

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)
CORPORATION FOR APPROVAL TO)
TRANSFER FUNCTIONAL CONTROL OF ITS)
TRANSMISSION SYSTEM TO MIDWEST) CASE NO. 2010-00043
INDEPENDENT TRANSMISSION SYSTEM)
OPERATOR, INC.)

NOTICE OF FILING

Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on September 15, 2010 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on September 15, 2010 in this proceeding;
- A written list of the exhibits introduced at the evidentiary hearing conducted on September 15, 2010 in this proceeding;
- A written log listing, *inter alia*, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on September 15, 2010.

A copy of this Notice, the certification of the digital video record, exhibit list, and hearing log have been served by first class mail upon all persons listed at the end of this Notice. Parties desiring an electronic copy of the digital video recording of the hearing

may download a copy at http://psc.ky.gov/av_broadcast/2010-00043/2010-00043_15Sep10_Inter.asx. The exhibits introduced at the evidentiary hearing may be downloaded at <http://psc.ky.gov/pscscf/2010%20cases/2010-00043/>.

Done at Frankfort, Kentucky, this 29th day of September 2010.



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Director, Filings Division
Public Service Commission of Kentucky

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INDEPENDENT TRANSMISSION SYSTEM)
OPERATOR, INC.)
)

CERTIFICATE

I, Kathy Gillum, hereby certify that:

1. The attached DVD contains a digital recording of the hearing conducted in the above-styled proceeding on September 15, 2010;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the hearing;
4. The "Exhibit List" attached to this Certificate correctly lists all exhibits introduced at the hearing of September 15, 2010;
5. All exhibits introduced at the hearing of September 15, 2010 are attached to this Certificate and are the original documents presented at the hearing; and,
6. The "Hearing Log" attached to this Certificate accurately and correctly states the events that occurred at the hearing of September 15, 2010 and the time at which each occurred.

Given this 28th day of September, 2010.



Kathy Gillum, Notary Public
State at Large

My commission expires: Sept 3, 2013



Exhibit List Report
Case Number: 2010-00043_15SEP10

Case Title: Big Rivers

Department:

Plaintiff:

Prosecution:

Defendant:

Defense:

Name

Description

Big Rivers Exhibit 1

Supplemental Testimony of C. William Blackburn dated 9-13-10

Big Rivers Exhibit 2

Timeline Table

Big Rivers Exhibit 3

Written Response of Ralph L. Luciani dated June 8, 2010

Case Number: 2010-00043_15SEP10

Title: Big Rivers Electric
Judges: Chairman David Armstrong, Vice Chairman Jim Gardner,
 Commissioner Charles Borders
Clerk: Kathy Gillum

Wednesday, September 15, 2010

Time	Event	Notes
08:49:02	Case Started	
08:49:05	Case Recessed	
10:05:03	Case Started	
10:05:15	Preliminary Remarks	
10:05:46	Introductions	Gillum, Kathy : James M. Miller, Joh R. Lilystrom, Douglas Beresford and Tyson Kamuf, counsel for Big Rivers; Mark David Goss, Keith L. Beall and Gregory A. Troxell counsel for MISO; Lawrence Cook for OAG; Michael L. Kurtz counsel for KIUC; David Brown, counsel for Alcan; Richard Raff, counsel for PSC
10:08:46	Housekeeping Issues Discussed	Gillum, Kathy : No outstanding Motions
10:09:58	Witness, Mark A. Bailey	Gillum, Kathy : Witness called to testify by Douglas Beresford, Attorney for Big Rivers. Witness adopts pre-filed testimony
10:11:34	Examination of witness by Richard Raff, PSC	Gillum, Kathy : Contingency reserves discussed.
10:17:53	Questions of witness by Chairman Armstrong	
10:19:25	Questions of witness by Commissioner Gardner	
10:28:24	Questions of witness by Commissioner Borders	Gillum, Kathy : Million dollar penalty discussed.
10:36:17	Re-Examination of witness by Richard Raff, PSC	Gillum, Kathy : Discussion of additional employees.

