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David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

John W. Clay
Commissioner

June 22, 2009

PARTIES OF RECORD

Re: Case No. 2007-00455

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Rick Bertelson at 502/564-3940, Extension 260.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

RB/kar

Attachment

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File

FROM: Rick Bertelson, Staff Attorney

DATE: June 22, 2009

SUBJECT: Case No. 2007-00455
Big Rivers Electric Corporation, et al.

Pursuant to the Commission's Order entered on June 10, 2009, an informal conference ("IC") was held on June 16, 2009, at the Commission's offices in Frankfort, Kentucky. As noted in the Order, the purposes of the conference were to allow the parties to meet collectively and individually to discuss issues related to the closing of the Unwind Transaction and for Staff to meet collectively with the parties to discuss those issues. A list of the attendees is attached hereto.

At the commencement of the June 16, 2009 IC, E.ON announced that it had reached agreements in principle with Century Aluminum and with Southwire Company, but that there were numerous points that needed to still be discussed among some of the parties. After conducting additional discussions, E.ON distributed to all parties and Commission Staff a term sheet of its agreement with Century. E.ON summarized the provisions of this agreement which, over the first 18 months after closing the Unwind Transaction, will temporarily offset the risks to Century from the current low market prices for aluminum and wholesale power. The agreement is intended to induce Century's consent to a new power contract which, in the near term, Century believed to be less favorable than its existing power contract. E.ON requested that the term sheet be held confidential and agreed to provide a redacted version, a copy of which is appended hereto.

Under the terms of the E.ON/Century agreement, E.ON will not fund the up-front escrow accounts that it had agreed to fund for Century's benefit at the closing of the Unwind Transaction. However, as an incentive for Century to maintain its Kentucky operations, it can "earn" those funds back based on the quantity of energy that it consumes in producing aluminum. In addition, should Century have to curtail production, E.ON will reimburse Century for certain amounts it pays to Big Rivers for the power not consumed. E.ON will pay the incentives and reimbursements through December 31, 2010, with a provision for a one year extension under certain limited conditions. The E.ON reimbursements will be repayable with interest by Century through 2028 in accordance with a formula tied to the price of aluminum.

As a further incentive for Century to continue its Kentucky operations, if it has not given notice of termination prior to December 31, 2010, E.ON will fund Century's fuel escrow account as previously agreed to, less a portion of the amounts paid as incentives.

After further negotiations among the parties, Alcan stated that it will recommend that its management consent to the Unwind Transaction, provided that E.ON agrees to a certain level of potential funding for Alcan's fuel escrow account. E.ON indicated agreement with this condition.

E.ON also agreed to provide Century some credit support to meet its obligation under its new power contract with Big Rivers. Under certain circumstances, this credit support may extend beyond 2010.

E.ON further stated that Southwire will consent to the Unwind Transaction and receive a consent fee of \$1.2 million, to be paid by E.ON at closing. Kenergy will continue to seek, with Southwire's consent, approval of the terms and conditions set forth in the retail agreement for service to Southwire that is pending before the Commission in Case No. 2009-00186.

The parties also reported that Big Rivers, the City of Henderson, and the smelters have agreed on the mechanics of an accommodation regarding fuel quality at the Henderson Station 2. Big Rivers stated that all issues with Henderson have been resolved and that Big Rivers would make a filing detailing the agreements with Henderson concerning fuel quality and the outstanding operational reliability issues.

Big Rivers was questioned about an earlier request by Century and Alcan that Big Rivers revise its financial model to reflect certain assumptions as to future fuel, power, and maintenance costs. Big Rivers stated that the impact of the suggested assumptions was that a rate increase was projected for 2011, as opposed to the previously projected need in 2017.

At the close of the IC the parties agreed to file by June 19, 2009, a hypothetical example to illustrate the implementation of the E.ON/Century agreement. The parties further agreed to file by June 24, 2009, the documents to reflect the terms of the agreements reached by the parties and to appear at the Commission's Frankfort offices on June 26, 2009 for a follow-up IC.

There being no further discussion, the IC was adjourned.

Public Version
Confidential Information
Redacted

June 16, 2009
Informal Conference
Case No. 2007-00953

06/11/09

E.ON U.S./Century Term Sheet for Closing on the Existing Unwind Contracts

Backstop

- Term
 - Through December 2010, except in the event Alcan gives a "Notice of Termination for Closure" under the Alcan Retail Agreement prior to delivery of "Notice of Termination for Closure" by Century and prior to December 31, 2009, and in the event the Transmission Upgrade (as defined in the Century Wholesale Agreement) is not completed by December 31, 2010, then term would be extended to the earlier of (i) the completion of the Transmission Upgrade, or (ii) December 31, 2011 (the "Term").
- Volume
 - Full power requirement under the contract (482MW at average 98% load factor, or approximately 472MW)
 - On a daily, around-the-clock basis (7X24)
- Backstop Payment
 - In the event of a partial/full curtailment of Hawesville, in which case Century does not require full power under the contract
 - In the event unused power is sold, E.ON to reimburse Century the difference between the net cost billed to Century and the market price realized on the unused power, subject to the following maximum net cost (per MWH) ("Big Rivers Cost Cap"); cost to be defined as net cost billed to Century,

