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March 24, 2009

Via Federal Express

Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

MAR 25 2009

PUBLIC SERVICE
COMMISSION

Re: In the Matter of: Notice and Application of
Big Rivers Electric Corporation for a General
Rate Adjustment in Rates, P.S.C. Case No. 2009-00040

Dear Mr. Derouen:

Enclosed for filing on behalf of Big Rivers Electric Corporation ("Big Rivers") are an original and ten copies of two documents. The first document is labeled Status Quo Rate Case (Board Meeting Date: February 20, 2009) and was inadvertently omitted from Big Rivers' March 24, 2009, response to Item 12 of the First Set of Data Requests of Kentucky Industrial Utility Customers, Inc. This document should be inserted behind the response to Item 12. The second document is a blacklined version of Big Rivers' bylaws. This document should be substituted for the version of the bylaws filed as an attachment to Item 1 of Big Rivers' March 18, 2009, response to the First Data Request of Commission Staff. The version of the bylaws filed March 18 failed to show changes in the bylaws. I certify that a copy of the attached documents has been served upon the persons shown on the attached service list.

Sincerely,



Tyson Kamuf

TAK/ej
Enclosures

cc: Mark A. Bailey
David Spainhoward
Service List

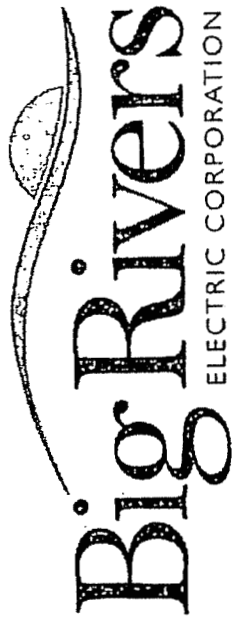
Telephone (270) 926-4000
Telecopier (270) 683-6694

100 St. Ann Building
PO Box 727
Owensboro, Kentucky
42302-0727

SERVICE LIST
BIG RIVERS ELECTRIC CORPORATION
PSC CASE NO. 2009-00040

Hon. Dennis Howard
Assistant Attorney General
Office of the Attorney General
Utility & Rate Intervention Division
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

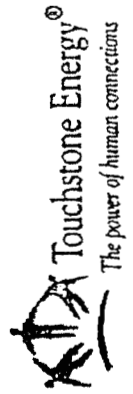
Michael L. Kurtz, Esq.
Boehm, Kurtz & Lowry
Suite 1510
36 East Seventh Street
Cincinnati, OH 45202



Your Touchstone Energy® Cooperative 

Status Quo Rate Case

(Board Meeting Date: February 20, 2009)



Rate Case

- Why?
 - Ambac
 - Paid PMCC \$109.3 million cash on 9/30/2008 and executed a \$12.4 million 8.5% promissory note due 12/15/2009.
 - PCBs - the interest rate on the pollution control bonds has risen. On an annualized basis, Big Rivers is currently paying \$12.5 million more interest than in 2007.

Rate Case

- Make required Tariff changes
- Agree to withdraw the request to “hold in abeyance” the requirement to file the updated annual financial model required by the 1998 Order
- Agree to file an IRP by November 2010
 - Includes load forecast study
- Agree to file for rate review by July 2011

Rate Case

- PSC Regulatory Standards
 - Must demonstrate that the proposed rates are fair, just and reasonable
 - Emergency implementation: must demonstrate that the company’s credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the suspension period.

Rate Case

- Notice of Intent: filed 1/30/2009, amended 2/2/2009
- Application: to be filed 3/2/2009
- Requested Effective Date: 4/1/2009, subject to refund
 - (with maximum suspension period: 9/1/2009)
- Annual amount sought: \$24.9 million, a 21.6% increase

Rate Case

- Historical Test Period: 12 months ended 11/30/2008
- Proforma Adjustments for “known and measurable” changes
- Together, the Proforma Period
 - See the cash deficiency and the 13 proforma adjustments on next slide...

