 2 as the source.
3. TEA will post Contracts 3 and 4 as described below in the MISO Portal with TEA as the Buyer and HMPL as the Seller. One contract will specify Unit 1 as the source and the other will specify Unit 2 as the source.
4. The term "Excess Energy" used in this procedure has the meaning given to "excess energy" and "Excess Henderson Energy" in the May 30, 2012 award in the arbitration between BREC and the City of Henderson and HMPL.

	Contract 1	Contract 2	Contract 3	Contract 4
Contract Name	BRPS-HMPL DA @ BREC.HMP1	BRPS-HMPL DA @ BREC.HMP2	HMPL-TEA DA @ BREC.HMP1	HMPL-TEA DA @ BREC.HMP2
Buyer Name	HMPL	HMPL	TEA	TEA
Seller Name	BRPS	BRPS	HMPL	HMPL
Effective Start (EST)	6/1/2016	6/1/2016	6/1/2016	6/1/2016
Effective End (EST)	6/1/2018	6/1/2018	6/1/2018	6/1/2018
Source Location	BREC.HMP1	BREC.HMP2	BREC.HMP1	BREC.HMP2
Sink Location	BREC.HMP1	BREC.HMP2	BREC.HMP1	BREC.HMP2
Delivery Point	BREC.HMP1	BREC.HMP2	BREC.HMP1	BREC.HMP2
Contract Type	Pure Financial	Pure Financial	Pure Financial	Pure Financial
Schedule Approval	CounterpartyApproval	CounterpartyApproval	CounterpartyApproval	CounterpartyApproval
Settlement Market	DayAhead	DayAhead	DayAhead	DayAhead
Congestion Losses	Null	Null	Null	Null
Buyer Comments	Null	Null	Null	Null
Seller Comments	Null	Null	Null	Null
Contract Approval (EST)	Not Approved	Not Approved	Not Approved	Not Approved
RSG Deviation Contract	False	False	False	False

Operating Day Minus One (OD-1) Option 1

1. When authorized by HMPL, TEA will communicate a bid ("firm bona fide offer") to BREC in writing by 0800 EST MISO Market Time or in any event no later than three hours before the MISO Day-Ahead Market Submittal Deadline for the next day or days.
   a. The quantity of the firm bona fide offer would be calculated by TEA using a TEA hourly forecast of HMPL load and the HMPL Station 2 Reservation Quantity.
   b. It is not required that the firm bona fide offer be for all hours for which Excess Energy is expected.
   c. A firm bona fide offer for any hour would include a fixed quantity and fixed price.
   d. If no firm bona fide offer is received by 0800 EST or in any event no later than three hours before the MISO Day-Ahead Market Submittal Deadline, it will be assumed that there is no such offer.
2. BREC would notify TEA by 1000 EST MISO Market Time or in any event no later than one hour before the MISO Day-Ahead Market Submittal Deadline as to whether it was exercising Option 1, the right to purchase the Excess Energy at the same terms as indicated in the firm bona fide offer. HMPL would be responsible for the fixed and variable costs of generating the energy in accordance with existing contractual obligations.
   a. If BREC does not respond by 1000 EST or in any event no later than one hour before the MISO Day-Ahead Market Submittal Deadline], it would be assumed that BREC was declining to exercise its Option 1.
   b. BREC Option 1 would require acceptance of all terms of the firm bona fide offer; that is, BREC could not select some hours and not others.
   c. If BREC does not exercise its Option 1, HMPL will accept the firm bona fide offer.

Operating Day Minus One Option 2.

1. If no firm bona fide offer were submitted to BREC for consideration, BREC may exercise its right to purchase Excess Energy by paying $1.50/MWh and its existing contractual obligation for the variable cost of generating the Excess Energy taken by BREC. In the event BREC exercises this right, it will provide HMPL with notice at the end of each calendar month of the amount of Excess Energy, if any, purchased by it during the previous month.

2. HMPL will retain the Excess Energy and remain responsible for the fixed and variable costs attributable to generating the Excess Energy except as otherwise expressly provided in this procedure.

Operating Day (OD)

1. TEA will submit a series of FinScheds by 1200 MISO Market Time on the OD, with the Source, Sink, and Delivery Point designated as BREC.HMP1 or BREC.HMP2 (whichever is appropriate)
   a. FinSched 1 under Contract 1 or 2 will be for all Excess Energy in each hour, with HMPL as the Buyer and BREC as the Seller.
      i. If BREC exercises its Option 1, the FinSched 1 quantity for any hour for which BREC was exercising its Option 1 would be reduced by the Excess Energy quantity.
      ii. If BREC exercises its Option 2, the FinSched 1 quantity for any hour for which BREC was exercising its Option 2 would be reduced by the Excess Energy quantity.

   b. FinSched 2 under Contract 3 or 4 will be for all Excess Energy sold through the firm bona fide offer, with TEA as the Buyer and HMPL as the Seller
2. BREC will confirm FinSched 1 before the MISO FinSched Deadline for the appropriate Operating Day.
3. TEA will confirm Finsched 2 before the MISO FinSched Deadline for the appropriate Operating Day.

Monthly MISO Settlements

1. Monthly MISO settlements would include the following
   a. HMPL would receive all of the MISO Day-Ahead (DA) Energy revenues associated with the Excess Energy for those hours for which there was no firm bona fide offer, BREC did not exercise its Option 1, and BREC did not exercise its Option 2. These revenues would appear in the TEA settlement statements under the HMPL asset owner.
   b. TEA would receive the MISO DA Energy revenues associated with the hours and quantities in the bona fide offer for which BREC did not exercise its Option 1.
   c. BREC would receive the MISO DA Energy revenue associated with the hours and quantities of its exercise of Option 1 or its exercise of Option 2.
   d. MISO Administrative Charges applicable to the FinScheds would flow to the Buyers and Sellers designated in the FinScheds.

