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Ms. Stephanie L. Stumbo
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

PUBLIC SERVICE
COMMISSION

E.ON U.S. LLC
State Regulation and Rates
220 West Main Street
PO Box 32010
Louisville, Kentucky 40232
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November 7, 2008

Rick E. Lovekamp
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THE APPLICATIONS OF BIG RIVERS ELECTRIC CORPORATION FOR: (I) APPROVAL OF WHOLESALE TARIFF ADDITIONS FOR BIG RIVERS ELECTRIC CORPORATION, (II) APPROVAL OF TRANSACTIONS, (III) APPROVAL TO ISSUE EVIDENCES OF INDEBTEDNESS, AND (IV) APPROVAL OF AMENDMENTS TO CONTRACTS; AND OF E.ON U.S., LLC, WESTERN KENTUCKY ENERGY CORP., AND LG&E ENERGY MARKETING, INC. FOR APPROVAL OF TRANSACTIONS – Case No. 2007-00455

Dear Ms. Stumbo:

Enclosed please find and accept for filing the original and six (6) copies of E.ON U.S. LLC's response to the Attorney General's Supplemental Request for Information dated October 24, 2008, in the above-referenced matter.

Included in this filing are updates of information provided in response to the Attorney General's Initial Request for Information dated February 1, 2008 and updated information provided in response to the Attorney General's Supplemental Request for Information dated February 27, 2008.

Also enclosed are an original and ten (10) copies of a Petition for Confidential Protection regarding information provided in response to various questions.

Should you have any questions or need any additional information, please contact me at your convenience.

Sincerely,

Rick E. Lovekamp

cc: Parties of Record

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATIONS OF BIG RIVERS)	
ELECTRIC CORPORATION FOR:)	
(I) APPROVAL OF WHOLESALE TARIFF)	
ADDITIONS FOR BIG RIVERS ELECTRIC)	CASE NO.
CORPORATION, (II) APPROVAL OF)	2007-00455
TRANSACTIONS, (III) APPROVAL TO ISSUE)	
EVIDENCES OF INDEBTEDNESS, AND)	
(IV) APPROVAL OF AMENDMENTS TO)	
CONTRACTS; AND OF E.ON U.S., LLC,)	
WESTERN KENTUCKY ENERGY CORP.,)	
AND LG&E ENERGY MARKETING, INC.)	
FOR APPROVAL OF TRANSACTIONS)	

**RESPONSE OF
E.ON U.S. LLC
TO THE ATTORNEY GENERAL'S
SUPPLEMENTAL REQUEST FOR INFORMATION TO JOINT APPLICANTS
DATED OCTOBER 24, 2008**

FILED: November 7, 2008

VERIFICATION

STATE OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Lonnie E. Bellar**, being duly sworn, deposes and says that he is the Vice President, State Regulation and Rates for E.ON U.S. Services Inc., that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



LONNIE E. BELLAR

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 7th day of November, 2008.

 (SEAL)

Notary Public

My Commission Expires:

Sept 20, 2010

VERIFICATION

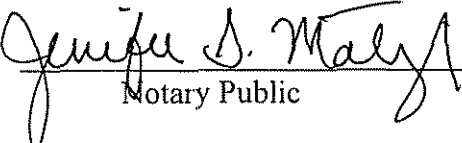
STATE OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Paul W. Thompson**, being duly sworn, deposes and says that he is the Senior Vice President, Energy Services for E.ON U.S. Services Inc., that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



PAUL W. THOMPSON

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 6 day of November, 2008.

 (SEAL)

Notary Public

My Commission Expires:
**My Commission Expires
July 21, 2009**

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 1

Witness: Lonnie E. Bellar

Q-1. Please update responses to all previous data requests from the Office of Attorney General with any additional responsive documents and information since the date of the last response to such data requests. If no update exists for a specific question, the responses indicating that fact can be grouped in a joint response.

A-1. E.ON U.S. has reviewed the responses provided to the data requests from the Office of the Attorney General and has submitted updated responses in a separate filing along with additional documents for the questions listed below.

Attorney General's Initial Request for Information dated February 1, 2008

Question Nos. 24, 25, 83, 84, 85, 86, 90, 96, 99, 100, 102, 103, 107, 122, 126, and 134

Attorney General's Supplemental Request for Information dated February 27, 2008

Question Nos. 8, 10, 13, 14, 16, 20, 22, 24, 26, 28, 33, 36, 37, 41, 43, 46, 58, and 59.