Rate Case

Cash Deficiency

	Millions of \$
Historical Test Period Cash Deficiency	(111.9)
Proforma Adjustments:	
Eliminate Leveraged Lease	106.7
Normalize Off-System Sales, Other Rev and Purchased Power	(18.9)
Eliminate Unwind Cost Share	4.5
Interest Income	(4.5)
Normalize Debt Service	(3.8)
Incremental Environmental O&M	(2.5)
Normalize Pension Costs	2.5
Normalize Tariff Revenue	2.4
Eliminate Income Taxes	1.2
Capital Expenditures	(1.0)
Eliminate Promo Advertising, Political, Lobbying and Donations	0.4
Rate Case Expenses	(0.1)
Eliminate Certain Misc Expenses	0.1
Total Reduction in Cash Deficiency	87.0
Proforma Cash Deficiency	(24.9)

Rate Case

- Cash based (not accrual, which is somewhat unusual)
 - Statement of Cash Flows (Direct method) vs. Statement of Operations (Income Statement)
- Debt Service Coverage - cash basis, post-CapX: 1.0 (no cash margin)
- Proforma vs. 2009 Budget
 - See cash summary on following page...

Rate Case

Cash -
Millions of \$

2009 Budget - 12/31/2009	0.4
Adjustments:	
Proposed Rate Increase	16.6
Electric Energy Sales, Net	(7.6)
Interest Expense	(7.6)
Incremental Environmental O&M	(2.0)
PCB Refunding Cost	5.9
CapX	3.4
All Other	1.8
Revised	10.9
1/4/2010:	
WKEC Lease Payment	2.6
Non-Incremental Capital Cost	(0.6)
New RUS Note	(15.8)
	(13.8)
Shortfall	(2.9)
Cost Cutting/Deferral	12.9
Balance	10.0
Does not reflect:	
25% Unwind Cost-Share	
Winter Storm Impact	
Cash Working Capital above \$10 million	
Other Potential Claims (E.ON, Smelter, etc.)	



Rate Case

Wholesale Rate Change	
Current Member Tariff:	
Rural - Demand Charge - \$/kW	7.370
Rural - Energy Charge - \$/MWh	20.400
Large Industrial - Demand Charge - \$/kW	10.150
Large Industrial - Energy Charge - \$/MWh	13.715
Rural - \$/MWh*	36.36
Large Industrial - \$/MWh*	31.71
Proposed Member Tariff:	
Revenue Requirement Deficiency - \$	24,901,711
Rate Increase - %	21.62%
Rural - Demand Charge - \$/kW	8.963
Rural - Energy Charge - \$/MWh	24.811
Large Industrial - Demand Charge - \$/kW	12.345
Large Industrial - Energy Charge - \$/MWh	16.680
Rural - \$/MWh*	44.22
Large Industrial - \$/MWh*	38.57
* Assumes the following average monthly load factors:	
Rural - 63.27% and Large Industrial - 77.26%.	
<i>Date Prepared: 2/6/2009</i>	

Rate Case

Appendix A – Rural Rate Projections

	<u>2009</u>	<u>2012</u>	<u>2015</u>	<u>2018</u>	<u>2021</u>
<u>Rural Rate - \$/MWh</u>					
7/15/98 (Note1)	39.58	39.57	39.57	39.57	39.56
4/30/05 (Note2)	36.28	39.91	39.91	43.90	43.90
9/30/08 (Note 3)	44.36	49.14	45.59	48.15	50.86
Proforma	44.22				

Note 1 – 6% in 2007
 Note 2 – 10% in 2012 and 2016
 Note 3 – \$69 million Surcharge 2009-2011; 23% in 2012; 5.8% in 2016 and 2020

Rate Case

Appendix B – Actual Historical Rural Rate

<u>Year</u>	<u>\$/MWh</u>
1994	45.58
1995	44.76
1996	42.72
1997	40.17
1998	36.72
1999	36.44
2000	36.25
2001	35.27
2002	35.38
2003	34.99
2004	35.06
2005	35.19
2006	35.58
2007	35.22
2008	35.90