Monthly Invoicing

1. HMPL will invoice TEA under the terms of any firm bona fide offer for which BREC did not exercise its Option 1 based upon the quantities and prices for each hour.
2. HMPL will invoice BREC under the terms of any firm bona fide offer for which BREC did exercise its Option 1, based upon the quantities and prices for each hour.
3. If BREC exercises its Option 2, BREC will be responsible to HMPL in accordance with its existing contractual obligations for $1.50/MWh times the number of MWh purchased under Option 2 and the associated variable costs of generating that energy.
4. HMPL will be obligated to BREC for Station 2 variable costs as follows:
   a. For any hour in which actual Station 2 net generation is greater than the HMPL Station 2 Reservation Quantity, HMPL will be responsible in accordance with its existing contractual arrangements for the variable costs of the amount of energy associated with the HMPL Station 2 Reservation Quantity, reduced by any MWhs sold to BREC under Option 2.
      i. Additionally, if the sum of HMPL actual load and Excess Energy sold under a firm bona fide offer or BREC Option 1 is greater than the amount of energy associated with the HMPL Station 2 Reservation Quantity, BREC will charge and invoice HMPL at the Station 2 MISO Real-Time Locational Marginal Price for the amount of that energy that exceeds the amount of energy associated with the HMPL Station 2 Reservation Quantity.
   b. For any hour in which actual Station 2 net generation is less than the HMPL Station Two Reservation Quantity, HMPL will pay variable costs based upon actual Station 2 generation, reduced by any MWhs sold to BREC under Option 2.
      i. Additionally, if the sum of HMPL actual Load and Excess Energy sold under a firm bona fide offer or BREC Option 1 is greater than Station 2 net generation, BREC will charge and invoice HMPL at the Station 2 MISO Real-Time Locational Marginal Price for the amount of that energy that exceeds the actual Station 2 net generation.

HMP&L HENDERSON MUNICIPAL POWER & LIGHT

July 13, 2012

Mr. Mark Bailey
President
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42420

Dear Mark:

In response to Scott Greene's letter dated June 28, 2012, Henderson ("HMPL") offers the following process to begin scheduling our Excess Energy from our Henderson Station Two Facility (CP node BREC.HMP2). Initially, HMPL will pursue day-ahead sales of its Excess Energy using MISO Financial Schedules ("FinSched"). Over time HMPL may change its process for selling its Excess Energy, but currently HMPL will use the process described herein. To achieve this, HMPL proposes the attached MISO Contract defining terms with which Henderson and Big Rivers Electric Corporation (BREC) could use to create MISO FinScheds for energy. Our expectation is that this process would begin on or shortly after July 23, 2012, and could be a daily exercise, performed on business days before the next day, weekend, and NERC holiday schedules ("Day-ahead Schedules"). In order to begin this MISO FinSched process, the first step would be for BREC, as Market Participant for Henderson Station Two, to approve the attached underlying MISO Contract. The proposed MISO Contract for FinScheds would not change BREC's current scheduling process for Henderson's native load and resources under the carve out status. The FinSched would involve the scheduling of Excess Energy between Henderson's native load and its Annual Reserved Capacity.

HMPL proposes that the following processes be executed by our respective scheduling agents.

- The amount of HMPL's available hourly Excess Energy will be based on its Annual Reserved Capacity minus its hourly forecasted loads. From the resulting amount of energy, HMPL will develop an hourly schedule of Excess Energy that it desires to offer for third party sales.
- Firm third party bids to purchase HMPL's desired sale schedule, with pricing, will be provided to BREC no later than 8:00 a.m. EPT on the business day before the transaction.
- BREC will provide HMPL notice of its intent to accept or reject the purchase no later than 10:30 a.m. EPT on the business day before the transaction. BREC's failure to respond by 10:30 a.m. EPT will be an assumed rejection of the purchase. An accepted transaction by BREC must match the firm third party purchaser's hourly megawatt hours scheduled and prices.

HMP&L

As opportunities for physical bilateral transactions occur, HMPL's scheduling agent will manage the acquisition of the necessary transmission services, tagging, and will be responsible for managing real-time changes. Please let me know who we should contact at Big Rivers to begin the process of scheduling our Excess Energy.

Sincerely,

Gary Quick

Enclosure

HMP&L

Financial Contract

Submit | Cancel

Contract Name	BRPS-HMPL DA @ BREC.HMP2
Buyer Name	HMPL
Seller Name	BRPS
Effective Start (EST)	07/01/2012
Effective End (EST)	1/1/2013
Source Location	BREC.HMP2
Sink Location	BREC.HMP2
Delivery Point	BREC.HMP2
Contract Type	PureFinancial
Schedule Approval	CounterpartyApproval
Settlement Market	DayAhead
Congestion Losses	BuyerPays
Buyer Comments	(null)
Seller Comments	(null)
Contract Approval (EST)	Not Approved
RSG Deviation Contract	false

Case No. 2016-00278
Staff Item 2 Attachment 2
Witness: Mark J. Eacret

HMP&L HENDERSON MUNICIPAL POWER & LIGHT

October 27, 2015

RECEIVED
NOV 02 2015

Mr. Bob Berry
President
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42420

Dear Bob:

Henderson ("HMPL") is proposing the following process to begin scheduling our Excess Energy from our Henderson Station Two Facility (CP node BREC.HMP2). Initially, HMPL will pursue day-ahead sales of its Excess Energy using MISO Financial Schedules ("FinSched"). Over a period of time HMPL may change its process for selling its Excess Energy, but currently HMPL will use the process described herein. To achieve this, HMPL proposes the attached MISO Contract defining terms with which Henderson and Big Rivers Electric Corporation (BREC) could use to create MISO FinScheds for energy. Our expectation is that this process would begin shortly after October 27, 2015, and could be a daily exercise, performed on business days before the next day, weekend, and NERC holiday schedules ("Day-ahead Schedules"). In order to begin this MISO FinSched process, the first step would be for BREC, as Market Participant for Henderson Station Two, to approve the attached underlying MISO Contract. The proposed MISO Contract for FinScheds would not change BREC's current scheduling process for Henderson's native load and resources under the carve out status. The FinSched would involve the scheduling of Excess Energy between Henderson's native load and its Annual Reserved Capacity.

