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September 27, 2007

Via Federal Express

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SEP 28 2007

PUBLIC SERVICE
COMMISSION

Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: In the Matter of: Consideration of the Requirements of the
Federal Energy Policy Act of 2005 Regarding Fuel Sources
and Fossil Fuel Generation Efficiency, Administrative Case
No. 2007-00300

Dear Ms. O'Donnell:

Enclosed are an original and ten copies of the comments of Big Rivers Electric Corporation for the above referenced matter. I certify that a copy of the comments has been served on the attached service list.

Sincerely,



Tyson Kamuf

TAK/ej
Enclosures

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ADMINISTRATIVE CASE NO. 2007-00300

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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SEP 28 2007

PUBLIC SERVICE
COMMISSION

In the Matter of:

CONSIDERATION OF THE REQUIREMENTS)	
OF THE FEDERAL ENERGY POLICY ACT OF)	ADMINISTRATIVE
2005 REGARDING FUEL SOURCES AND)	CASE NO. 2007-00300
FOSSIL FUEL GENERATION EFFICIENCY)	

COMMENTS OF BIG RIVERS ELECTRIC CORPRATION

September 28, 2007

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

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Fuel Source Diversity Standard

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Big Rivers Electric Corporation ("Big Rivers") files these comments pursuant to the Public Service Commission ("Commission") Staff's request at the informal conference in this matter. The Commission is conducting this proceeding to determine whether to adopt the federal Energy Policy Act of 2005 ("EPAAct") standards relating to fuel source diversity and generation efficiency. The EPAAct fuel source diversity standard requires the Commission to consider whether to require each electric utility to "develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies." EPAAct § 1251(a). The EPAAct generation efficiency standard requires the Commission to consider whether to require each electric utility to "develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation." *Id.* For the reasons stated below, Big Rivers respectfully requests that the Commission decline to adopt either standard.

The Commission should reject EPAAct's fuel source diversity standard. To begin, requiring all generation utilities in Kentucky to diversify their fuel portfolios is not consistent with a number of public policies applicable to utilities in Kentucky. One of those policies is that electric utilities should provide an adequate supply of power to Kentucky consumers at the lowest reasonable cost. In its Order in this matter dated August 2, 2007, the Commission references a report entitled *Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Policy Act of 2005* (March 22, 2006) (hereinafter, the "PURPA Manual"). That report explains that while fuel source diversity may be the optimum method of supplying power in some regions of the country, it may not be so in others. *PURPA*

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

1 *Manual* at 47. Fuel source diversity “will ultimately impact the price at which energy can be
2 purchased,” and “can impact the rates paid by consumers.” *Id.*

3 Utilities in Kentucky primarily use coal to fuel their base-load generation plants. As the
4 *PURPA Manual* explains, “[b]ase-load coal plants are reliable and generally cost effective.” *Id.*
5 at 52. As such, diversifying its fuel portfolio may increase the fuel costs for a utility in
6 Kentucky. *See id.* at 50, 54. Since generation in Kentucky is so heavily coal-based, if required
7 to diversify, utilities in Kentucky may suffer “efficiency losses in terms of contracts or output
8 from different fuel sources” resulting in increased rates to consumers. *See id.* at 50. Fuel source
9 diversity may have benefits that justify higher rates, and may not lead to increased rates for a
10 particular utility under specific circumstances. But a mandate requiring all generation utilities in
11 Kentucky to diversify their fuel sources without any consideration of each utility’s circumstances
12 carries a strong risk of increasing rates to consumers without those increased rates being tied to
13 offsetting benefits.

14 Additionally, the EPAct fuel source diversity standard encourages the use of renewable
15 fuel sources. Given the low cost of power in Kentucky and the cost-effectiveness of base-load
16 coal plants, requiring utilities to invest in renewable energy may force utilities to increase rates
17 without sufficient corresponding benefits. Adding renewable energy to their portfolios may be
18 appropriate for some utilities. In fact, Big Rivers has recently added some renewable energy to
19 its portfolio. However, that may not be appropriate for other utilities. Whether a utility
20 investment in renewable energy is reasonable, and whether a utility should be required to
21 increase the diversity of its fuel sources, depends on the specific circumstances of that utility,
22 and can only be determined based on a case-by-case review.

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

1 Another relevant policy applicable to utilities in Kentucky is the General Assembly's
2 policy encouraging the use of Kentucky coal. As the Commission has noted, "the preamble to
3 the legislation enacting KRS 278.183, the environmental surcharge law, stated that it was the
4 policy of the General Assembly to foster and encourage the use of Kentucky coal by electric
5 utilities serving the Commonwealth." Order dated August 2, 2007. That policy is reiterated in
6 KRS 278.020, which provides that the Commission, "when considering an application for a
7 certificate to construct a base load electric generating facility, may consider the policy of the
8 General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the
9 Commonwealth." KRS 278.020(1). Clearly, the EAct's fuel source diversity standard is
10 inconsistent with this policy. Again, perhaps a utility should diversify its fuel portfolio under
11 some circumstances. Given the General Assembly's unambiguous policy statements
12 encouraging the use of Kentucky coal, a blanket administrative mandate requiring diversification
13 away from Kentucky coal seems inappropriate.