*Mark
Site distributed
at 2-28-09
bd mtg*

<u>Statement of Cash Flows (Direct format)</u>	<u>Historical Period*</u>	<u>Difference</u>	<u>Proforma</u>
Electric Energy Revenues	213,622,001	(19,330,507)	194,291,494
Income From Leased Property (Net)	42,105,193	(2,410,574)	39,694,620
Other Operating Revenue and Income	10,072,208	5,447,094	15,519,302
Total Oper. Revenues & Patronage Capital	265,799,402	(16,293,987)	249,505,415
Operating Expense - Production - Excluding Fuel	0	0	0
Operating Expense - Production - Fuel	0	0	0
Operating Expense - Other Power Supply	(120,476,897)	(3,027,208)	(123,504,105)
Operating Expense - Transmission**	(9,256,799)	403,983	(8,852,816)
Operating Expense - Distribution	0	0	0
Operating Expense - Customer Accounts	0	0	0
Operating Expense - Customer Service & Information	(732,757)	0	(732,757)
Operating Expense - Sales	(611,486)	160,225	(451,261)
Operating Expense - Administrative & General	(17,657,990)	6,949,786	(10,708,204)
Total Operation Expense	(148,735,928)	4,486,786	(144,249,142)
Maintenance Expense - Production	0	0	0
Maintenance Expense - Transmission	(3,848,315)	0	(3,848,315)
Maintenance Expense - Distribution	0	0	0
Maintenance Expense - General Plant	(232,061)	0	(232,061)
Total Maintenance Expense	(4,080,376)	0	(4,080,376)
Depreciation and Amortization Expense	0	0	0
Taxes	(2,282,460)	1,240,000	(1,042,460)
Interest on Long-Term Debt	(58,294,657)	(4,648,034)	(62,942,691)
Interest Charged to Construction - Credit	0	0	0
Interest Expense	(8,826)	0	(8,826)
Asset Retirement Obligation	0	0	0
Other Deductions	(74,337)	72,916	(1,421)
Total Cost of Electric Service	(213,476,583)	1,151,667	(212,324,916)
Operating Margins	52,322,819	(15,142,319)	37,180,499
Interest Income	4,630,505	(4,450,070)	180,435
Allowance for Funds Used During Construction	0	0	0
Income (Loss) from Equity Investments	0	0	0
Other Non-operating Income (Net)	0	0	0
Generation & Transmission Capital Credits	0	0	0
Other Capital Credits and Patronage Dividends	390,656	(389,250)	1,406
Extraordinary Items	0	0	0
Net Patronage Capital or Margins	57,343,980	(19,981,639)	37,362,341
Capital Expenditures	(21,417,957)	(978,126)	(22,396,083)
Special Funds	92,937	0	92,937
Principal Payments	(40,834,358)	873,452	(39,960,906)
Leveraged Lease Termination	(107,119,580)	107,119,580	0
Net Increase/(Decrease in Cash and Cash Equivalents	(111,934,978)	87,033,267	(24,901,711)
Cash and Cash Equivalents - Beginning of Period	147,496,732		
Cash and Cash Equivalents - End of Period	35,561,754		

* The historical test period is the 12 months ended 11/30/2008.

** O&M expense, excl. Other Power Supply, accrual to cash adjustments reflected in Transmission Operations.

AMENDED BYLAWS
OF
BIG RIVERS ELECTRIC CORPORATION

ARTICLE I

MEMBERSHIP: The fee for membership in this corporation is fixed at twenty-five dollars (\$25.00).

The members must be accepted by a vote of a majority of the Board of Directors and only upon payment of the aforesaid fee accompanied by application containing the agreements referred to in Section 2 of Article VII of the Articles of Incorporation. Membership in the corporation shall not be transferable.

The Board of Directors may suspend the rights of a member, when such member ceases to be eligible for membership under the law, Articles of Incorporation, Bylaws or rules or regulations, for such period of time as the said member is ineligible for membership. The Board of Directors may terminate the membership of a member by expulsion when a member knowingly and intentionally fails to comply with any of the provisions of the Articles of Incorporation, Bylaws, or rules or regulations adopted by the Board of Directors, but only after such member shall have been given written notice by the Secretary of the Corporation that such failure shall be contained for at least ten (10) days after such notice is received. An affirmative vote of not less than two-thirds of all the directors shall be required to suspend or expel a member. An affirmative vote of a majority of all the directors shall be required to terminate a suspension of the members' rights or to reinstate a member once expelled.

When membership in the cooperative corporation has been terminated, under the laws of

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the State of Kentucky, the Articles of Incorporation as amended, or as provided in this Article I, as hereinabove stated, it shall be subject to the capital credits provision contained in Article VIII of these bylaws. The termination shall operate as a release of all right, title and interest of the member in the property and assets of the corporation, provided, however, that such termination of membership shall not release the member from the debts or the liabilities of such member to the cooperative corporation.

ARTICLE II

MEETINGS OF MEMBERS: The annual meeting of the members shall be held on the ~~third~~ Friday of each September, or on such other day in September as may be selected by the Board of Directors of the corporation, at an hour to be designated in the notice of the annual meeting, at the principal office of the corporation in Henderson, Henderson County, Kentucky, or at such other place in Kentucky as may be directed by the Chair of the corporation. Each member of the Board of Directors of a Big Rivers' member distribution cooperative shall be invited to attend the annual meeting of members of Big Rivers.

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Special meetings of the members may be called at such times and places within the area aforesaid as may be ordered by the Board of Directors or by ~~two (2) of the three (3)~~ members.