2009	\$52.50
2010	55.00
2011	57.50 (if applicable)
 - In the event market price realized is above net cost, (1) E.ON to receive net proceeds received from sale if no amounts outstanding (see "Repayment" below); or (2) amount outstanding under "Repayment" to be reduced by net proceeds received
 - In the event unused power is not sold, E.ON to pay the fixed charge billed to Century
 - Big Rivers Cost Cap will not be applicable with respect to Surplus Sales if the market price is above Big Rivers' actual net cost

Aluminum Production Credit

-Term

-Through the Term

- Any payments to Century Kentucky from E.ON U.S./WKEC at closing and any obligations of E.ON U.S./WKEC to fund any escrow accounts for the benefit of Century Kentucky at closing would be eliminated.
- Through the Term, E.ON would instead pay an amount to Century Kentucky (up to a maximum of \$100 million) based on the amount of energy Century Kentucky consumes in the production of aluminum. The payment would be calculated as follows:
 - Aluminum Production Credit Rate (\$ per Mwh) = \$100 million/(approx 386 (482 less the capacity of Line 5) MW x .98 x 24 hours x number of days between Closing and December 31, 2010)
 - Monthly Payment Amount = Aluminum Production Credit Rate x amount of energy purchased (in Mwh) from Kenergy under Retail Agreement and consumed by Century Kentucky during a particular month

Repayment

- Beginning the day following the expiration of the Term, Century to refund aggregate amount paid by E.ON to the extent that the sum of the Backstop Payments and the Aluminum Production Credits exceed \$100 million, in accordance with its ability to pay
- Ability to pay defined as, in any given month, (1) Hawesville producing at a minimum 80% of capacity and (2) an average cash LME price of \geq \$2,600/MT (on a one month lag)
- Century's monthly repayment obligation would increase at higher LME prices
- Term of repayment -- through 2028; any amounts remaining would be cancelled
- Interest rate -- cumulative balance accrues interest at a fixed interest rate of 11.5%.

Contingent Escrow Funding on December 31, 2010

- In the event that Century does not give a "Notice of Termination for Closure" under the Retail Agreement by December 31, 2010, then E.ON U.S. will fund the Century Fuel Subaccount in the Escrow Agreement an amount calculated as follows (if the calculation is positive):
- $\$39,694,117.60$ less $(\$39,694,117.60 / \$100 \text{ million (approx)}^* \times \text{the cumulative Monthly Payment Amount of the Aluminum Production Credit})$
- *The amount of the divisor above is calculated as $\$39,694,117.60 + \text{Century Reserve Subaccount A amount} + \text{Century portion of upfront payment}$
- The Century Reserve Subaccount A would be eliminated

Credit support to BREC

- Whatever Century negotiates with Big Rivers, E.ON U.S. would provide half (up to a max of \$15 million); any guarantee would terminate upon the end of the 2010.

Miscellaneous

- Alcan shall not require any other consideration due to this proposal.
- This proposal is subject to E.ON AG Management Board and to Century Board approvals.

Big Rivers Electric Unwind – Case No. 2007-00455

MEETING TRACKING SIGN-IN SHEET

June 16, 2009

NAME	AGENCY/COMPANY
Kendrick Riggs	SKO for EON
Allison Sturgen	E.ON
Kurt Balle	E.ON
Dan Arbour	E.ON
PAUL THOMPSON	E.ON
Tim Dowdy	E.ON
Patrick Northam	GDM for E.ON
David Sinclair	E.ON
Alan Eyre	RTA
Kathie Allen	S & H for RTA
Beverly Perrin	RTA
WAYNE HALE	CENTURY
John DeZee	CENTURY
Sandy Norick	Kenergy
Jack Gaines	JDA Consulting
FRANK W. KING, JR.	Kenergy
David Braun	Siles & Associates
HENRY FAYNE	CENTURY

Big Rivers Electric Unwind – Case No. 2007-00455

MEETING TRACKING SIGN-IN SHEET

June 16, 2009

NAME	AGENCY/COMPANY
Matt Powell	Century Aluminum
Mike Kurtz	Alcan/Century/KIUC
Bill Blackburn	Big Rivers Electric
Mark Bailey	Big Rivers Electric
David Spainhour	Big Rivers
Jim Miller	Big Rivers / Samsam
Carl Lyon	Big Rivers / ARACK
Bob Berry	Big Rivers
Paul Adams	OAG
Lony ^{Scott}	OAG
Jack High	HWPL
Helen Helt	PSC
Aaron Brancuca	PSC
Richard Roff	PSC - Legal
Quang D Nguyen	PSC
Jeff Drouver	PSC
Rick Bertelson	PSC

Big Rivers Electric Unwind – Case No. 2007-00455

MEETING TRACKING SIGN-IN SHEET

June 16, 2009

NAME	AGENCY/COMPANY
Jeff Herrin	Southwire
Scott Lawless	PSC
Daryl Newby	PSC - F/A
JEFF JOHNSON	PSC
David Sanford	PSC
Helen Hoff	PSC