HMPL proposes that the following processes be executed by our respective scheduling agents.

- The amount of HMPL's available hourly Excess Energy will be an amount up to its Annual Reserved Capacity minus its hourly native forecasted loads. From the resulting amount of energy, HMPL will develop an hourly schedule of Excess Energy that it desires to offer for third party sales.
- Firm third party bids to purchase HMPL's desired sale schedule, with pricing, will be provided to BREC no later than 8:00 a.m. EPT on the business day before the transaction.
- BREC will provide HMPL notice of its intent to accept or reject the purchase no later than 10:30 a.m. EPT on the business day before the transaction. BREC's failure to respond by 10:30 a.m. EPT will be an assumed rejection of the purchase. An accepted transaction by BREC must match the firm third party purchaser's hourly megawatt hours scheduled and prices.
- Please note that all times may be subject to change pending FERC approval of MISO's response to FERC Order No. 809.

100 FIFTH STREET P.O. BOX 8 HENDERSON, KENTUCKY 42419-0008 (270) 826-2726 FAX (270) 826-9650

HMP&L

As opportunities for physical bilateral transactions occur, HMPL's scheduling agent will manage the acquisition of the necessary transmission services, tagging, and will be responsible for managing real-time changes. Please let me know who we should contact at Big Rivers to begin the process of scheduling Henderson's Excess Energy.

Sincerely,

Gary Quick

Enclosure

HMP&L

Financial Contract

Submit | Cancel

Contract Name	BRPS-HMPL DA @ BREC.HMP2
Buyer Name	HMPL
Seller Name	BRPS
Effective Start (EST)	7/1/2012
Effective End (EST)	1/1/2016
Source Location	BREC.HMP2
Sink Location	BREC.HMP2
Delivery Point	BREC.HMP2
Contract Type	PureFinancial
Schedule Approval	CounterpartyApproval
Settlement Market	DayAhead
Congestion Losses	BuyerPays
Buyer Comments	(null)
Seller Comments	(null)
Contract Approval (EST)	Not Approved
RSG Deviation Contract	false

Big Rivers
ELECTRIC CORPORATION

201 Third Street
P.O. Box 24
Henderson, KY 42419-0024
270-827-2561
www.bigrivers.com

July 20, 2012

VIA E-MAIL AND FIRST CLASS MAIL

Mr. Gary Quick
Henderson Municipal Power & Light
100 Fifth Street
P.O. Box 8
Henderson, Kentucky 42419-0008

RE: Scheduling of Excess Henderson Energy

Dear Gary:

This responds to your letter of July 13, 2012, in which you propose a process for scheduling "Excess Energy" from Station II utilizing – at least initially – MISO Financial Schedules. While Big Rivers appreciates your providing a written response to Mr. Greene's June 28, 2012, letter, Big Rivers cannot and does not agree with your scheduling proposal.

As you now know, Big Rivers has initiated vacatur proceedings with the Henderson Circuit Court, seeking an order vacating the award upon which HMPL purports to be relying in making its July 13 proposal. It is Big Rivers' position that the arbitration award is defective on a number of levels, and we think it unwise to use it as a basis for developing a scheduling approach that contradicts the terms of the Power Sales Agreement.

Even without the Motion to Vacate, Big Rivers disagrees with the process you have proposed. Your proposal is inconsistent with the Panel's award on numerous levels. For example, you have proposed use of a MISO process, even though Mr. Pemberton's concurrence expressly questioned the applicability of MISO in the award. Similarly, you have proposed a purely financial process, but we believe the award contemplates only physical bilateral transactions. We also do not believe that the FinSched process you propose meets the "firm" and "bona fide" offer requirements of the award, and have concluded that it would require contract amendments or a new contract between the parties, which are not required by the Power Sales Agreement or the arbitration award. Additionally, you have defined Excess Energy as the difference between HMPL's annual capacity reservation and hourly forecasted load, but both the Contract and the award define Excess Energy as the difference between HMPL's capacity reservation and actual load.

Moreover, while you have offered some detail with your proposal, it still fails to address a host of important questions that must be resolved before any scheduling could be put into practice. The issues that remain open include, but are not limited to: (1) the characteristics of a "firm" and "bonafide" third-party offer that Henderson believes Big Rivers would be obligated to match under the Award; (2) Big Rivers' backup obligations for the proposed transactions; (3) how settlement will be handled between Big Rivers and Henderson for third-party sales, and how settlement will be affected in the event Excess Energy is unavailable from Station II to cover a sale, either due to an outage or derate of Station II or Henderson's under-estimation of its native load needs in a given hour; (4) Big Rivers' remedies in the event Big Rivers agrees to purchase the Excess Energy and that Excess Energy is not available from Station II; (5) the form of confirmation or verification Henderson would provide Big Rivers so it can verify the terms of third party offer; (6) how transmission and congestion-related charges will be handled; and (7) how MISO administrative and other expenses will be handled. Each would need to be fully considered and addressed.

Your letter referenced an intention to begin the proposed MISO financial transactions as early as July 23, 2012. For the reasons articulated, we believe such transactions would be entirely inappropriate at this time.

Sincerely,

Mark T Bailey

Mark Bailey
President and CEO
Big Rivers Electric Corporation

c: Scott Greene
Jim Miller
Theresa Canaday

Big Rivers

November 5, 2015

Mr. Gary Quick
General Manager
Henderson Municipal Power & Light
100 Fifth Street
P. O. Box 8
Henderson, KY 42419

Re: Scheduling of Excess Henderson Energy

Dear Gary:

This will acknowledge receipt of your letter dated October 27, 2015, which I received on November 2.