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Written notice of both the annual and special meetings of the members shall be given each member appearing on the books of the corporation by mailing the same to his last known address at least ten (10) days before such meeting. The notice of the special meeting shall set forth the purpose of which the meeting is called.

Each member shall designate one (1) delegate to represent it at each membership meeting. The Secretary of the corporation shall include with the written notice of the meeting

a form on which each member shall certify the name and address of the delegate so designated. Such form shall be returned to the Secretary prior to or at the beginning of the meeting. In the event a waiver of notice is executed as herein provided, a representative of each member may orally report to the Secretary at the beginning of the meeting the name and address of the delegate who has been designated to represent the member at such meeting.

The delegates may at any special membership meeting held within thirty (30) days of the date for the required annual meeting elect by a two-thirds (2/3) vote to substitute such special meeting for the required annual meeting if delegates representing all members are present at such special meeting.

A waiver of notice containing the time, place and purpose of any membership meeting, signed by all the delegates representing all members and attached to the minutes of the meeting, shall satisfy the written notice requirement for a meeting in this Article.

Delegates representing a majority of the members shall constitute a quorum for the transaction of business.

Only delegates so designated shall vote on matters coming before the meeting.

ARTICLE III

DIRECTORS:

SECTION 1. Number. The number of directors shall be six (6). Each director shall be elected by a majority vote of the delegates at the annual meeting of the members or at a special meeting of the members called for the purpose. Each member distribution cooperative shall be entitled to have two (2) directors on the Board of Directors of the corporation at all times, provided however, that at least one (1) of the two (2) directors from each member distribution cooperative shall also have been, at the time of his election, a director of such member

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distribution cooperative.

SECTION 2. Term.

A. The term of service of a person on the Board of Directors shall be limited to a total of 18 years, whether served consecutively or non-consecutively.

B. The Board of Directors shall be reconstituted at the 1998 annual meeting of members to be held on September 10, 1998. At that meeting, the membership shall elect two (2) directors from each cooperative as provided in Article III, Section 1, above, one of whom shall serve for a term of two (2) years and until his or her successor is elected and qualified, and the other of whom shall serve for a term of three (3) years and until his or her successor is elected and qualified. The terms of all directors serving prior to the 1998 annual meeting of members shall terminate with the adjournment of that meeting.

C. The terms of directors shall be staggered such that two (2) directors from different member cooperatives are elected each year. Each director elected on and after September 1, 2000, shall be elected for a term of three (3) years and shall serve until his or her successor is elected and qualified, except that at the 2001 annual meeting of members, one (1) of the three (3) directors elected at that meeting shall be elected for a term of one (1) year.

SECTION 3. Qualifications. A person is qualified to stand for election to the Board of Directors of the corporation if that person satisfies the general requirements and limitations on board service in Article III, and each of the following requirements:

A. A director of Big Rivers Electric Corporation shall be a member of a member distribution cooperative and shall reside in the service territory of a Big Rivers Electric Corporation member distribution cooperative.

B. No employee of Big Rivers Electric Corporation or of its member cooperatives shall be a director during the term of such employment. No member of the immediate family of an

Deleted: Commercial and Industrial Director. One (1) Director shall be selected by the membership at-large from among persons having a direct connection with the large commercial and industrial retail customers on the member distribution cooperatives' systems. The definition of "large commercial and industrial customer" shall be established by each distribution cooperative for its service territory, based on customer monthly demand. To be eligible for election as the commercial and industrial director, a person must reside in a county in which one of Big Rivers' member distribution cooperatives provides electric service, or be an employee or owner of a large commercial or industrial customer, and otherwise meet the criteria for board membership. One or more candidates for the commercial and industrial directorship shall be nominated by one of the Big Rivers' member distribution cooperatives, on a three-year rotating basis beginning in 1997, with Henderson Union Electric Cooperative making the nomination(s) in 1997. The commercial and industrial director must be elected by the Big Rivers' membership at an annual meeting

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Deleted: SECTION 3. Term. Each director elected on and after September 1, 1997, shall be elected for a term of one (1) year and shall serve until his successor is elected and qualified, except that at the commercial and industrial director shall be elected for a term of three (3) years. This provision shall not affect the length of the current term of a director elected prior to September 1, 1997. SECTION 4.