10:38:27	Witness excused	
10:38:40	Witness, Charles William Blackburn	Gillum, Kathy : Witness called to testify by Douglas Beresford, Attorney for Big Rivers. Witness adopts pre-filed testimony, labelled as Exh 3 and Exh 21 of its Application. Mr. Raff also requested that what counsel referred to as Exhibit 21, be put into the record as Hearing Exhibit 1
10:42:34	Statement by Michael Kurtz	Gillum, Kathy : Mr. Kurtz made a statement that he did not have questions for the witness at present, but may after Mr. Raff's examination of the witness.
10:42:51	Examination of the witness by Richard Raff, PSC	
10:45:51	Witness presented with document to examine	Gillum, Kathy : Document presented to witness was identified as KIUC Item 1-3, page 22. Witness was asked if he was present at the meeting when this document was presented. Withdrawal conditions discussed if Big Rivers withdrew from MISO.
10:59:19	Witness questioned about Stipulation Agreement by Richard Raff, PSC	Gillum, Kathy : Mr. Raff asked witness to refer to Stipulation Agreement. Terms discussed.
11:02:39	Data Request by Richard Raff, PSC	Gillum, Kathy : Mr. Raff asked the witness to file with the Commission, a copy of the FERC accounting rule referred to in the witness' testimony
11:22:22	Witness questioned regarding Paragraph 5 of Stipulation Agr. by Richard Raff, PSC	Gillum, Kathy : DSM programs also discussed.
11:32:51	Examination of witness by Michael Kurtz, KIUC	Gillum, Kathy : Cost of MISO discussed. Grandfathering of agreements discussed. Tier Adjustment discussed.
11:49:29	Questions of witness by Commissioner Gardner	Gillum, Kathy : Sale of excess power discussed. Page 5 of testimony discussed.
12:00:00	Data Request by Commissioner Gardner	Gillum, Kathy : Comm. Gardner requested that the Commission be provided with their budgeted cost for coordinating the unit
12:11:29	Questions of witness by Chairman Armstrong	Gillum, Kathy : Questions regarding time line
12:12:54	Questions of witness by Commissioner	Gillum, Kathy : Questions regarding expansion and

	Borders	exiting costs
12:14:29	Re-Examination of witness by Richard Raff	Gillum, Kathy : Questions regarding exiting costs if Smelters not involved
12:26:55	Questions of witness by Commissioner Gardner	Gillum, Kathy : Market participants (3 types) discussed.
12:29:23	Lunch Break	
12:29:34	Case Recessed	
13:34:56	Case Started	
13:35:29	Witness, Dr. Matthew J. Morey	Gillum, Kathy : Witness, Dr. Matthew J. Morey called to testify by Michael Kurtz, KIUC
13:36:52	Examination of witness by Richard Raff, PSC	
13:38:57	Documents presented to witness to review for testimony	Gillum, Kathy : Documents consisted of Power Point Presentation and the updated KIUC Response, lines 2 and 3 of page 22-23
13:41:54	Questions of the witness by Chairman Armstrong	
13:45:08	Questions of witness by Commissioner Gardner	Gillum, Kathy : Uplift costs discussed. MISO being least cost option was discussed. Exit fees discussed.
14:07:50	Questions of witness by Commissioner Borders	
14:11:44	Re-Examination of the witness by Richard Raff, PSC	
14:12:18	Witness excused	
14:12:36	Witness, David G. Crockett	Gillum, Kathy : Witness, David G. Crockett called to testify by Douglas Beresford. Witness states that he has an update to the timeline, showing the target date of 12-1 instead of Sept. 1
14:15:06	Exhibit 2 introduced	Gillum, Kathy : Douglas Beresford, counsel for Big Rivers, introduces corrected Timeline to replace the DGC-3 Exhibit 2 of Big Rivers Application, and to be marked as Exhibit 2 for the Hearing Transcript.. Mr. Beresford also corrected the labelling request for an earlier Exhibit (Supplement to Pre-Filed Testimony) from Exhibit 21 to Exhibit 1 for the Hearing Transcript.
	Examination of	

