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Via Overnight Mail

July 13, 2009

Mr. Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2009-00040

Dear Mr. Derouen:

Please find enclosed the original and twelve (12) copies each of the RESPONSES OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. to FIRST SET OF DATA REQUESTS of BIG RIVERS ELECTRIC CORPORATION and COMMISSION STAFF filed 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.
BOEHM, KURTZ & LOWRY

MLKkew
Attachment
cc: Certificate of Service

G:\WORK\KIUC\Kenergy - Big Rivers\2009-00040 (Big Rivers Rate Case)\Derouen Ltr. (KPSC).doc

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by electronic mail (when available) and overnight mail to all parties on the 13th day of July, 2009.

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

NOTICE AND APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR A GENERAL ADJUSTMENT IN RATES	))))	CASE NO. 2009-00040

BIG RIVERS ELECTRIC CORPORATION'S DATA REQUESTS TO KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

(1) Provide a copy of all Documents, including workpapers, created, used or relied upon (a) by Lane Kollen to prepare his direct testimony or to support an opinion reflected in his direct testimony, or (b) by KIUC to prepare its responses to these data requests. If the Document is an electronic spreadsheet, please provide an electronic copy of the spreadsheet with formulae intact.

Response:

Mr. Kollen relied on the Company's filing and its responses to discovery from the Staff and KIUC. These documents already are in the possession of the Company. In addition, Mr. Kollen created electronic spreadsheets that were described in his testimony and used to prepare tables or provided as exhibits. Copies of those spreadsheets are provided on CD, except for the spreadsheet version of his Exhibit___(LK-5), which Mr. Kollen is not able to locate.

(2) Provide a copy of testimony, including all exhibits, appendices and other attachments, submitted by Mr. Kollen in the following proceedings:

(a) Testimony submitted 10/93 in Louisiana in Case No. U-17735 regarding Cajun Electric Power Cooperative.

(b) Testimony submitted 9/94 in Louisiana in Case No. U-17735 regarding Cajun Electric Power Cooperative.

(c) Testimony submitted 11/94 in Louisiana in Case No. U-17735 (Rebuttal) regarding Cajun Electric Power Cooperative.

(d) Testimony submitted 10/98 in Louisiana in Case No. U-17735 regarding Cajun Electric Power Cooperative.

(e) Testimony submitted 08/00 in Louisiana in Case No. U-24064 regarding CLECO.

(f) Testimony submitted 12/04 in Kentucky in Case Nos. 2004-00321 and 2004-00372 regarding East Kentucky Power Cooperative., Big Sandy RECC, et al.

(g) Testimony submitted 03/07 in Louisiana in Case No. U-29157 regarding CLECO Power, LLC.

(h) Testimony submitted 07/07 in Kentucky in Case No. 2006-00472 regarding East Kentucky Power Cooperative.

(i) Testimony submitted 06/08 in Kentucky in Case No. 2008-00115 regarding East Kentucky Power Cooperative.

(j) Testimony submitted 02/09 in Kentucky in Case No. 2008-00409 regarding East Kentucky Power Cooperative, Inc.

Response:

A copy of the requested testimonies is provided on CD.

(3) Mr. Kollen suggests on pages 3 and 15 of his testimony that Big Rivers can alleviate its "temporary cash shortfall" by, among other things, borrowings from its Member cooperatives or "other sources."

(a) Has Mr. Kollen perform an investigation or analysis of the legal and financial ability of each of Big Rivers' Members to make a loan to Big Rivers? If the answer to this question is "yes," please provide a copy of each Document created, used or relied upon by Mr. Kollen in connection with that investigation and analysis.

(b) Has Mr. Kollen perform an investigation or analysis that identified any "other sources" that either would or would not be willing to make an unsecured loan to Big Rivers? If the answer to the foregoing question is "yes," please provide the following:

(i) a copy of each Document created, used or relied upon by Mr. Kollen in connection with that investigation and analysis; and

(ii) the name and address of the lending "source," the name and telephone number of the Person with whom Mr. Kollen, or anyone acting for or on behalf of Mr. Kollen, had any communications about lending to Big Rivers, any requirements the source identified for lending to Big Rivers, and the terms on which the source would be willing to lend to Big Rivers.