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employee of Big Rivers Electric Corporation shall serve as a director of the corporation during the term of such employment. For purposes of this requirement, the "immediate family" of an employee is any person (a) who is a spouse, parent, child, or sibling of that employee, or of that employee's spouse or of an individual living in the same home as the employee, (b) any person who is living in the same home as the employee, and (c) any person who is married to or lives in the same home as any of the persons listed in (a) and (b).

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C. A director must have the legal capacity to enter into a binding contract.

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D. Each director shall have a high school diploma or its equivalent.

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E. A person who serves a term on the Board of Directors of the corporation after September 1, 1997, shall be qualified to serve a subsequent term if, in addition to meeting the other qualifications for board membership, that person has completed all orientation and continuing education requirements imposed by Board policy during his or her tenure on the Board. Each director shall have achieved the National Rural Electric Cooperative Association Credentialed Cooperative Director (CCD) certification by the end of his or her sixth consecutive year of service after September 1, 1997.

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SECTION 4. Removal. Any member may bring charges against a director by filing with the Secretary of the corporation such charges in writing and request the removal of such director by reason thereof. Such director shall be informed in writing by the Secretary of the charges at least ten (10) days prior to the meeting at which the charges are to be considered. Such director shall have an opportunity at the meeting to be heard and to present evidence respecting the charges. The question of the removal of such director shall be considered and voted upon by the remaining directors with the director under charges excluded from the meeting room at the time of the vote.

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SECTION 5. Meetings. Regular monthly meetings of the Board of Directors shall be

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held upon the third Friday of each month at an hour to be designated from month to month.

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Special meetings of the Board of Directors may be called by the Chair or Secretary at such time and place as may be determined by the person calling the meeting. At least five (5) days' written notice shall be given each director of the special meeting by the person calling same. A waiver of notice containing the time, place, and purpose of the meeting, signed by all directors and attached to the minutes of the meeting, shall satisfy the written notice requirement for a meeting in this Article.

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The directors may at any special meeting held within thirty (30) days of the date for the required annual or monthly meeting, elect by a two-thirds (2/3) vote of all the directors to substitute such special meeting for the required annual or monthly meeting if all directors are present at such special meeting.

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A majority of the Board of Directors shall constitute a quorum at all meetings.

SECTION 6. Vacancies. In case of any vacancy on the Board of Directors caused by death, resignation, or otherwise, such vacancy shall be filled for the unexpired term by a majority of the Board of Directors within sixty (60) days.

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SECTION 7. Meetings by Telephone or Similar Communications. Any or all directors may participate in any regular or special meeting by, or conduct a meeting through the use of, any means of communication by which all directors participating in such meeting can simultaneously hear each other, and participation in such meeting by a director shall constitute the presence in person by such director at such meeting.

SECTION 8. Consolidation of Members. If two or more members of the corporation consolidate pursuant to KRS 299.170 to form a new entity and member of the corporation, the positions on the corporation's Board of Directors for that entity shall be filled for a term ending with the next annual meeting of the members of the corporation by a majority vote of

the Board of Directors within sixty (60) days. At the first annual meeting of the members of the corporation following the effective date of the consolidation, the membership shall elect two (2) directors from the new entity, as provided in Article III, Section 1, above, for terms consistent with Article III, Section 3, which establishes staggered terms for directors.

ARTICLE IV

OFFICERS:

SECTION 1. Officers Authorized. The officers of the corporation shall be a Chair, Vice Chair, President, Secretary-Treasurer, Vice President and Chief Financial Officer, and Vice President-External Relations. The Chair, Vice Chair and Secretary-Treasurer shall be elected by and from the membership of the Board of Directors. The President shall be elected by the Board of Directors. The Vice President and Chief Financial Officer and the Vice President-External Relations shall be appointed by the President. The Board of Directors may appoint an Executive Secretary and one or more Assistant Secretaries, who need not be members of the Board of Directors, to perform such duties and to have such powers of the secretary as shall from time to time be assigned to the Executive Secretary or to any Assistant Secretary by the Board of Directors or by the Secretary.

SECTION 2. Election and Terms of Officers. At the first meeting following the annual meeting of the members, each officer required by these Bylaws to be chosen by election shall be elected by a majority vote by the Board of Directors by a secret ballot, provided the result of such election is determined by ballot vote, and shall hold office for one (1) year, or until that officer's successor is elected and qualified. All officers of the corporation serve at the pleasure of the Board and may be removed as an officer without cause by an affirmative vote of a majority of all the directors, unless otherwise expressly provided in a written contract of

~~Deleted: .~~
~~Deleted: Assistant Secretary~~
~~Deleted: Assistant Treasurer. Each of these officers, except the President,~~
~~Deleted: members~~
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~~Deleted: Treasurer,~~
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employment between the corporation and an officer who is also an employee of the corporation.