14:15:14	witness by Richard Raff, PSC	Gillum, Kathy : Mr. Raff asks witness about the changes in the timeline exhibit.
14:23:10	Documents presented to witness for testimony	Gillum, Kathy : Documents consists of a Response containing Chart showing the starter projects. Item No. 15 discussed. Discussion of whether any of projects would benefit Big Rivers.
14:31:28	Questions of the witness by Commissioner Gardner	Gillum, Kathy : Discussion of July unwind. Discussion on the formation of MISO. Market participant status vs. ancillary markets discussed. Exit fees discussed.
14:50:26	Comment by Commissioner Borders	
14:50:47	Questions by Chairman Armstrong	Gillum, Kathy : Chairman asked if 2015 was enough time.
14:51:42	Re-Direct Examination by Douglas Beresford	Gillum, Kathy : Questions by counsel to clarify witness' testimony
14:53:19	Witness Excused	
14:53:38	Witness, Ralph Luciani	Gillum, Kathy : Witness, Ralph Luciani called to testify by Douglas Beresford, counsel for Big Rivers.
14:55:32	Exhibit 3 introduced	Gillum, Kathy : Response of Ralph Luciani dated June, 2010.
14:55:41	Examination of witness by Richard Raff, PSC	Gillum, Kathy : Witness is asked to read Original testimony page 9.
15:12:34	Questions of witness by Commissioner Gardner	
15:21:29	Questions of witness by Commissioner Borders	
15:23:12	Re-examination of witness by Richard Raff, PSC	
15:27:48	Re-Direct Examination of witness by Douglas Beresford	
15:28:18	Questions by Commissioner Gardner	
15:30:48	Questions of witness by Chairman	

	Armstrong	
15:32:49	Witness Excused	
15:33:48	Case Recessed	
15:50:02	Case Started	
15:50:13	Witness, Clair Moeller	Gillum, Kathy : Witness called to testify by James Miller, counsel for Big Rivers. Correction to Exhibit 5, page 27 of 35, line 3, the number 2.73 should be 3.5 and the number 3.43 should be 4.4.
15:52:21	Addendum stated	
15:53:08	Examination of witness by Richard Raff, PSC	Gillum, Kathy : Mr. Raff refers witness to a document dated Sept 3rd Item 4, MISO Power Point Presentation. Chart Comparison, Update KIUC page 22-23. Witness provides explanation of Starter Projects.
16:29:46	Witness questioned about exiting from MISO, by Richard Raff, PSC	Gillum, Kathy : Witness is asked what the conditions are that have to be abided by for exiting MISO.
16:46:55	Questions of the witness by Commissioner Gardner	Gillum, Kathy : Commissioner Gardner asks the witness to explain the difference between Transmission Owners and MISO
17:00:21	Data Request by Commissioner Gardner	Gillum, Kathy : Commissioner Gardner requests a copy of what the witness referred to as the Transmission Owner's Agreement
17:10:51	Questions of witness by Commissioner Borders	
17:12:58	Question of witness by Richard Raff	
17:15:02	Witness Excused	
17:15:46	Witness, David Zwergel	Gillum, Kathy : Witness called to testify by James Miller, counsel for Big Rivers. No changes to pre-filed testimony
17:17:00	Witness Excused	
17:17:11	Witness, Richard Doying	Gillum, Kathy : Witness called to testify by James Miller, counsel for Big Rivers . No changes to pre-filed testimony
17:18:23	Examination of witness by Richard Raff, PSC	Gillum, Kathy : Witness was asked to explain Midwest Demand Response Programs
17:27:39	Questions of witness by Commissioner Gardner	Gillum, Kathy : Commissioner Gardner refers witness to page 25 of his pre-filed testimony

17:31:25	Witness Excused	
17:31:49	Housekeeping Issues Discussed	Gillum, Kathy : Brief by Sept 28
17:32:55	KIUC will not be filing brief	
17:33:13	Question by Richard Raff	Gillum, Kathy : Mr. Raff asks if Big Rivers would be able to extend agreement in the event that the Commission could not get the Order out by the 1st week of November. Discussion follows Mr. Raff's question.
17:34:41	Data Responses by Sept 28	Gillum, Kathy : Parties agree to provide Data Responses by Sept. 28 for all data requested during hearing
17:36:04	DataRequest	Gillum, Kathy : Mr. Raff asked for documentation on how generation and load of Henderson Municipal will be treated. Parties to provide by Sept. 28th
17:36:20	Statement by Chairman Armstrong	Gillum, Kathy : Chairman administers oath to parties to the settlement
17:38:11	Case Recessed	
17:38:27	Case Stopped	