Response:

a. No.

b. No. Mr. Kollen has not solicited an unsecured loan on behalf of the Company.

c. Not applicable.

(4) Provide a calculation, including a statement of any and all assumptions employed to make the calculation, to support the $6.664 million reduction in annual interest expense on the 2001 Bonds shown on page 10, line 23 of Mr. Kollen's testimony. Please provide a copy of each Document created, used or relied upon by Mr. Kollen in connection with that calculation.

Response:

The correct amount is $6.248 million, computed by multiplying the 7.5% reduction in the annualized interest rate times the $83.3 million principal outstanding. The amount in the testimony was computed incorrectly using an 8.0% reduction in the interest rate.

(5) Provide the calculation, including a statement of any and all assumptions employed, used to determine the $17.750 "Bank" bonds amount shown on page 11, line 16 of Mr. Kollen's testimony. Please provide a copy of each Document created, used or relied upon by Mr. Kollen in connection with that determination.

Response:

The testimony reference to the $17.750 million in bank bonds contained a typographical error and should read $14.750 million. This typographical error has no effect on any of the interest expense or revenue requirement quantifications in Mr. Kollen's testimony.

(6) Provide a copy of each Document created, used or relied upon by Mr. Kollen to reach the conclusion on page 15, lines 10-11 of his testimony that "the cash shortfall is temporary and will be resolved in the normal course of the Company's business." List separately all assumptions Mr. Kollen relied upon to form that opinion.

Response:

The assumptions relied on by Mr. Kollen are described on page 13 line 12 through page 15 line 23 of his testimony. Mr. Kollen relied on the Company's cash forecast provided at the March 26, 2009 hearing as noted on lines 4-16 of page 14 of his testimony. Mr. Kollen also developed an updated cash forecast based on the Company's forecast provided at the March 26, 2009 hearing, which he describes on pages 14-15 of his testimony and which reflected the cash effects of the adjustments that he addresses elsewhere in his testimony. A copy of that updated forecast was provided as Mr. Kollen's Exhibit___(LK-5). An electronic copy of that forecast is provided on CD.

(7) Calculate the amount of cash Mr. Kollen believes Big Rivers will have on hand on January 5, 2010, on January 20, 2010, and on January 5, 2011, assuming the rate increase proposed by Mr. Kollen in his direct testimony is put into effect, and assuming that all of the adjustments proposed by Mr. Kollen in his testimony are adopted by the Commission.

(a) Provide the results of these calculations, and list all assumptions relied upon to perform these calculations.

(b) If the results of these calculations assume any borrowing or refinancing, list separately the assumptions made as to interest rates and borrowing costs, provide all

Documents that support those assumptions, and provide all Documents which indicate that those assumptions are known and reasonable.

(c) If the results of the calculations relied upon use of Big Rivers' line of credit with CFC, state separately any changes Mr. Kollen assumed in arbitrage revenues or purchase power costs to account for the reduction in Big Rivers' ability to transact in the market.

(d) Provide a copy of each Document created, used or relied upon by Mr. Kollen that reflects the impact of Mr. Kollen's rate increase recommendation on Big Rivers' cash flows and revenue requirements, whether on a current, *pro-forma*, test year, projected, or any other basis.

Response:

a. Please refer to Mr. Kollen's Exhibit__(LK-5) and the response to Item 1. Mr. Kollen has not prepared a cash forecast for the other dates identified in the question.

b. The January 5, 2010 forecast does not reflect any borrowing, although temporary borrowings likely will be necessary to meet the January 5, 2010 deficiency and additional cash disbursements prior to the Company's cash receipts later in January 2010 for December 2009 service. These assumptions are described on page 15 of Mr. Kollen's testimony. Mr. Kollen made no assumptions regarding the interest rate on the temporary borrowings.

c. None. Mr. Kollen does not believe that temporary borrowings against the CFC line of credit will reduce the Company's ability to engage in arbitrage transactions based on the

Company's history of the use of the CFC line of credit to provide credit support for such transactions. The Company's responses to KIUC 1-5 and 2-9 indicate that the Company has not drawn down more than $2 million of its $15 million line to engage in arbitrage transactions in any month during the period January 2008 through March 2009.

d. Refer to the response to part (a) of this Item.

