

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

RECEIVED

MAR 18 2020

PUBLIC SERVICE
COMMISSION

Via Overnight Mail

March 17, 2020

Kent Chandler, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2019-00269

Dear Mr. Chandler:

Please find enclosed the original (unbound) and ten (10) copies of the BIG RIVERS ELECTRIC CORPORATION RESPONSE TO PROPOSED PROCEDURAL SCHEDULE for filing in the above-referenced matter.

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

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

MLKkew

Attachment

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail and regular U.S. Mail (unless otherwise noted) this 17th day of March, 2020 to the following:



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.

Clay Larkin
Bingham Greenebaum Doll LLP
3500 National City Tower
101 South Fifth Street
Louisville, KY 40202

Dawn Kelsey, City Attorney
City of Henderson
222 First Street
Henderson, KY 42420

Honorable John N Hughes
Professional Service Corporation
124 West Todd Street
Frankfort, KY 40601

Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

H. Randall Redding
King, Deep & Branaman
127 North Main Street
P.O. Box 43
Henderson, KY 42419

Sharon W Farmer
King, Deep & Branaman
127 North Main Street
P.O. Box 43
Henderson, KY 42419

Tyson Kamuf, Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

RECEIVED

MAR 18 2020

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION FOR) CASE NO. 2019-00269
ENFORCEMENT OF RATE AND)
SERVICE STANDARDS.)

RESPONSE OF BIG RIVERS ELECTRIC CORPORATION
TO PROPOSED PROCEDURAL SCHEDULE

Pursuant to 807 KAR 5:001, Section 5(2), Big Rivers Electric Corporation (“Big Rivers”) submits this Response to the proposed procedural schedule submitted by the City of Henderson, Kentucky and the Henderson Utility Commission, d/b/a Henderson Municipal Power & Light (collectively, “Henderson”) on March 13, 2020.¹ Given that Commission Staff’s Memorandum summarizing the March 5, 2020 Informal Conference did not outline Big Rivers’ proposed procedural schedule, to which Henderson has now responded, it is necessary for Big Rivers to formally outline its proposal for the Commission.

As Big Rivers explained at the Informal Conference, several reasons support the expeditious resolution of this matter. Most critically, Big Rivers must begin remediating the asbestos associated with Station Two’s operations as soon as possible in order to mitigate safety and health hazards to its employees and to citizens living or working nearby. Additionally, timely resolution of this matter will allow for the sale of the degrading Station Two equipment that is no longer being used, thus maximizing the value of that equipment by selling during a period of higher demand and helping to minimize decommissioning costs.

¹ While not formally styled as a Motion pursuant to 807 KAR 5:001, Section 5(1), Big Rivers has decided to treat the March 13, 2020 as such since it contains requested relief from the Commission.

Certainty regarding the issues raised in this proceeding will allow Big Rivers to complete the Station Two ash pond closure within a five-year period, as the Company is required to do by law. Finally, because multiple civil lawsuits involving the Station Two Contracts are currently pending, including a Henderson Circuit Court Action (No. 19-CI-00504) which involves issues being addressed here, timely Commission resolution will give the courts guidance as primary jurisdiction over the rate agreements rests with the Commission.

The elongated procedural schedule proposed by Henderson would run counter to these purposes. It would also be unreasonable in light of the fact that this case has been pending since July 31, 2019. Finally, a drawn-out procedural schedule is unnecessary because the methodology to calculate Excess Henderson Energy, which is the starting point for many of the other calculations in this case, was decided by the Commission more than two years ago (Case No. 2016-00278, Order January 5, 2018). Accordingly, Big Rivers submits the following alternative schedule:

- Intervention Deadline: **5 days** after Commission order establishing procedural schedule
- Data Requests to Big Rivers – **7 days** after intervention deadline
- Big Rivers' Responses to Data Requests – no longer than **14 days** after Data Requests filed
- Intervenor Testimony Deadline – **14 days** after Big Rivers' Responses to Data Requests filed
- Data Requests to Intervenors – no longer than **7 days** after Intervenor Testimony filed
- Intervenor Responses to Data Requests – **14 days** after Data Requests filed
- Big Rivers' Rebuttal Testimony – no longer than **14 days** after Intervenor Responses to Data Requests filed
- Hearing – **14 days** after Rebuttal Testimony filed

WHEREFORE, Big Rivers respectfully requests that the Commission adopt the Company's proposed schedule.

Respectfully submitted,

/s/ Tyson Kamuf (w/permission)
Tyson Kamuf, Esq.
Big Rivers Electric Corporation
201 Third Street, P.O. Box 727
Henderson, Kentucky 42419-0024
Ph: 270-827-2561 Fax: 270-844-6417
tyson.kamuf@bigrivers.com



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com

March 17, 2020