Ronald M. Sullivan

Jesse T. Mountjoy

Frank Stainback

James M. Miller

Michael A. Fiorella

Allen W. Holbrook

R. Michael Sullivan

Bryan R. Reynolds

Tyson A. Kamuf

Mark W. Starnes

C. Ellsworth Mountjoy

Susan Montalvo-Gesser

September 14, 2010

Via Federal Express

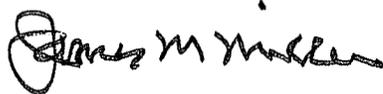
Jeff DeRouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: In the Matter of: Application of Big Rivers Electric Corporation
for Approval to Transfer Functional Control of Its Transmission
System to Midwest Independent Transmission System
Operator, Inc., PSC Case No. 2010-00043

Dear Mr. DeRouen:

Enclosed for filing in this case on behalf of Big Rivers Electric Corporation ("Big Rivers") is the supplemental testimony of C. William Blackburn. Mr. Blackburn's supplemental testimony presents and explains the "Stipulation and Agreement" signed by the parties, which is attached as an Exhibit CWB Supplemental-1 to his supplemental testimony. The Stipulation and Agreement settles the issues between and among the parties in this matter, and is presented for approval by the Public Service Commission. The original signature pages of counsel for the Attorney General, Kentucky Industrial Utility Customers Inc. and Midwest Independent Transmission System Operators, Inc., will be filed Wednesday, September 15, 2010. I certify that a copy of this letter and enclosures has been served on each party on the attached service list.

Sincerely yours,



James M. Miller

JMM/ej
Enclosures

cc: David Crockett
Albert Yockey
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John Lilyestrom

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BIG RIVERS EXHIBIT /

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1 COMMONWEALTH OF KENTUCKY

2
3 BEFORE THE PUBLIC SERVICE COMMISSION

4
5 In the Matter of:

6
7 Application of Big Rivers Electric)
8 Corporation for Approval to Transfer)
9 Functional Control of Its Transmission) CASE NO. 2010-00043
10 System to Midwest Independent)
11 Transmission System Operator, Inc.)

12
13 SUPPLEMENTAL TESTIMONY OF C. WILLIAM BLACKBURN
14 IN SUPPORT OF STIPULATION AND AGREEMENT
15 September 13, 2010
16

17 **Q. Please state your name and position.**

18
19 A. My name is C. William Blackburn. I am the Big Rivers Electric Corporation
20 (“Big Rivers”) Senior Vice President Financial and Energy Services and Chief Financial Officer.
21 I am the same C. William Blackburn who filed testimony attached as Exhibit 3 to the
22 Application in this matter.
23

24 **Q. What is the purpose of your testimony?**

25
26 A. The purpose of my testimony is to introduce a document titled “Stipulation and
27 Agreement,” by which the parties in this case have reached agreement on the fundamental issue
28 presented by Big Rivers’ Application, and have made certain mutual agreements on other
29 matters. I will also describe briefly the process by which the Stipulation and Agreement was
30 negotiated. The purposes of the Stipulation and Agreement are to demonstrate to the Public

1 Service Commission (“Commission”) that the parties do not oppose Big Rivers’ membership in
2 the Midwest ISO, and to avoid a protracted hearing in this case.

3

4 **Q What was your role in the negotiation of the Stipulation and Settlement?**

5

6 A. I have been involved on behalf of Big Rivers in all of the business negotiations
7 regarding the Stipulation and Agreement.

8

9 **Q. Please describe how the Stipulation and Agreement came to be.**

10

11 A. Big Rivers has been unequivocal in its dealings with the Midwest ISO, and in
12 numerous statements made in the Application, pleadings and responses to information requests
13 in this proceeding, that Big Rivers proposes to transfer functional control of its transmission
14 system to the Midwest ISO, and to become a member of the Midwest ISO, principally to resolve
15 its regulatory and operational needs to have Contingency Reserve Service to operate its system in
16 accordance with NERC’s Contingency Reserve rules. Joining the Midwest ISO has the potential
17 to be quite expensive, although, as the testimony shows, there could also be considerable
18 offsetting benefits to Midwest ISO membership. So Big Rivers, its members and the energy-
19 intense aluminum companies (“Smelters”) who are affected by Big Rivers’ costs have conducted
20 an exhaustive search for a way to satisfy Big Rivers’ Contingency Reserve requirement by an
21 alternate means.