ARTICLE V

DUTIES OF OFFICERS:

SECTION 1. Chair and Vice-Chair. The Chair shall preside at all meetings of the members and of the Board of Directors. The Chair may sign, with the Secretary-Treasurer, certificates of membership of the corporation, and the Chair may also sign any deeds, mortgages, bonds, contracts or other instruments in writing authorized by the Board of Directors or by these Bylaws or that are required by law to be otherwise signed or executed. The Chair shall perform generally all duties incident to the office of Chair and such other duties as may be prescribed by the Board of Directors from time to time.

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In the absence of the Chair, or in the event of the Chair's inability or refusal to act, the Vice Chair shall perform the duties of the Chair. When so acting, the Vice Chair shall have all the powers of and be subject to all the restrictions upon the Chair. The Vice Chair shall perform such other duties as may be assigned from time to time by the Board of Directors.

SECTION 2. Secretary. The Secretary of the Corporation shall keep, or cause to be kept, the minutes of the meetings of the Board of Directors and members in one or more books provided for that purpose, and shall authenticate records of the Corporation. The Secretary shall see that all notices are duly given in accordance with these Bylaws, or as required by law. The Secretary shall be the custodian of the corporate records and of the seal

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of the Corporation and see that the seal of the Corporation is affixed to all certificates of membership prior to the issue thereof and to all documents requiring a seal. The Secretary of the Corporation shall keep, or cause to be kept, a register of the post office address of each member. The Secretary shall sign, with the Chair, certificates of membership and have general charge of the books of the Corporation. The Secretary shall perform in general all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the Board of Directors.

SECTION 3. Treasurer. The Treasurer of the Corporation, or such other person or persons delegated by the Board, shall have charge and custody of and be responsible for all funds and securities of the Corporation. The Treasurer shall in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Directors.

SECTION 4. President. The President shall act as the general manager and chief executive officer of the Corporation. The President may sign, with the Secretary, certificates of membership of the Corporation, and any deeds, mortgages, bonds, contracts or other instruments in writing authorized by the Board of Directors, or by these Bylaws, or that are required by law to be otherwise signed or executed by the president of a rural electric cooperative corporation. The President shall perform generally all duties incident to the office of president and to the position of general manager and chief executive officer, and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 5. Vice President and Chief Financial Officer. The Vice President and

Deleted: Assistant Secretary shall act in the absence of the Secretary, or in the event of the Secretary's inability or refusal to act. When so acting, the Assistant Secretary shall perform the duties of the Secretary and shall have all the powers of and be subject to all the restrictions upon the Secretary. The Assistant Secretary shall perform such other duties as may from time to time be assigned by the Board of Directors.¶
SECTION 3. Treasurer and Assistant

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SECTION 4. President. The Board of Directors shall appoint a President, who shall act as the general manager and chief executive officer of the Corporation. The President may sign, with the Secretary, certificates of membership of the corporation, and the President may also sign any deeds, mortgages, bonds, contracts or other instruments in writing authorized by the Board of Directors, or by these Bylaws, to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed.

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Deleted: Compensation of Officers. The compensation of the officers of the corporation shall be fixed from time to time by the Board of Directors

Chief Financial Officer of the Corporation shall act as the manager of the financial affairs, financial reporting and tax compliance for the Corporation, and shall perform generally all duties incident to the office of vice president and chief financial officer, along with such other duties as may be prescribed by the Board of Directors from time to time. The Vice President and Chief Financial Officer may exercise any duties of the Treasurer, except for signing certificates of membership of the corporation, and may sign any deeds, mortgages, bonds, contracts or other instruments in writing authorized by the Board of Directors, or by these Bylaws, or that are required by law to be otherwise signed or executed.

SECTION 6. Vice President-External Relations. The Vice President-External Relations of the Corporation shall act as the manager of the external relations, federal, state and local governmental affairs, federal, state and local regulatory affairs, and monitoring of regulatory compliance for the Corporation, and shall perform generally all duties incident to the office of vice president of external relations, along with such other duties as may be prescribed by the Board of Directors from time to time. The Vice President-External Relations may sign any deeds, mortgages, bonds, contracts or other instruments in writing authorized by the Board of Directors, or by these Bylaws, or that are required by law to be otherwise signed or executed.

SECTION 7. Absence or Disability of President. If the President is absent or becomes disabled, the Vice President and Chief Financial Officer and the Vice President-External Relations shall have all the powers and be subject to all the duties of the President so long as such absence or disability continues.