The proposal you outlined in your October 27, 2015 letter is identical to the proposal you made in July 2012. Big Rivers' response to that proposal in July 2012 – in addition to questioning whether the type of purely financial transactions embodied in MISO FinScheds are compatible with the Power Sales Contract, as interpreted in the Arbitration Award – identified a number of logistical and operational details that your proposal failed to address, and which would need to be resolved before it could be put into practice. As HMPL never provided a response to our inquiries, the issues raised in that response remain unanswered.

We continue to have questions about whether the proposed FinSched process is compatible with the Power Sales Contract, as amended, and the Arbitration Award. Nonetheless, we want to be responsive to your proposal for scheduling Excess Henderson Energy with the hope that, through open discussion among us, the parties could potentially move toward an agreed-upon approach to Excess Henderson Energy which complies fully with the Arbitration Award.

In order to do that, however, a number of issues must be discussed and addressed, as indicated in Big Rivers' July 2012 letter. For example (and this list is by no means exhaustive) agreement would need to be reached about the following:

1. What priority would be given to HMPL's sales of Excess Henderson Energy, particularly in relationship to Big Rivers' rights to receive energy from the Station II capacity that it has paid for?

2. What are the characteristics of a "firm" and "bonafide" offer under the award that Big Rivers would be obligated to match if it desires to purchase the Excess Henderson Energy? How can Big Rivers verify the terms of any third party offer?

3. Which party is responsible for providing HMPL's day-ahead load forecast each day used to determine the amount of Excess Henderson Energy to be offered to third parties, and who bears the risk of errors in the forecast?

4. What happens if the Excess Henderson Energy committed to third parties becomes unavailable in real time due to outage, derate, HMPL's underestimation of its native load needs, or MISO's decision not to dispatch the units at sufficient levels to cover a third party sale?

5. What are Big Rivers' remedies if it agrees to purchase the Excess Energy and that energy is not available?

6. What is Big Rivers' backup obligation for any proposed third-party transactions?

7. How would settlement be handled between Big Rivers and HMPL for third party sales?

8. How are MISO administrative and other expenses to be handled? What about transmission and congestion-related charges?

To move us closer to a possible resolution, we suggest representatives from HMPL and Big Rivers find a convenient day and time to meet to discuss your proposal and, if possible, memorialize in writing any consensus we may reach on how those issues are to be handled. It is our hope that this meeting will permit the parties to execute an agreed-upon protocol. Given WKE's interest in this matter, I have advised them of your proposal and WKE representatives would like to join our discussions. Could you please provide some dates that would work for this meeting.

I look forward to hearing from you soon.

Sincerely yours,

Robert W. Berry

Robert W. Berry
President and CEO
Big Rivers Electric Corporation

BIG RIVERS ELECTRIC CORPORATION

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

Response to Commission Staff's First Request for Information
dated August 29, 2016

September 12, 2016

Item 3) *Refer to the Application, Exhibit 10, the Direct Testimony of Robert W. Berry ("Berry Testimony"), page 7 of 18, lines 5-7. Prior to the 1998 Amendments, explain whether Big Rivers took and purchased all of the Excess Henderson Energy, even when uneconomic to do so.*

Response) Prior to the 1998 Amendments there was no "Excess Henderson Energy" because that term first came into existence in the 1998 Amendments. There was, however, Energy associated with Henderson's Annual Reservation that was not required for Henderson's Native Load. Big Rivers took that Energy and paid the variable production costs of that Energy.

Prior to Big Rivers' integration into the MISO market in 2010, market price transparency on an hourly basis was unavailable. Thus Big Rivers could not have known the hourly economics of Henderson purchases, and has no information from which it can determine an answer to this information request.

Witness) Robert W. Berry

BIG RIVERS ELECTRIC CORPORATION

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Item 4) *Refer to the Application, Exhibit 10, the Direct Testimony of Robert W. Berry ("Berry Testimony"), page 9 of 18.*

a. Refer to lines 17-18.

(1) *Confirm that the phrase "historically exercised its rights" means that Big Rivers has always taken and purchased the Excess Henderson Energy prior to June 1, 2016. If this cannot be confirmed, explain the meaning of the phrase "historically exercised its rights".*

(2) *For each year since the 1998 Amendments to the Power Sales Contract became effective and prior to January 2016, provide a schedule similar to Exhibit RWB_1 identifying the times when Big Rivers purchased the Excess Henderson Energy when it was uneconomic for Big Rivers to do so.*

b. Refer to lines 18-22. Regarding the dispute over the entitlement to the Excess Henderson Energy under the Power Sales Contract, the arbitration award was issued on May 30, 2012. Explain whether Big Rivers continued to purchase the Excess

Henderson Energy subsequent to the date of the arbitration award and, if so, explain Big Rivers' reasoning for doing so.

Response)

a.

(1) Big Rivers' rights under Section 3.8 came into existence with the effective date of the 1998 Amendments. However, Big Rivers' rights under that section were essentially suspended for a period of time, because on that same date, the Station Two Contracts were assigned to an affiliate or subsidiary of LG&E Energy Corp., and that entity possessed substantially all of Big Rivers' rights and obligations under the Station Two Contracts until the unwind transaction closed on July 17, 2009, at which point Big Rivers began to operate under Section 3.8. So Big Rivers did not purchase any Excess Henderson Energy, as defined in the 1998 Amendments, prior to July 17, 2009. Big Rivers confirms that "historically exercised

its rights" means that subsequent to July 17, 2009, and prior to June 1, 2016, Big Rivers has always taken and purchased Excess Henderson Energy as calculated in accordance with the protocol attached as Exhibit A to the Indemnification Agreement.