22 Prior to the filing of the Application, and over the course of this proceeding, Big Rivers
23 and the Smelters met on several occasions to discuss options to address the Contingency Reserve

1 issue. The most recent meeting occurred on August 19, 2010, with representatives of KIUC,
2 including the Smelters. At that meeting all parties agreed that there is no reasonable alternative
3 to Midwest ISO membership to solve Big Rivers' Contingency Reserve requirement on a timely
4 basis. During that meeting and subsequently, Big Rivers and KIUC have discussed issues that
5 Big Rivers' Midwest ISO membership raises for the KIUC, potential opportunities created by
6 that membership and how Big Rivers might give some comfort regarding issues that concern
7 KIUC, including the Smelters. The results of those discussions, which concluded on September
8 10, 2010, are memorialized in the terms of the Stipulation and Agreement attached to this
9 supplemental testimony as Exhibit CWB Supplemental 1. Subsequent to Big Rivers and KIUC
10 reaching agreement, the draft Stipulation and Agreement was submitted to the Attorney General
11 and the Midwest ISO, the other parties in this proceeding, who have now signed the Stipulation
12 and Agreement.

13

14 **Q. Have the parties to the Stipulation and Agreement recommended that the**
15 **Commission authorize Big Rivers to transfer functional control of its transmission system**
16 **to the Midwest ISO, as Big Rivers requested in the Application?**

17

18 A. Yes. In paragraph number 1 of the Stipulation and Agreement, the parties agree
19 that the Commission should approve Big Rivers transferring functional control of its
20 transmission system to the Midwest ISO in accordance with the statutory requirements under
21 which the Application was filed by Big Rivers.

22

1 **Q. Which paragraphs of the Stipulation and Agreement contain the substantive**
2 **agreements between Big Rivers and KIUC?**

3
4 A. Paragraphs 2, 3, 4 and 5 of the Stipulation and Agreement contain what could be
5 considered the substantive agreements reached between Big Rivers and KIUC.

6
7 **Q. Please explain the nature of the agreements found in paragraph numbers 2**
8 **and 3 of the Stipulation and Agreement.**

9
10 A. In response to Commission Staff Information Request 1-17, and KIUC Data
11 Request 2-13, Big Rivers expressed the view that it could flow certain Midwest ISO costs
12 through the Purchase Power Adjustment mechanisms in the wholesale power supply contracts
13 related to smelter retail service, known as the Non-FAC PPA, and the Purchase Power regulatory
14 asset authorized by the Commission in its March 6, 2009 Order in Case No. 2007-00455, also
15 known as the Big Rivers “unwind transaction” case. Big Rivers’ subsequent research disclosed
16 that FERC accounting requires that those costs be accounted for in accounts that are different
17 from the accounts incorporated in those Purchase Power Adjustment mechanisms. To allay
18 KIUC’s concerns that Big Rivers was still considering using the Non-FAC PPA to recover
19 Midwest ISO administrative costs or FERC fees, and to clarify the record in this case as to Big
20 Rivers’ intentions, Big Rivers agreed to paragraph numbers 2 and 3 of the Stipulation and
21 Agreement.

1 **Q. Are there other agreements in the Stipulation and Agreement related to how**
2 **Big Rivers will seek to recover the costs incurred by it as a member of the Midwest ISO?**

3
4 A. Yes. In paragraph number 4 of the Stipulation and Agreement, Big Rivers agrees
5 to seek amendment of the wholesale power supply contracts related to smelter service to exclude
6 from the contractual Tier Adjustment Charge contained in Section 4.7 of those wholesale power
7 agreements all costs allocated to Big Rivers under the Midwest ISO Transmission Expansion
8 Plan, which is usually referred to as “MTEP.” Big Rivers views these costs as system costs
9 which should, in the future, be allocated among all classes of Big Rivers’ ratepayers. Without
10 the contract amendments, the Smelters could be required to pay 100% of those costs under the
11 Tier Adjustment Charge, to the extent that the Tier Adjustment Charge is below the ceiling
12 imposed in the contracts.