Please note that the attachment to the updated response to Attorney General's Initial Request for Information dated February 1, 2008, Question No. 100 and to all of the updated responses to Attorney General's Supplemental Request for Information dated February 27, 2008, are confidential and are being filed pursuant to a Petition for Confidential Treatment.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information to Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 2

Witness: Paul W. Thompson

- Q-2. Please refer to the Supplemental Direct Testimony of Paul Thompson at page 12, lines 13-15. Please provide documents which show E.ON's current information, understanding or analysis regarding "certain claims against WKEC" that Henderson may bring against WKEC.
- A-2. Please see response to Question No. 10.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 3

Witness: Paul W. Thompson

- Q-3. Please state whether or not any further agreements or understandings exist between E.ON (or any of its affiliates) and any other party or entity regarding the proposed transaction which have not been explicitly identified or presented to the Commission which could be construed or understood as a "side deal" as that term is commonly understood. If any such "side deal" does exist, identify each one and describe it in detail.
- A-3. No further agreements or understandings exist which have not been disclosed in the record in this proceeding that could be construed as a "side deal."

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 4

Witness: Paul W. Thompson

Q-4. Exhibit PWT-9 attached to the Supplemental Testimony of Paul W. Thompson provides the "resolution" of four "Existing Contract Disputes." Provide the current estimated amount, separately, to resolve each of the four disputed items assuming the Unwind Transaction proceeds as proposed by the Joint Applicants. Please also indicate which party or entity would bear those estimated costs.

A-4. On June 11, 2008, WKE met with HMP&L and provided them with the attached "Settlement Agreement and Release", which set forth WKE's proposals to address the four Existing Contract Disputes. Section 1 of that document describes the payments to be made by WKE to HMP&L. In the June 18, 2008 letter from David Sinclair of E.ON U.S. to Gary Quick of HMP&L wherein WKE paid HMP&L \$24,547.50 for Excess Henderson Energy purchased in April and May of 2008. It further states that beginning in June that WKE would calculate Excess Henderson Energy according to the protocol described in Section 3 of the "Settlement Agreement and Release". Both of these documents are attached as Exhibits to the Response to Question No. 10.

On March 28, 2008, WKE deposited \$790,694.50 with HMP&L related to its Excess Henderson Energy claims and \$310,433.05 for its claims related to back-up energy. Both of these amounts were for the periods 1998 through October 2007. On May 5, 2008, WKE deposited \$33,321.00 to HMP&L related to additional Excess Henderson Energy claims for November 2007 through March 2008.

Since the above actions were taken, HMP&L has made no further demands relating to Excess Henderson Energy and back-up energy.

As stated in Exhibit PWT-9, assuming the Unwind Transaction is completed, E.ON U.S. is prepared to waive HMP&L's share of the insurance deductible (\$60,897.44) associated with the 2004 H1 thermal event, so that no payments would be required by either party. [REDACTED]



E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 5

Witness: Paul W. Thompson

- Q-5. Please provide "what if" Unwind Financial Model runs performed by or for BREC in the period September 1, 2008 to current, to reflect alternative resolutions contemplated to obtain Henderson's consent to the proposed transaction. For each "what if" model run, please specify the input assumptions for the model on the parameters which were assumed to obtain Henderson's consent.
- A-5. E.ON has no such documents or models. Any such documents or models, to the extent that they exist, would be in the possession of BREC.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 6

Witness: Counsel

Q-6. Please summarize the key points which define the contractual relationship, rights and responsibilities of Henderson and BREC (separately) with regard to the operation of Station Two, from a business perspective.

A-6. Please see response to Question No. 29.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 7

Witness: Paul W. Thompson

- Q-7. To what extent does Henderson believe the costs of rectifying its concerns regarding maintenance and condition of Station Two exceed the \$3 million offered by E.ON to meet such concerns.
- A-7. The extent of E.ON's knowledge of Henderson's beliefs is based on the documents provided in response to Question No. 10.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 8

Witness: Paul W. Thompson

Q-8. Please assume the Unwind Transaction closes as proposed. For each capital dollar that is necessary to rectify Henderson concerns regarding the operating condition of Station Two, how much of that is BREC obligated to pay?

A-8. As E.ON U.S. has informed Henderson on numerous occasions before, it strongly disagrees with Henderson's allegations that Station Two has been poorly maintained, is in substandard condition or requires repair by reason of any wrongful conduct on the part of the affiliates of E.ON U.S. For this reason, E.ON U.S. does not believe that any funding by Big Rivers for capital assets at Station Two will be required in order to address conditions resulting from any wrongful conduct on the part of those E.ON U.S. affiliates. Rather, Big Rivers' funding obligations with respect to those assets following the Unwind Transaction will be dictated by the terms of its 1970 Power Plant Construction and Operating Agreement with Henderson (as amended, the "Operating Agreement"), which by its terms will continue in effect following that transaction.