(2) For the reasons noted above, from the date of the 1998 Amendments until July 17, 2009, Big Rivers does not have the information requested. For the period following July 17, 2009, but prior to Big Rivers' transfer of functional control of its transmission system to MISO and full integration in the MISO Energy and Ancillary Services Market on December 1, 2010, bilateral wholesale transactions were the primary method of sales of Energy and Capacity. Bilateral sales of Energy between 12:01 a.m. on July 17, 2009, and Big Rivers' integration into MISO on December 1, 2010, were determined based on the amount of surplus Energy that existed over load obligations, which included load plus reserves. These

bilateral sales of Energy came about through negotiations with counterparties regarding MWh volume, time of delivery, price, point of receipt, point of delivery, delivery path and obligations for arranging transmission and ancillary services. These negotiations and arrangements occurred prior to delivery of the power. When the hour of delivery of power approached, the generating unit was dispatched to meet the Energy sales obligation via instruction from Big Rivers' Energy Control department. Every month, invoices were issued to counterparties and payment was received for sales of Energy made and delivered during the prior month. There would be no way to determine from which generator, Station Two or any other, the Energy would come from in advance. For these reasons Big Rivers does not have the information requested for the period between the unwind transaction closing and the date of Big Rivers' integration into MISO.

For the period from December 1, 2010, through May 31, 2016, please see the summary attached to this response.

b. Big Rivers continued to purchase Excess Henderson Energy subsequent to the date of the Arbitration Award on May 30, 2012. Under the Arbitration Award, Big Rivers had the right to do so, at its discretion. Big Rivers continued to purchase that Excess Henderson Energy because the issues of Excess Henderson Energy and the operation of Section 3.8 of the Power Sales Contract have been in arbitration and under dispute from August of 2009. Big Rivers did not want to complicate that litigation or any attempts to resolve it during that period by changing its practice respecting Excess Henderson Energy. The profitable and unprofitable sales of Excess Henderson Energy were basically a wash during that period. Nonetheless, Big Rivers has, since the Arbitration Award was entered, stood ready to comply with that Award in the event Henderson presented a firm bona fide offer from a third party that includes all terms necessary for a commercially complete transaction. And, after the arbitration and related litigation terminated in August of 2015, Big Rivers has sought to get in place a protocol for a process by which Henderson could market the Excess Henderson Energy in accordance with the Arbitration Award with the expectation that doing so would resolve the issues related to the unwanted Excess Henderson Energy. In May of 2016, faced with no indication that the issue would be resolved, Henderson's refusal to meet with us, and very low market prices that made the magnitude of the problem intolerable, Big Rivers decided that it must act. That is when, on May 25, 2016, Big Rivers wrote Henderson notifying it that on June 1, 2016, Big Rivers would begin exercising its right to decline to take Excess Henderson Energy.

Witness) Robert W. Berry

RWB_1 - Expanded December 1, 2010 - December 31, 2015

		A	B	C	D	E
		Station Two Excess Henderson Energy mWhrs	Total $ Received from MISO for Excess Henderson Energy	Fee Paid to HMPL	Total Station Two Variable Cost Paid by BREC for Excess Henderson Energy mWhrs	Revenues - Costs (B-C-D) for Excess Henderson Energy
1	**2010**	**9,832**	**$399,414**	**$14,748**	**$274,538**	**$110,128**
2	December	9,832	$399,414	$14,748	$274,538	$110,128
3	**2011**	**123,457**	**$4,114,884**	**$185,186**	**$3,565,838**	**$363,861**
4	January	9,835	$394,397	$14,753	$282,560	$97,085
5	February	11,393	$329,364	$17,090	$335,068	($22,794)
6	March	10,770	$378,279	$16,155	$307,376	$54,748
7	April	18,097	$582,040	$27,146	$527,166	$27,729
8	May	13,869	$502,915	$20,804	$409,136	$72,976
9	June	5,326	$199,832	$7,989	$158,555	$33,288
10	July	3,175	$124,592	$4,763	$94,012	$25,818
11	August	4,463	$172,301	$6,695	$130,409	$35,198
12	September	7,998	$226,348	$11,997	$238,740	($24,389)
13	October	16,027	$497,670	$24,041	$447,314	$26,316
14	November	10,273	$341,069	$15,410	$283,740	$41,919
15	December	12,231	$366,076	$18,347	$351,764	($4,034)
16	**2012**	**135,542**	**$3,691,547**	**$203,313**	**$4,004,223**	**($515,989)**
17	January	8,333	$237,063	$12,500	$243,657	($19,094)
18	February	14,953	$411,766	$22,430	$438,272	($48,936)
19	March	9,146	$262,280	$13,719	$262,948	($14,387)
20	April	29,527	$708,127	$44,291	$870,456	($206,620)
21	May	5,945	$153,680	$8,918	$187,505	($42,743)
22	June	6,201	$154,126	$9,302	$173,752	($28,927)
23	July	4,192	$157,791	$6,288	$120,101	$31,402
24	August	7,927	$201,076	$11,891	$237,889	($48,704)
25	September	6,548	$163,767	$9,822	$193,166	($39,221)
26	October	16,728	$492,841	$25,092	$510,706	($42,957)
27	November	12,455	$374,808	$18,683	$361,693	($5,567)
28	December	13,587	$374,223	$20,381	$404,077	($50,235)
29	**2013**	**188,737**	**$6,044,597**	**$283,106**	**$5,693,562**	**$67,929**
30	January	6,972	$192,370	$10,458	$209,439	($27,526)
31	February	8,495	$241,423	$12,743	$255,360	($26,679)
32	March	17,805	$561,895	$26,708	$535,752	($565)
33	April	40,086	$1,371,926	$60,129	$1,161,291	$150,505
34	May	35,377	$1,137,656	$53,066	$1,073,338	$11,253
35	June	10,245	$327,246	$15,368	$306,071	$5,808
36	July	12,078	$363,008	$18,117	$363,210	($18,319)
37	August	10,546	$300,820	$15,819	$313,417	($28,415)
38	September	10,136	$286,109	$15,204	$305,134	($34,230)
39	October	12,886	$412,812	$19,329	$413,538	($20,055)
40	November	10,540	$370,897	$15,810	$325,170	$29,917
41	December	13,571	$478,434	$20,357	$431,843	$26,235