13
14 **Q. What agreements are contained in the Stipulation and Agreement relating to**
15 **opportunities created by Midwest ISO membership?**

16
17 A. As the Commission knows, one of the alternatives considered by Big Rivers as a
18 potential element of a plan to satisfy its NERC Contingency Reserve requirement is to
19 incorporate up to 320 megawatts of power committed to the Smelters under the Smelter-related
20 wholesale power contracts that the Smelters thought they could make available on an
21 interruptible basis. While no viable, comprehensive plan incorporating smelter interruptible
22 power could be achieved, Midwest ISO membership may present an opportunity to take
23 advantage of the Smelters’ ability and willingness to interrupt a portion of their smelting process

1 and thereby curtail their respective loads for a brief period. Big Rivers has agreed, as provided
2 in paragraph number 5, to work with the Smelters to explore and implement plans for the
3 Smelters to sell demand response service, and perhaps provide back-up service that would allow
4 Big Rivers to sell its spinning reserves. At this point we have done little more than identify these
5 subjects for investigation, and do not know what physical, contractual, legal or regulatory issues
6 might need to be solved to make either of these concepts a reality. Big Rivers' commitment is to
7 work with the Smelters to see if either of these ideas is viable, and can be accomplished without
8 detriment to Big Rivers or its members. Big Rivers has also agreed to investigate whether the
9 demand response arrangements can be feasibly extended to the *Large Industrial customers* on its
10 member's systems.

11

12 **Q. Are there any other substantive agreements in the Stipulation and**
13 **Agreement?**

14

15 A. No. Paragraph No. 6 was added to clarify that nothing in the Stipulation and
16 Agreement is intended to constitute a waiver by Big Rivers of its rate options for recovery of
17 Midwest ISO costs, except as expressly provided in the Stipulation and Agreement, and that the
18 other parties to the Stipulation and Agreement are not waiving their rights to object to the
19 lawfulness or reasonableness of any rate methodology Big Rivers may propose to collect those
20 costs. But that paragraph just states what the parties believe is the case in any event.

21

22 **Q. Please explain the purpose of paragraph number 7 of the Stipulation and**
23 **Agreement.**

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A. This paragraph explains that the agreement of the parties to this Stipulation and Agreement is conditioned upon the Stipulation and Agreement being approved by the Commission without material change or condition unacceptable to any affected party. The paragraph then sets forth a resolution mechanism for dealing with any material change or condition imposed by the Commission that is unacceptable to an affected party. The purpose of this paragraph is to make sure each party gets the benefit of its bargain, and to give the parties a procedure by which they can attempt to restructure their agreement if the Commission does not accept the Stipulation and Agreement as proposed.

Q. Please explain the purpose of paragraph number 8 of the Stipulation and Agreement.

A. Our understanding is that the Commission requires that all agreements of a party in connection with the settlement be included in the settlement agreement. The settlement of the issues presented to the Commission for decision in this case is contained in Paragraphs 1 and 2 of the Stipulation and Agreement. Paragraphs 3 through 5 of the Stipulation and Agreement contain other substantive agreements between or among two or more of the parties that are collateral to the issues presented to the Commission by Big Rivers in its Application, but are included for purposes of full disclosure. By “collateral,” I mean that the issues on which the parties reached agreement in Paragraphs 3 through 5 of the Stipulation and Agreement are not presented to the Commission for decision in this case, and do not have to be resolved by the Commission to decide the issue of whether Big Rivers should be permitted to transfer functional

1 control of its transmission system to the Midwest ISO. Even if the Commission does not
2 approve the Stipulation and Agreement as a part of this case, so long as Big Rivers transfers
3 functional control of its transmission system to the Midwest ISO under authority granted by the
4 Commission in this case, all the agreements in this Stipulation and Agreement will still be
5 enforceable contractual obligations of the Parties.