(8) Provide all Documents relied on by Mr. Kollen to conclude that Big Rivers' requested increase includes $0.347 million for Mr. Core.

Response:

Refer to Seelye Exhibit 2, which has no proforma adjustment to test year payroll expense to remove the $0.347 million payroll expense incurred for Mr. Core. The Company provided the $0.347 million test year payroll expense in response to Staff 1-28.

(9) On page 12, lines 17-20 of his testimony, Mr. Kollen states that the Commission authorized a TIER of 1.35 for East Kentucky Power Cooperative in Case No. 2006-00472. Provide a copy of the Commission's Order in Case No. 2006-00472 and indicate precisely where in that Order the Commission authorized a TIER of 1.35 in the determination of rates in that proceeding.

Response:

A copy of the referenced order is available from the Commission's website. The Order, at 34-35, states: "The Commission finds that the use of a 1.35X TIER is reasonable for EKPC, given the current financial condition of EKPC and its need to comply with the requirements of the RUS mortgage agreement and the unsecured credit facility."

(10) On page 12, lines 17-20 of his testimony, Mr. Kollen states that the Commission authorized a 1.35 TIER for East Kentucky Power Cooperative "primarily to address that cooperative's difficult financial circumstances." Indicate precisely where in the Order in Case No. 2006-00472 the Commission indicated that the 1.35 TIER was authorized primarily to address East Kentucky Power's difficult financial circumstances.

Response:

Refer to the response to Item 9.

(11) On page 3 of Lane Kollen's direct testimony, he recommends that the Commission increase Big Rivers' base rates by no more than $3.579 million. Please provide the effective date for the rate increase that Mr. Kollen recommends.

Response:

September 1, 2009.

(12) Has Mr. Kollen ever recommended that a jurisdictional or non-jurisdictional utility's rates should be set on a cash basis, or has he ever recommended that a jurisdictional or

non-jurisdictional cooperative's rates should be set on a non-TIER basis? If yes, provide the name of the case in which he made the recommendation, the jurisdiction and case number of the case, and all of Mr. Kollen's testimony filed in the case. If not a jurisdictional case, please state the company name and provide a copy of all Documents relating to the recommendation.

Response:

No.

(13) Provide a copy of each Document created, used or relied upon by Mr. Kollen to develop his arbitrage revenue recommendation found in his direct testimony on page 18, lines 6 through 15.

Response:

Refer to the response to Item 1, including the files provided on CD.

(14) Provide a copy of each Document created, used or relied upon by Mr. Kollen to develop his allowance expense recommendation found in his direct testimony on pages 22 and 23.

Response:

The documents relied on are described by Mr. Kollen on pages 22 and 23 of his testimony and were discovery responses prepared by and provided by the Company. Mr. Kollen did not create any documents or spreadsheets to develop his allowance expense recommendation.

(15) Which retail customers on the Big Rivers system are KIUC members? Which retail customers on the Big Rivers system that are KIUC members are funding and supporting KIUC's appearance in this proceeding?

Response:

The KIUC members who are on the Big Rivers System are:

Aleris International, Inc.
Century Aluminum
Domtar Paper Co., LLC
Kimberly-Clark Corporation
Rio-Tinto Alcan

The KIUC members funding and supporting KIUC's appearance in this proceeding are:

Domtar Paper Co., LLC
Kimberly-Clark Corporation

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR A GENERAL ADJUSTMENT IN RATES	)))	CASE NO. 2009-00040

FIRST DATA REQUEST OF COMMISSION STAFF TO KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

1. Refer to Lane Kollen's Testimony filed on June 15, 2009 at page 12. Mr. Kollen recommends that a 1.35 Time Interest Earned Ratio ("TIER") be used to determine Big Rivers' revenue requirement. In support of this position, Mr. Kollen notes that the Commission awarded East Kentucky Power Cooperative, Inc. ("EKPC") rates that would generate a 1.35 TIER in two pervious cases.