SECTION 8. Compensation of Officers. The compensation of the officers of the corporation shall be fixed from time to time by the Board of Directors, except the compensation of the Vice President and Chief Financial Officer and the Vice President-External Relations, whose compensation shall be fixed by the President.

SECTION 9. Annual Reports of Officers. The officers of the Corporation shall submit at each annual meeting of the members reports covering the business of the corporation for the previous fiscal year and showing the condition of the corporation at the close of such fiscal year.

SECTION 10. Secretary-Treasurer. The Secretary-Treasurer shall have the duties of both the Secretary and the Treasurer.

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ARTICLE VI

FISCAL YEAR: The fiscal year of the corporation shall commence on January 1st of each year.

ARTICLE VII

SEAL: The corporate seal of the corporation shall be circular with the words "BIG RIVERS ELECTRIC CORPORATION" and "HENDERSON, KENTUCKY" surrounding the word "SEAL".

ARTICLE VIII

NON-PROFIT OPERATION:

SECTION 1. Interest or Dividends on Capital Prohibited.

The cooperative shall at all times be operated on a non-profit basis for the mutual benefit of its patrons. As used in these Bylaws, "patron" shall include members and non-members alike, who have expressly contracted in writing to do business with the cooperative on a patronage basis on the terms contained in these Bylaws. No interest or dividends shall be paid or payable by the cooperative on any capital furnished by its patrons.

SECTION 2. Patronage Capital in Connection with Furnishing Electric Service.

In the furnishing of electric energy, the cooperative's operations shall be so conducted that all patrons will, through their patronage, furnish capital for the cooperative.

In order to induce patronage and to assure that the cooperative will operate on a non-profit basis, the cooperative is obligated to account each year on a patronage basis to all its patrons for all positive patron patronage-sourced margins, both operating and non-operating. The cooperative is obligated to allocate all such positive amounts to a capital account for each patron. The books and records of the cooperative shall be set up and kept in such manner that at the end of each fiscal year, the amount of capital allocated and credited to each patron is clearly reflected in an appropriate record to the capital account of each patron, and the cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so allocated to his account. All such amounts allocated to the capital account of any patron shall be in pursuance of a legal obligation to do so.

Notwithstanding any other provision of this Article VIII, the amount to be allocated as patronage capital for a given year shall not be less than the greater of regular taxable patron patronage-sourced margins or alternative minimum taxable patron patronage-sourced margins (both as determined for federal income tax purposes).

All other tax margins received by the cooperative from operating and nonoperating sources shall, insofar as permitted by law, be (a) used to offset any such remaining tax loss

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carry forward amounts incurred during any prior fiscal year since 1982 and (b) to the extent not needed for that purpose, retained by the cooperative as a permanent source of after-tax equity.

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In the event of dissolution or liquidation of the cooperative, after all outstanding indebtedness of the cooperative shall have been paid, the net of each member's outstanding membership fee and capital account balance shall be retired without priority on a pro-rata basis before any payments are made on account of property rights of members. The property rights of each member shall be determined based upon historical patronage measured by kilowatt-hours purchased from Big Rivers over the life of the cooperative. The life of the cooperative is defined to begin at the date Big Rivers was formed in 1961 and is not redefined or otherwise modified by Big Rivers' bankruptcy filing, reorganization, confirmation of the plan of reorganization, or otherwise.

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_____ If, at any time prior to dissolution or liquidation, the board of directors shall determine that the financial condition of the cooperative will not be impaired thereby, the patrons' capital accounts may be retired in full or in part except that no distribution that violates any financial covenants shall be made. Generally, such retirements of capital shall be made in order of priority according to the year in which the capital was allocated, the capital first received by the cooperative being first retired. Notwithstanding any other provision of these bylaws, the board of directors shall have the discretion to determine the method of allocation, basis, and order of priority of retirement, if any, for all amounts furnished as patronage capital.

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_____ The capital in the account of each patron shall be assignable only on the books of the cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the cooperative unless the board of directors, acting under policies of general application, shall

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determine otherwise.

SECTION 3. Patronage Allocation.