6

7 **Q. Should the Stipulation and Agreement be accepted and approved by the**
8 **Public Service Commission?**

9

10 A. Yes. Paragraphs 1 and 2 of the Stipulation and Agreement contain the well-
11 informed conclusions of the parties that the relief requested by Big Rivers in the Application
12 should be granted. The contractual agreements between and among the parties in Paragraphs 3
13 through 5 incorporate concepts the parties have discussed relating to how they will deal with
14 collateral issues raised by Big Rivers' anticipated membership in the Midwest ISO. Big Rivers
15 believes that its obligations in those agreements are reasonable. It was under no compulsion to
16 make any of those agreements. Big Rivers urges the Commission to accept the Stipulation and
17 Agreement, and make the Stipulation and Agreement a part of its order in this matter.

18

19 **Q. Does this conclude your supplemental testimony?**

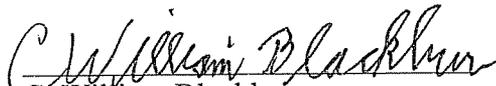
20

21 A. Yes.

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VERIFICATION

I verify, state, and affirm that I prepared or supervised the preparation of my Supplemental Testimony filed with this verification, and that this Supplemental Testimony is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.


C. William Blackburn

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by C. William Blackburn on this the 13th day of September, 2010.



Notary Public, Ky. State at Large
My Commission Expires 03-03-2014

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Application of Big Rivers Electric)
Corporation for Approval to Transfer)
Functional Control of Its Transmission) Case No. 2010-00043
System to Midwest Independent)
Transmission System Operator, Inc.)

STIPULATION AND AGREEMENT

Applicant, Big Rivers Electric Corporation ("Big Rivers"), and intervenors Midwest Independent Transmission System Operator, Inc. ("Midwest ISO"), Kentucky Industrial Utility Customers, Inc. ("KIUC") and the Attorney General of the Commonwealth of Kentucky ("Attorney General"), Big Rivers, Midwest ISO, KIUC and the Attorney General being all the parties to this proceeding (each, a "Party," and collectively, the "Parties"), stipulate and agree as follows pursuant to 807 K.A.R. 5:001, Section 4(6):

1. The proposal of Big Rivers to transfer functional control of its transmission system to Midwest ISO is for a proper purpose and consistent with the public interest under KRS 278.218(2), and should be approved by the Public Service Commission ("Commission").
2. Big Rivers' application in this proceeding does not seek authorization from the Commission to recover any Midwest ISO administrative costs or Federal Energy Regulatory Commission

("FERC") fees, for which it becomes obligated (currently charged under Schedules 10, 16 and 17 to the Midwest ISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Midwest ISO Tariff")), through the Non-FAC Purchased Power Adjustment mechanisms in its wholesale power supply contracts.

3. Big Rivers will not attempt to recover any Midwest ISO administrative costs or FERC fees, for which it becomes obligated (currently charged under Schedules 10, 16 and 17 to the Midwest ISO Tariff), through the Non-FAC Purchased Power Adjustment mechanisms in its wholesale power supply contracts.

4. Big Rivers and KIUC, on behalf of Alcan Primary Products Corporation ("Alcan") and Century Aluminum of Kentucky General Partnership ("Century," and Alcan and Century collectively, the "Smelters"), agree that Big Rivers agrees to amend the July 16, 2009 Smelter-related wholesale power agreements with Kenergy Corp. to exclude from the contractual Tier Adjustment Charge contained in Section 4.7 of those wholesale power agreements all costs allocated to Big Rivers under the Midwest ISO Transmission Expansion Plan ("MTEP")(currently charged under Midwest ISO Schedule 26), and agrees to seek approval of such amendments. Such amendments shall become effective with the effective date of the order of the Commission in the next general base rate case filed by Big Rivers. In

that rate case or in any other proceeding, Big Rivers will propose to allocate MTEP costs as a system cost among all classes of Big Rivers' ratepayers: Rural, Large Industrial and Smelter.