In their 2008 annual report, Big Rivers reported total proprietary capital at a negative ($154.601) million, while EKPC reported a positive $190.370 million.

a. Discuss whether or not Mr. Kollen is of the opinion that it is important for Big Rivers to obtain and maintain a positive equity balance. Include in this discussion the importance of Big Rivers' ability to issue debt and how a negative equity balance impacts Big Rivers' ability to issue debt.

b. State the equity-to-total-capital ratio that Mr. Kollen believes is appropriate for Big Rivers. Provide the basis for this ratio.

c. State how long it would take Big Rivers to obtain the equity-to-total-capital ratio thought reasonable by Mr. Kollen if Big Rivers realizes a 1.35 TIER for all future annual periods.

d. Given Big Rivers' current negative equity position and EKPC's positive equity position, explain whether Mr. Kollen would agree that a TIER approved for Big Rivers should be higher than the TIER awarded to EKPC so that Big Rivers can accumulate earnings at a more rapid pace, at least until such time as Big Rivers improves its negative equity position to a positive equity position.

e. On page 12, Mr. Kollen states that he would normally have recommended a TIER of 1.15 percent or less for Big Rivers but instead recommended a 1.35 TIER, given Big Rivers' current financial circumstances. The Commission has recently been awarding distribution cooperatives a 2.0 TIER. Identify and explain the differences between a generation and transmission cooperative and a distribution cooperative that warrant such a large difference in the TIER Mr. Kollen would normally recommend for a generation and transmission cooperative and those approved by the Commission for distribution cooperatives.

f. Explain why it would not be appropriate to award Big Rivers a 2.0 TIER to allow Big Rivers to accelerate the replenishment of its depleted cash reserves and the reversal of its negative equity position.

Response:

a. It is not essential that Big Rivers obtain or maintain a positive equity balance at this time. Big Rivers has not had a positive equity balance since sometime prior to the Workout Plan in 1998. Big Rivers is a cooperative G&T, which is owned by its member cooperatives. It is in the process of repaying its RUS debt through a combination of earned margins from sales to its member cooperatives and through arbitrage sales to the smelters and other market purchasers. It has systematically been reducing its negative equity balance. It also is not essential that Big Rivers issue debt at this time and it is likely that it would not be able to issue new secured debt as long as it operates under the terms of the New RUS Debt Agreement and the other Workout Plan terms and conditions. As such, the ability of the Company to issue new secured debt at this time is not relevant to the amount of the rate increase that should be granted.

b. The equity to total capital ratio is not relevant at this time for the reasons cited in response to part (a).

c. Refer to the response to parts (a) and (b). Further, even assuming that a positive equity balance or some equity to total capital ratio is relevant for ratemaking purposes at this time, it is difficult to project when Big Rivers would achieve those financial metrics due to the uncertainties associated with projecting arbitrage margins.

d. No. There is no present need for Big Rivers to accumulate earnings at a more rapid pace or for it to achieve a positive equity balance in the foreseeable future. Big Rivers is currently subject to the terms and conditions of the Workout Plan, its New RUS

Debt Agreement, and the agreements with Western Kentucky Energy Corp. and LEM, which together provide the Company the means to payoff its existing debt and rebuild its equity over time. There is no need to change any of these carefully structured arrangements to accelerate the rebuilding of equity at this time, particularly not for a temporary cash requirement that can be temporarily addressed through other means.

e. Mr. Kollen has familiarized himself with the circumstances of the distribution cooperatives presented in numerous recent rate proceedings by reviewing the cooperatives' rate filings, settlement agreements between those cooperatives and the Attorney General's Office and the Commission's Orders in those proceedings. As an initial matter, Mr. Kollen notes that the Commission has authorized a TIER of 2.0 in those proceedings, but that most of the proceedings were resolved through settlement.