Pursuant to the Operating Agreement, Big Rivers would (following the Unwind Transaction) be responsible for funding its "capacity share" (that is, its share of the capacity of Station Two reserved to Big Rivers at that time) of all "Station Two Improvements" (capital expenditures) required under the Operating Agreement. Currently, 217 (out of 312) megawatts of Station Two's capacity would be reserved to Big Rivers, assuming the Unwind Transaction was completed in 2008. Thus, Big Rivers' share of the costs of any Station Two Improvement installed today would be 217/312, or approximately 70% (with Henderson's share being approximately, 30%).

The Attorney General should note that, under the Unwind Transaction structure currently proposed by E.ON U.S. and Big Rivers to Henderson, in the event Henderson established following the Unwind Transaction that an E.ON U.S. affiliate operated or maintained Station Two prior to the Unwind Transaction in violation of one or more of the agreements now in effect between that affiliate and Henderson, and that conduct resulted in incremental capital costs at Station Two,

then Henderson would have the same recourse against the E.ON U.S. affiliate for that conduct under the 1998 transaction agreements as Henderson would have had if those transaction agreements had expired following their original 25-year term (in December of 2023). The post-expiration protections of Henderson set forth in those agreements were aggressively negotiated for by Henderson prior to its consent to the 1998 transactions with the E.ON U.S. affiliates, and can be found in the July 15, 1998 Agreement and Amendments to Agreements among Henderson, Big Rivers and the E.ON U.S. affiliates.

In addition, to the extent Henderson sought recourse against Big Rivers for such conduct on the part of that E.ON U.S. affiliate, Big Rivers would have the indemnification from Western Kentucky Energy Corp. set forth in Article 16 of the 2007 Transaction Termination Agreement (and, in particular, Section 16.1 of that agreement) with which to protect Big Rivers. That indemnification obligation of Western Kentucky Energy Corp. would, in turn, be guaranteed by E.ON U.S. pursuant to its 2007 Guarantee in favor of Big Rivers, entered into in connection with the 2007 Transaction Termination Agreement.

E.ON U.S. LLC

**Response to the Attorney General's
Supplemental Request for Information To Joint Applicants
Dated October 24, 2008**

Case No. 2007-00455

Question No. 9

Witness: Paul W. Thompson

Q-9. Please assume the Unwind Transaction closes as proposed. For each expense dollar that is necessary to rectify Henderson concerns regarding the operating condition of Station Two, how much of that is BREC obligated to pay?

A-9. As noted in its response to Question No. 8 above, E.ON U.S. strongly disagrees with Henderson's allegations that Station Two has been poorly maintained, is in substandard condition or requires repair by reason of any wrongful conduct on the part of the affiliates of E.ON U.S. For this reason, E.ON U.S. does not believe that any funding by Big Rivers for operation or maintenance expenses at Station Two will be required in order to address conditions resulting from any wrongful conduct on the part of those E.ON U.S. affiliates. Rather, Big Rivers' funding obligations with respect to those expenses following the Unwind Transaction will be dictated by the terms of the Operating Agreement with Henderson described in the response to Question No. 8 above, which by its terms will continue in effect following that transaction.

Pursuant to that Operating Agreement, and as with the Station Two Improvements described in the response to Question No. 8 above, Big Rivers would (following the Unwind Transaction) be responsible for funding its "capacity share" (currently approximately 70%) of all Station Two operation and maintenance expenses required under the Operating Agreement, with Henderson funding the remaining approximately, 30%.

The Attorney General should note that, as with the Station Two Improvements described in the response to Question No. 8 above, under the Unwind Transaction structure currently proposed by E.ON U.S. and Big Rivers to Henderson, in the event Henderson established following the Unwind Transaction that an E.ON U.S. affiliate operated or maintained Station Two prior to the Unwind Transaction in violation of one or more of the agreements now in effect between that affiliate and Henderson, and that conduct resulted in incremental operation or maintenance expenses at Station Two, then Henderson would have the same recourse against the E.ON U.S. affiliate for that conduct under the 1998 transaction agreements as

Henderson would have had if those transaction agreements had expired following their original 25-year term (in December of 2023).

In addition, to the extent Henderson sought recourse against Big Rivers for such conduct on the part of that E.ON U.S. affiliate, Big Rivers would have the indemnification from Western Kentucky Energy Corp. set forth in Article 16 of the 2007 Transaction Termination Agreement (and, in particular, Section 16.1 of that agreement) with which to protect Big Rivers. That indemnification obligation of Western Kentucky Energy Corp. would, in turn, be guaranteed by E.ON U.S. pursuant to its 2007 Guarantee in favor of Big Rivers, entered into in connection with the 2007 Transaction Termination Agreement.