		F	G	H	I	J	K
		Economic Only Station Two Excess Henderson Energy mWhrs	Total $ Received from MISO for Economic Excess Henderson Energy	Fee Paid to HMPL	Total Station Two Variable Cost Paid by BREC for Economic Excess Henderson Energy mWhrs	Revenues - Costs (G-H-I) for Economic Excess Henderson Energy	% of Economic EHE mWhrs
1	**2010**	**7,174**	**$330,615**	**$10,761**	**$200,319**	**$119,535**	**73.0%**
2	December	7,174	$330,615	$10,761	$200,319	$119,535	73.0%
3	**2011**	**70,602**	**$2,822,653**	**$105,903**	**$2,037,313**	**$679,437**	**57.2%**
4	January	8,545	$357,739	$12,818	$245,498	$99,423	86.9%
5	February	4,234	$171,017	$6,351	$124,522	$40,144	37.2%
6	March	7,637	$293,971	$11,456	$217,960	$64,556	70.9%
7	April	8,935	$352,418	$13,403	$260,277	$78,739	49.4%
8	May	9,359	$392,554	$14,039	$276,091	$102,425	67.5%
9	June	3,524	$159,896	$5,286	$104,909	$49,700	66.2%
10	July	1,974	$94,816	$2,961	$58,450	$33,405	62.2%
11	August	3,215	$139,505	$4,823	$93,942	$40,740	72.0%
12	September	3,369	$123,598	$5,054	$100,565	$17,980	42.1%
13	October	8,452	$310,839	$12,678	$235,895	$62,265	52.7%
14	November	6,537	$251,257	$9,806	$180,552	$60,899	63.6%
15	December	4,821	$175,044	$7,232	$138,652	$29,161	39.4%
16	**2012**	**34,539**	**$1,288,291**	**$51,809**	**$1,017,601**	**$218,882**	**25.5%**
17	January	2,730	$94,796	$4,095	$79,825	$10,875	32.8%
18	February	3,125	$108,784	$4,688	$91,594	$12,503	20.9%
19	March	3,245	$119,586	$4,868	$93,294	$21,424	35.5%
20	April	2,238	$74,561	$3,357	$65,976	$5,228	7.6%
21	May	980	$39,320	$1,470	$30,909	$6,941	16.5%
22	June	1,480	$55,350	$2,220	$41,470	$11,660	23.9%
23	July	2,758	$124,927	$4,137	$79,017	$41,773	65.8%
24	August	1,768	$72,348	$2,652	$53,058	$16,639	22.3%
25	September	1,475	$50,875	$2,213	$43,513	$5,150	22.5%
26	October	5,595	$216,521	$8,393	$170,815	$37,313	33.4%
27	November	5,488	$202,018	$8,232	$159,372	$34,415	44.1%
28	December	3,657	$129,205	$5,486	$108,759	$14,961	26.9%
29	**2013**	**84,885**	**$3,339,746**	**$127,328**	**$2,556,442**	**$655,976**	**45.0%**
30	January	1,566	$57,825	$2,349	$47,043	$8,433	22.5%
31	February	2,703	$93,820	$4,055	$81,252	$8,514	31.8%
32	March	7,506	$283,956	$11,259	$225,856	$46,842	42.2%
33	April	23,241	$914,336	$34,862	$673,292	$206,182	58.0%
34	May	16,420	$647,592	$24,630	$498,183	$124,779	46.4%
35	June	4,451	$186,056	$6,677	$132,974	$46,406	43.4%
36	July	4,694	$180,442	$7,041	$141,158	$32,243	38.9%
37	August	3,829	$136,024	$5,744	$113,794	$16,486	36.3%
38	September	3,142	$116,817	$4,713	$94,587	$17,517	31.0%
39	October	5,503	$210,131	$8,255	$176,602	$25,274	42.7%
40	November	4,887	$218,134	$7,331	$150,769	$60,034	46.4%
41	December	6,943	$294,614	$10,415	$220,933	$63,266	51.2%

		A	B	C	D	E
		Station Two Excess Henderson Energy mWhrs	Total $ Received from MISO for Excess Henderson Energy	Fee Paid to HMPL	Total Station Two Variable Cost Paid by BREC for Excess Henderson Energy mWhrs	Revenues - Costs (B-C-D) for Excess Henderson Energy
42	**2014**	**192,018**	**$7,382,997**	**$288,027**	**$5,704,820**	**$1,390,150**
43	January	9,796	$597,908	$14,694	$308,918	$274,295
44	February	16,458	$850,003	$24,687	$503,928	$321,388
45	March	18,197	$811,847	$27,296	$535,156	$249,396
46	April	18,600	$686,644	$27,900	$559,025	$99,719
47	May	24,948	$942,809	$37,422	$779,502	$125,885
48	June	9,063	$338,442	$13,595	$273,568	$51,280
49	July	10,862	$354,496	$16,293	$330,205	$7,998
50	August	8,999	$291,927	$13,499	$275,495	$2,933
51	September	16,087	$520,560	$24,131	$474,116	$22,313
52	October	21,618	$717,173	$32,427	$612,244	$72,502
53	November	23,193	$823,353	$34,790	$652,280	$136,283
54	December	14,197	$447,836	$21,296	$400,384	$26,157
55	**2015**	[redacted]				
56	January					
57	February					
58	March					
59	April					
60	May					
61	June					
62	July					
63	August					
64	September					
65	October					
66	November					
67	December					
68	**Grand Total**					