In addition, there are notable differences between the distribution cooperatives and the G&T cooperatives, such as Big Rivers in this proceeding and EKPC in the two most recent proceedings cited by Mr. Kollen in his testimony as support for the TIER of 1.35. First, the G&T cooperatives and the distribution cooperatives are engaged in functionally different businesses that significantly impact the magnitude of their capital investments (rate base) and the manner in which those investments are financed. The G&T cooperatives are engaged in the generation and transmission business, which requires hundreds of millions of dollars, if not billions of dollars of investments in generation and transmission assets, most of which must be made over relatively short periods of time and generally cannot be financed through internal cash generation and retained margins alone.

The distribution cooperatives are engaged in the distribution business, which requires significantly less investment, most of which are made incrementally over long periods of time and can be financed largely through internal cash generation and retained margins. Thus, the G&T cooperatives tend to be financed much more heavily by debt and the distribution cooperatives tend to have little debt.

Second, as a result of these functionally different businesses and their resulting financial structure, the G&T cooperatives require much lower TIERs than the distribution cooperatives in order to generate a sufficient margin to support additional investment and borrowings for that investment. This occurs because the recoveries of depreciation provide the G&T cooperatives relatively large amounts of cash to finance their growth and to repay debt and because the TIER is applied to a much larger interest expense. An example of the former is that the recovery of depreciation on a $1 billion power plant will generate $33 million in cash each year. In contrast, the depreciation on $25 million in distribution plant will generate $0.8 million in cash each year. Similarly, a TIER of 2.0 on that same $1 billion power plant with $45 million in annual interest expense, assuming 90% debt financing at 5%, will generate $45 million in margins and additional cash each year. A TIER of 2.0 would provide the G&T not only recovery of its costs, but also force the members to contribute an additional $45 million each year to the G&T that it does not need for debt service or future growth unless it adds $450 million in net rate base investment each year. A TIER of 1.15 to 1.35 would provide the G&T $7.5 million to $15.8 million each year for debt service and future growth, which would be sufficient to maintain the capital structure and add $75 million to $158 million in net rate base investment each year.

In contrast, a TIER of 2.0 will provide the distribution cooperative on its $25 million in distribution plant with $0.125 million in annual interest expense, assuming 10% debt financing at 5%, and another $0.125 million in margin and additional cash each year. The result of the TIER of 2.0 for the distribution cooperative is to require the members to invest an additional $0.125 million in the cooperative each year to support incremental growth in distribution lines and meters.

Third, if the TIER of 2.0 is applied to a G&T cooperative, it will result in the accelerated recovery of the power plant's cost over a period significantly less than its service life and destroy the advantage of low-cost debt in its capital structure by forcing the member distribution cooperatives to invest their money in the G&T to prematurely replace the debt. This is a result of the different G&T business and the magnitude and timing of the capital investments that it makes compared to the distribution cooperatives. Continuing with the previous example, assume that the recovery of the $33 million in annual depreciation expense and $45 million in annual interest expense is sufficient for the G&T to repay the principal and interest on its debt over the life of the power plant. At the end of 13 years, the utility will have collected $433 million in depreciation expense to repay the debt principal plus another $585 million in margins or more than enough to repay the entirety of the $1 billion debt incurred to construct the power plant. In the 14th year, the member cooperatives will have paid off the entirety of the power plant and the related debt, some 20 years early. That simply is not reasonable.