14 Not only is a fuel source diversity mandate inconsistent with the above policies, it is also
15 inconsistent with prudence and fairness. One goal of the EAct's fuel source diversity standard
16 is to mitigate against price fluctuations. *PURPA Manual* at 49. There is less fuel price risk with
17 coal than with other fuel types, however; so, using coal minimizes that price risk. Where
18 appropriate, some utilities may be able to mitigate against that risk by purchasing coal from a
19 range of suppliers or perhaps other fuels. Other utilities may be able to mitigate against that risk
20 by using different qualities of coal; for example, a utility that has installed a scrubber on a
21 generator may be able to use high sulfur coal under the appropriate circumstances. Still other
22 utilities may find diversification too costly, and would benefit more (and be able to pass on those
23 benefits to consumers) by taking advantage of the economies of scale that result from bulk fuel

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

1 purchases. Some utilities are able to benefit from a tax incentive for burning Kentucky coal.
2 And countless other circumstances exist (such as Kentucky Power's ability to get nuclear power
3 from the AEP system or the fact that Big Rivers does not currently operate its generating plants),
4 which may impact a utility's need for fuel source diversity or its ability to diversify. The fact is
5 that diversifying fuel sources will impact each utility uniquely. A requirement that all utilities
6 diversify their fuel sources will have a significantly different economic impact on one utility over
7 another just because of the status of each utility with regard to environmental controls or
8 generator efficiency levels. Whether a utility should diversify should be based on a case-by-case
9 review of each utility's circumstances.

10 Thus, fuel diversity is not necessarily beneficial to Kentucky ratepayers. Rather than
11 adopting a standard by which all utilities are required to increase fuel source diversity, a better
12 framework would be for the Commission to consider a utility's need to diversify within a
13 broader framework that takes into consideration the utility's obligation to provide a reliable
14 supply of power at the lowest reasonable cost. And that broader framework already exists. The
15 Commission's Integrated Resource Plan ("IRP") process involves a comprehensive review of a
16 utility's existing and planned generation resources (including the use of fuel sources and
17 renewable resources). *See* 807 KAR 5:058 Section 8(1)-(2)(b). If any problems associated with
18 a utility's fuel portfolio are uncovered during the IRP process, the Commission has the authority
19 to initiate a formal proceeding to address those problems. Moreover, while the EPAct standard
20 would require a utility to diversify even if doing so would adversely impact that utility's ability
21 to meet its obligation to provide low cost energy, the existing IRP process allows an assessment
22 of a utility's fuel practices within the context of considering the utility's plan to provide "an
23 adequate and reliable supply of electricity...at the lowest possible cost." *Id.* Section 8(1). Thus,

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

1 the existing IRP process does a better job of providing a review of fuel practices that is
2 consistent with Kentucky's policy favoring low cost power, and that is fair and reasonable
3 because it is circumstance-dependent. As such, the Commission should reject the EAct fuel
4 source diversity standard.

5 **Generator Efficiency Standard**

6 The Commission should likewise reject the EAct generator efficiency standard. Similar
7 to the fuel source diversity standard, the generator efficiency standard requires an increase in
8 efficiency without any consideration being given to each utility's individual circumstances.
9 Imposition of a broad, arbitrary efficiency standard will impact each utility differently,
10 depending on the current efficiency levels for the utility, the design of the utility's plants, and the
11 environmental controls that the utility has or will install. Improvements to increase efficiency
12 may require a New Source Review permit for one utility but not for another. Utilities run their
13 plants at different capacity rates (*i.e.*, some plants are cycled on and off more than others) for a
14 variety of reasons, including simply the size or load factor of the load that is being served. Each
15 utility is different (as noted above, Big Rivers does not currently operate its generating plants),
16 but the EAct standard would require utilities to increase efficiency without taking into
17 consideration the economic impact on each utility of doing so. Where capital expenditures
18 necessary to increase generator efficiency may be reasonable for one utility, they may not be so
19 for another.

20 Requiring all utilities to increase generator efficiency is not consistent with the goal of
21 providing power at the lowest reasonable cost because that requirement would not be based on a
22 case-by-case review of each utility's circumstances and because it does not allow for a
23 consideration of the cost-effectiveness of measures to increase efficiency. For these reasons, the

COMMENTS OF BIG RIVERS ELECTRIC CORPORATION
ADMINISTRATIVE CASE NO. 2007-00300
September 28, 2007

1 Commission should reject the EPA standard in favor of continuing to review generator
2 efficiency within the broader context provided by the IRP process. The IRP process already
3 covers generator efficiency, *see* 807 KAR 5:058 Section 8(2)(a), it allows for a circumstance-
4 dependent review, and it is consistent with the policy of providing an adequate supply of power
5 at the lowest reasonable cost.

6 On this the 27th day of September, 2007.

7 SULLIVAN, MOUNTJOY, STAINBACK
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