		F	G	H	I	J	K
		Economic Only Station Two Excess Henderson Energy mWhrs	Total $ Received from MISO for Economic Excess Henderson Energy	Fee Paid to HMPL	Total Station Two Variable Cost Paid by BREC for Economic Excess Henderson Energy mWhrs	Revenues - Costs (G-H-I) for Economic Excess Henderson Energy	% of Economic EHE mWhrs
42	**2014**	**135,981**	**$5,886,945**	**$203,972**	**$4,034,548**	**$1,648,425**	**70.8%**
43	January	7,783	$539,835	$11,675	$245,437	$282,724	79.5%
44	February	13,772	$771,113	$20,658	$421,685	$328,770	83.7%
45	March	15,541	$735,556	$23,312	$457,045	$255,199	85.4%
46	April	13,241	$538,934	$19,862	$397,958	$121,114	71.2%
47	May	15,597	$694,380	$23,396	$487,328	$183,656	62.5%
48	June	6,011	$261,855	$9,017	$181,442	$71,397	66.3%
49	July	6,189	$233,833	$9,284	$188,146	$36,404	57.0%
50	August	4,556	$172,007	$6,834	$139,477	$25,695	50.6%
51	September	9,924	$361,888	$14,886	$292,480	$54,522	61.7%
52	October	16,383	$582,100	$24,575	$463,983	$93,542	75.8%
53	November	18,415	$692,903	$27,623	$517,903	$147,377	79.4%
54	December	8,569	$302,542	$12,854	$241,663	$48,026	60.4%
55	**2015**	[redacted]					
56	January	[redacted]					
57	February	[redacted]					
58	March	[redacted]					
59	April	[redacted]					
60	May	[redacted]					
61	June	[redacted]					
62	July	[redacted]					
63	August	[redacted]					
64	September	[redacted]					
65	October	[redacted]					
66	November	[redacted]					
67	December	[redacted]					
68	**Grand Total**	[redacted]					

BIG RIVERS ELECTRIC CORPORATION

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dated August 29, 2016

September 12, 2016

Item 5) *Refer to the Berry Testimony, page 11 of 18, lines 16-18. Confirm that all power generated by Station Two, including Henderson's share, is sold into the Midcontinent Independent System Operator, Inc., market.*

Response) Big Rivers sells all Energy generated by Station Two, including Henderson's share, into the MISO system, and purchases back its Energy requirements and the Energy requirements of Henderson for itself and its inhabitants. This is in keeping with the requirements of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff.

Witness) Robert W. Berry

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Item 6) *Refer to the Berry Testimony, page 14 of 18.*

a. *Refer to lines 1-5. Provide a copy of the bills issued by Big Rivers to Henderson for the months of June and July 2016.*

b. *Refer to lines 5-9. Confirm that the testimony indicates that Henderson purchases coal and reagents for Station Two and causes same to be delivered to cover the energy produced for Henderson, not that Big Rivers purchases all of the coal and reagents for Station Two and then allocates a portion to Henderson based on the energy produced for Henderson. If this cannot be confirmed, explain what is meant by the testimony.*

Response)

a. Please see attached.

b. This is correct. In accordance with the Station Two Contracts, Henderson purchases the fuel and reagent required for the production of Energy that is generated and belongs to Henderson, and causes that fuel and reagent to be delivered to Station Two.

Witness) Robert W. Berry

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR A DECLARATORY ORDER	)))	Case No. 2016-00278

CONFIDENTIAL RESPONSE to

Item 6a. of Commission Staff's
First Request for Information
dated August 29, 2016

FILED: September 12, 2016

INFORMATION SUBMITTED UNDER PETITION FOR CONFIDENTIAL TREATMENT

BIG RIVERS ELECTRIC CORPORATION

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION
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September 12, 2016

Item 7) *Refer to the Berry Testimony, page 15 of 18, lines 9- 13. Provide the basis for Big Rivers' understanding that Henderson prefers "the simplified method" for calculating Excess Henderson Energy.*

Response) The simplified method of determining Excess Henderson Energy is to subtract Henderson's actual megawatt hour of load in each hour from the amount of Energy associated with Henderson's Annual Reservation. This is consistent with the definition of Excess Henderson Energy found in the Arbitration Award (Application Exhibit 9). Henderson urged and secured confirmation of the award from the Henderson Circuit Court. The Arbitration Award states that when Henderson does not require all of the Capacity it in good faith reserved to serve its native load, the "excess energy" shall be considered to belong to Henderson, which it may offer to third parties subject to Big Rivers' first right to purchase such Energy. This simplified method is also consistent with numerous conversations I have had with representatives of Henderson, who uniformly describe Excess Henderson Energy as the Energy associated with the difference between Henderson's Annual Reservation and Henderson's Native Load, and assert that Henderson "gets theirs first." That is one reason this definition is reflected in the protocol for Excess

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Henderson Energy attached as part of the attachment to Big Rivers' response to Item 2 of the Commission Staff's First Request for Information.

Witness) Robert W. Berry

BIG RIVERS ELECTRIC CORPORATION

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Item 8) *Refer to the Berry Testimony, Exhibits RWB_1 and RWB_2. Explain the difference between the two methodologies used to calculate the Excess Henderson Energy in the exhibits.*

Response) Exhibit RWB_1 employs the methodology Big Rivers used to calculate Excess Henderson Energy prior to June 2016, which was in accordance with Exhibit A of the Indemnification Agreement between Big Rivers and Western Kentucky Energy Corp. that was filed with the Commission in the Big Rivers unwind proceeding, Case No. 2007-00455. Under that methodology, the quantity of Excess Henderson Energy was determined after-the-fact by the number of Station Two units running and each party's allocation. If both units were operational, generation in any given amount above Henderson's Native Load and Big Rivers' allocation was considered Excess Henderson Energy and available for Big Rivers to purchase, at its discretion. If only one unit was generating power in any given hour, generation above Henderson's Native Load and below Henderson's Annual Reservation was considered Excess Henderson Energy and available for Big Rivers to purchase, at its discretion. So if both units were on line, Big Rivers would not purchase any Excess Henderson Energy until it had first received 100% of its contractual allocation of the Station Two units.

Exhibit RWB_2 employs the methodology Big Rivers began using June 1, 2016, and which is the methodology that Big Rivers understands Henderson prefers. Please see Big Rivers' response to Item 7 of the Commission Staff's First Request for Information. Under that methodology, the quantity of Excess Henderson Energy is the generation in any hour above Henderson's Native Load and below Henderson's Annual Reservation, regardless of the number of Station Two units running and Big Rivers' allocation. This Energy is available for Big Rivers to purchase, at its discretion.