Reality parallels the preceding hypothetical examples. In its most recent general base rate proceeding, Case No. 2008-00401, Big Sandy RECC proposed adjusted test year interest expense of only $1.082 million. Thus, a TIER of 2.0 provides Big Sandy a margin of $1.082 million out of its total revenue requirement of $22 million, or only 5% of its revenue requirement. In contrast, in the present proceeding, Big Rivers proposed interest expense of $70.5 million (stated on an accrual basis) compared to member electric energy revenues of $115 million (stated on an accrual basis). A TIER of 2.0 would provide Big Rivers a margin of $70.5 million or compared to a TIER of 1.35, which would provide Big Rivers a margin of $25 million. Thus, a TIER of 2.0 would provide Big Rivers additional revenues of $45.8 million each year. This would require a rate increase of 40% above and beyond the level required to achieve a 1.35 TIER based on regulated member revenues of $115.3 million. Such a result is not reasonable.

f. There is no reason for the Commission to charge the member cooperatives an additional 40% above and beyond the 22% increase requested by the Company to replenish the excessive amount of cash and short term investments that existed prior to the PMCC lease termination payment and which belonged to those members but could not be returned to them due to the terms of the Workout Plan and related agreements.

2. Refer to Lane Kollen's Testimony at page 5, page 12 and pages 20 through 22. At page 12, Mr. Kollen recommends that Big Rivers' revenue requirement be calculated using a 1.35 TIER which, as stated on page 5, requires a $3.579 million revenue increase. On pages 20 through 22, Mr. Kollen recommends that the $4 million amortization expense of the $76.673 million loss on the Philip Morris Credit Corporation ("PMCC") leveraged lease buy out be disallowed for rate-making purposes.

a. Explain whether Mr. Kollen is of the opinion that Big Rivers' decision to buy out the PMCC leveraged lease was a prudent business decision.

b. Does Mr. Kollen agree that amortization of this loss is required by the Uniform System of Accounts ("USoA") and that the USoA precludes Big Rivers from recognizing the entire loss in a single accounting period?

c. Mr. Kollen determined that a revenue increase in the amount of $3.579 million is required for Big Rivers to realize a 1.35 TIER; however, these amounts do not include the $4 million amortization expense. Recognizing that Big Rivers is required to recognize the $4 million amortization expense on an annual basis, does Mr. Kollen agree that, if all of Mr. Kollen's pro forma projections hold true, Big Rivers will not achieve a 1.35 TIER if the Commission were to approve a $3.579 million revenue increase?

d. Is Mr. Kollen aware that the Commission has, in previous cases, recognized the amortization of losses on the early extinguishment of debt as a component of the cost of debt for rate-making purposes?

e. Does Mr. Kollen agree that recovery of this amortization expense would help replenish Big Rivers' depleted cash reserves and improve Big Rivers' equity position?

Response:

a. Mr. Kollen's recommendation to exclude the amortization expense does not depend on whether the buyout decision was prudent. Mr. Kollen has not conducted an investigation to determine whether the buyout was prudent and does not have an opinion on that issue.

b. No. It is not clear that the Company's accounting meets the requirements of the RUS USOA to recognize the lease termination costs as a loss on reacquired debt. The Company's accounting assumes that the deferred loss was a loss on reacquired debt, but the Company's auditor seems to have considered the deferred loss more as a regulatory asset. The Company's auditor made a PowerPoint presentation to the Big Rivers Board of Directors on Oct 13, 2008 (pages 118-119 of 491 provided in response to KIUC 1-12 in 2009-00040), which states:

There are GAAP questions regarding the Deferred Charge (see next slide)

Is rate recovery probable?

Require RUS and PSC approve to expense at Unwind

c. Mr. Kollen does not agree with the premise of the question, i.e., Big Rivers is required to amortize the loss on an annual basis. For example, it is Mr. Kollen's understanding that if the Unwind Transaction closes, the Company will writeoff the deferred loss. Presumably, it would not do so if it was required to defer and amortize the loss in accordance with the RUS USOA. Regardless, if the Company's revenues do not provide recovery of a certain expense that nevertheless is recognized for accounting purposes, then the Company will not achieve the authorized TIER, all else equal. However, if the Company's revenues do not provide recovery of the amortization expense and the Company writes off the deferred loss, then the Company will achieve the authorized TIER, all else equal.

d. Yes. However, this deferred loss is the result of a lease buyout.

e. Yes. However, this is inappropriate for the reasons cited by Mr. Kollen in his testimony and in response to this series of questions.