The aggregate method will continue to be used for patronage capital accounting until the historical cumulative patron patronage-sourced tax margin deficit, beginning in 1983 when the cooperative became non-exempt, is overcome. Then the assignment method will be used for each subsequent year which renders a positive patron patronage-sourced tax margin. The Big Rivers' net sales margin from the sale of electricity to each patron shall be the basis for allocating the total patron patronage-sourced tax margin. At the time of adoption of this policy, all patron sales of electricity are pursuant to either Rate Schedule C.4.d. or C.7. Until such time as Big Rivers' board of directors determines any such margin contains other amounts (for example, a positive transmission component), it shall not be necessary to differentiate such amount and determine the equitable assignment basis therefore. Each year's patron patronage-sourced tax margin will be allocated as follows:

- (a) Determine each patron's electricity sales revenue (RUS Form 12)
- (b) Determine each patron's MWh sales (RUS Form 12)
- (c) Determine each patron's power supply cost, on an average member MWh cost basis (RUS Form 12)
- (d) Subtract (c) from (a) to arrive at each patron's net sales margin
- (e) Compute each patron's patronage capital allocation on a net sales margin pro-rata basis.

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ARTICLE IX

ORDER OF BUSINESS: The order of business at the annual meeting of the members, and so far as possible at all other meetings of the members, shall be as follows:

1. Call of the Roll
2. Reading of the notice of the meeting together with proof of service.
3. Presentation and reading of unapproved minutes of previous

meetings of the members and the taking of necessary action thereon.

4. Presentation and consideration of, and acting upon reports of officers, directors, and committees.
5. The election of directors.
6. Unfinished business.
7. New business.
8. Adjournment.

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ARTICLE X

CONTRACTS, CHECKS AND DEPOSITS: The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the corporation and such authority may be general or confined to specific instances.

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such bank or banks as the Board of Directors may select.

ARTICLE XI

DIRECTORS FEES AND EXPENSES:

SECTION 1: A director is entitled to such fees and to reimbursement of such expenses

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as may be provided in the written policy of the Board on Directors' Fees and Expenses.

Compliance with that policy shall be monitored by the Board of Directors.

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SECTION 2: Nothing contained herein shall limit the right of the Board of Directors to contract with or pay any individual director for additional services or duties rendered outside his normal functions as director.

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ARTICLE XII

AMENDMENT OF BYLAWS:

_____ These Bylaws may be altered, modified, amended, or replaced by an affirmative vote of a majority of the members of the Board of Directors at any regular or special meeting.

All Bylaws previously adopted by this Board which are inconsistent herewith are hereby altered or repealed in the above respects.

ARTICLE XIII

INDEMNIFICATION AND INSURANCE:

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_____ A. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact he or she, or a person of whom he or she is a legal representative, is or was a director, or while a director, serves or served at the corporation's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Kentucky Business Corporation Act, as the same exists or may hereafter be

amended (but in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than the Kentucky Business Corporation Act permitted the corporation to provide prior to such amendment), against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA, excise taxes or penalties, and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such director in connection with any such proceeding. Such indemnification shall continue as to a director who has ceased to be a director and shall inure to the benefit of the director's heirs, executors, and administrators. Except with respect to proceedings to enforce rights to indemnification by a director, the corporation shall indemnify any such director in connection with a proceeding (or part thereof) initiated by such director only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred in this Article shall be a contract right.

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B. Advance of Expenses. The corporation shall pay for or reimburse the actual and reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if a determination is made that the facts then known to those making the determination would not preclude indemnification under KRS 271B.8-500 to 271B.8-580, and if the director furnishes the corporation: (i) a written affirmation of the director's good faith belief that the director's conduct met the standard of conduct described in Kentucky Revised Statutes 271B.8-510 or successor provisions; and (ii) a written undertaking, executed personally or on the director's behalf, to repay any advances if it is ultimately determined that the director is not entitled to indemnification for such expenses under this Article or otherwise. The undertaking must be an unlimited general obligation of the director, but need not be secured and may be accepted without reference to the director's financial ability to make repayment.

_____ C. Indemnification of Officers, Employees and Agents. The corporation may indemnify and advance expenses to an officer, employee or agent who is not a director to the extent permitted by the Articles of Incorporation, the Bylaws, or by law.

_____ D. Indemnification of Officers, Employees and Agents. The corporation shall indemnify and advance expenses to officers to the same extent as directors, and may indemnify employees or agents who are not directors or officers to the extent permitted by the Articles of Incorporation, the Bylaws, or by law.

_____ E. Insurance. The corporation may purchase and maintain insurance, at its expense, on behalf of an individual who is or was a director, officer, employee or agent of the corporation, or who while a director, officer, employee or agent of the corporation is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him or her in any such capacity or arising from his status as a director, officer, employee or agent, whether or not the corporation would have power to indemnify him or her against the same liability under this Article.