In summary, the major difference between the two methodologies is how the Excess Henderson Energy is measured when both of the Station Two units are on line but not operating at full output.

Witness) Robert W. Berry

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dated August 29, 2016

September 12, 2016

Item 9) *Refer to the Application, Exhibit 11, page 2 of 6.*

a. *Refer to the bottom half of the first full paragraph on the page. State whether it is Big Rivers' intent to take the Excess Henderson Energy in all hours when it is economic to do so and to not take the Excess Henderson Energy in any hour when it is uneconomic to do so. If so, explain how this determination can be made far enough in advance to provide the notice required in Section 8.3(d) of the 1998 Amendments.*

b. *Refer to the second full paragraph on the page. This letter from Big Rivers to Henderson states that Henderson will no longer receive the $1 .50 per megawatt hour ("MWh") for the portion of Excess Henderson Energy not taken by Big Rivers. The Application at page 1 states that Big Rivers is requesting the Commission to find that, under the Power Sales Contract with Henderson, as amended, Henderson is responsible for the variable costs of any Excess Henderson Energy not taken and utilized by Big Rivers. The Application does not mention the $1 .50 per MWh set forth in Section 3.8(c) of the 1998 Amendment. State whether Big Rivers is also requesting the Commission to make a determination that Big Rivers is not responsible* *for paying the $1.50 per MWh for Excess Henderson Energy that it does not take.*

Response)

a. The Arbitration Award, a copy of which is attached to the Application as Exhibit 9, redefines the rights and obligations of the parties with respect to Excess Henderson Energy under Section 3.8 of the Power Sales Contract. Per the Arbitration Award, Excess Henderson Energy belongs to Henderson. If Henderson receives a firm bona fide offer from a third party to purchase the Excess Henderson Energy, Henderson must offer the Energy to Big Rivers on the same terms as the firm bona fide offer, and Big Rivers has the right, but not the obligation, to purchase the Energy on those terms. According to the Arbitration Award, this price may exceed the $1.50 per MWh set forth in the Power Sales Contract. If Henderson does not present Big Rivers with a firm bona fide offer from a third party, Big Rivers has the right, but not the obligation, to take the Energy by paying Henderson $1.50 per MWh and being responsible for the variable costs associated with that Energy in accordance with the terms of the Power Sales Contract.

The advance notice required in Section 3.8(d) applies only to situations where Henderson has presented Big Rivers with a firm bona fide third-party offer to purchase the Excess Henderson Energy. As such, the Power Sales Contract does not require Big Rivers to notify Henderson in advance of its desire to purchase Excess Henderson Energy when no firm bona fide third-party offer has been presented.

In fact, it is not possible for Big Rivers to provide advance notice of its desire to purchase Excess Henderson Energy when no firm bona fide third-party offer has been presented. Henderson does not provide Big Rivers with a schedule of its Energy requirements, and, to the best of my knowledge, Henderson has never provided Big Rivers a schedule of its Energy requirements. As such, Big Rivers does not know how much Energy Henderson is going to use in any given hour or how much Excess Henderson Energy will exist in any given hour until after the Energy is produced and consumed. Big Rivers is therefore unable to provide prior notice to

Henderson about how much of the Excess Henderson Energy Big Rivers, in its discretion, is going to take in situations where there is no firm bona fide third-party offer. In those situations, Section 3.8 (c) of the Power Sales Contract is the applicable notice provision, and Big Rivers satisfies its obligations under that section by, "[f]ollowing the end of each calendar month, ... notify[ing the] City of the amount of Excess Henderson Energy ..., if any, taken by Big Rivers during the previous month."

I would note that Henderson has not yet provided Big Rivers any firm bona fide third-party offers, and there is currently no process in place that would enable Big Rivers to fulfill such an offer in the event Henderson does provide such an offer. Once the parties are able to agree to a commercially-complete process, Big Rivers anticipates that Henderson will sell most if not all of the economic Excess Henderson Energy for its own benefit, and Big Rivers' intent would be to exercise its right to not take any uneconomic Excess Henderson Energy.

b. Yes, although Big Rivers believes that Section 3.8 is clear that Big Rivers owes $1.50/MWh and variable costs only for Excess Henderson Energy that is not the subject of a firm, bona fide third party offer that it purchases from Henderson. In other words, Big Rivers believes that Section 3.8 is clear that Big Rivers does not owe $1.50/MWh for Excess Henderson Energy that it does not purchase.

Witness) Robert W. Berry

BIG RIVERS ELECTRIC CORPORATION

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

Response to Commission Staff's First Request for Information
dated August 29, 2016

September 12, 2016

Item 10) *Confirm that pursuant to the 1998 Amendments, the terms of the Power Sales Contract were extended for the operating life of Station Two and that the Power Sales Contract could only be terminated 90 days after Big Rivers' allocation of capacity from Station Two is zero.*

Response) The Commission Staff is correct in noting the 1998 Amendments provide that the Power Sales Contract will terminate 90 days after Big Rivers' allocation of Capacity from Station Two becomes zero (assuming the Station Two bonds of the City of Henderson which have been approved by Big Rivers have been paid). However, this is not the only way the Power Sales Contract may be terminated. For example, the 1998 Amendments also provide the Power Sales Contract will terminate once Station Two becomes uneconomical for the competitive production of electricity. Specifically, Section 1 of the 1998 Amendments only extended the Power Sales Contract for the operating life of Station Two which is limited to the period of time when Unit One and Unit Two, or either of them, is operated or is capable of normal, continuous, reliable operation for the economically competitive production of electricity, temporary outages excepted. Other typical early termination provisions also exist, such as the right of a non-breaching party to terminate the Power Sales Contract for uncured defaults by the other party.

Witness) Robert W. Berry