5. Big Rivers agrees with KIUC that Big Rivers will work with Century and Alcan to explore and implement plans for the Smelters to sell demand response service (including regulation service) to Midwest ISO, and for Big Rivers to sell its spinning reserves into the Midwest ISO ancillary services market with the Smelters providing back-up through curtailment of their respective loads, provided that (i) Big Rivers is not required to assist with or agree to any such arrangements that may adversely affect Big Rivers' or its members' operations, finances or existing contractual relationships, and (ii) any such arrangements must receive all necessary regulatory, creditor and other approvals. Subject to those approvals, such arrangements may be directly with Midwest ISO or with Big Rivers acting as agent. Big Rivers shall be given a reasonable opportunity to participate in any discussions between the Smelters and Midwest ISO regarding such arrangements. Big Rivers agrees with KIUC that Big Rivers will work with its members' Large Industrial Customers to explore and implement plans for similar demand response arrangements, provided that (i) Big Rivers is not required to assist with or agree to any such arrangements that may adversely affect Big Rivers' or its members'

operations, finances or existing contractual relationships, and (ii) any such arrangements must receive all necessary regulatory, creditor and other approvals.

6. This Stipulation and Agreement shall not be construed to limit the rate methodology by which Big Rivers may seek to recover Midwest ISO administrative costs, FERC fees, MTEP costs or any other costs related to its Midwest ISO membership, or the schedule by which Big Rivers may seek to recover those costs except as expressly provided for in paragraphs 2, 3 and 4 of this Stipulation and Agreement; provided, however, that no other Party shall have waived its right to object to any such rate methodology as being unlawful or unreasonable. Moreover, the Attorney General strongly opposes any surcharge not expressly authorized by statute or case law, and nothing in this Stipulation and Agreement shall be interpreted as the Attorney General's acquiescence to any type of rate recovery not expressly authorized by statute or case law.

7. This Stipulation and Agreement is subject to the approval of the Commission without material change or condition unacceptable to any affected Party. In the event the Commission requires a material change to this Stipulation and Agreement or imposes material conditions in its order approving the Stipulation and Agreement, which change or condition is not acceptable to an affected Party, the Parties

agree to confer within five (5) business days of the date of the Commission order and attempt to negotiate in good faith an alteration acceptable to the Commission and to all Parties resolving the required change or condition. If the Parties cannot resolve the required change or condition in a manner acceptable to the Commission, then the affected Party may seek rehearing or appeal of the required condition or change.

8. This Stipulation and Agreement shall not be construed to divest the Commission of jurisdiction under KRS Chapter 278. The only acceptance, approval or authorization sought from the Commission by the Parties is with respect to paragraphs 1 and 2 of this Stipulation and Agreement. If Big Rivers transfers functional control of its transmission system to the Midwest ISO as a result of an order entered by the Commission in this proceeding, then even if this Stipulation and Agreement is not approved by the Commission, all agreements between or among the Parties contained herein shall constitute the enforceable contractual obligations of the Parties.

9. The Parties agree to act in good faith and to use their best efforts to recommend to the Commission that this Stipulation and Agreement be accepted and approved without conditions other than as contained in this Stipulation and Agreement. The Parties will not appeal or seek rehearing of findings by the Commission in an order in

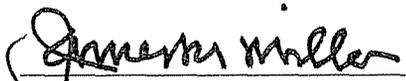
this proceeding that the proposal of Big Rivers to transfer functional control of its transmission system to Midwest ISO is for a proper purpose and consistent with the public interest, and is approved. Each signatory waives all cross-examination of the other Parties' witnesses, except the witness offered by Big Rivers to support the Stipulation and Agreement.

10. Each signatory to this Stipulation and Agreement has consulted with his or her respective client or clients regarding the terms of this Stipulation and Agreement, and has been duly authorized to sign this Stipulation and Agreement on behalf of that client or clients. KIUC represents that Alcan and Century have read and agreed to the terms and conditions of this Stipulation and Agreement.

11. This Stipulation and Agreement shall be filed with the Commission on or before the hearing in this matter scheduled to commence on September 15, 2010.

12. The agreements between or among the Parties in this Stipulation and Agreement represent all the agreements between or among the Parties on the subjects covered by this Stipulation and Agreement, and cannot be amended except in writing, signed by all the Parties.

STIPULATED AND AGREED, as of this ___ day of September, 2010:


Counsel for Big Rivers

Counsel for Midwest ISO

Counsel for KIUC

Counsel for the Attorney General

~~Counsel for Big Rivers~~

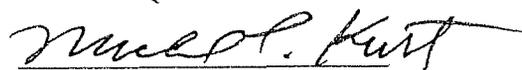
~~Counsel for Midwest ISO~~

Counsel for KIUC

Counsel for the Attorney General

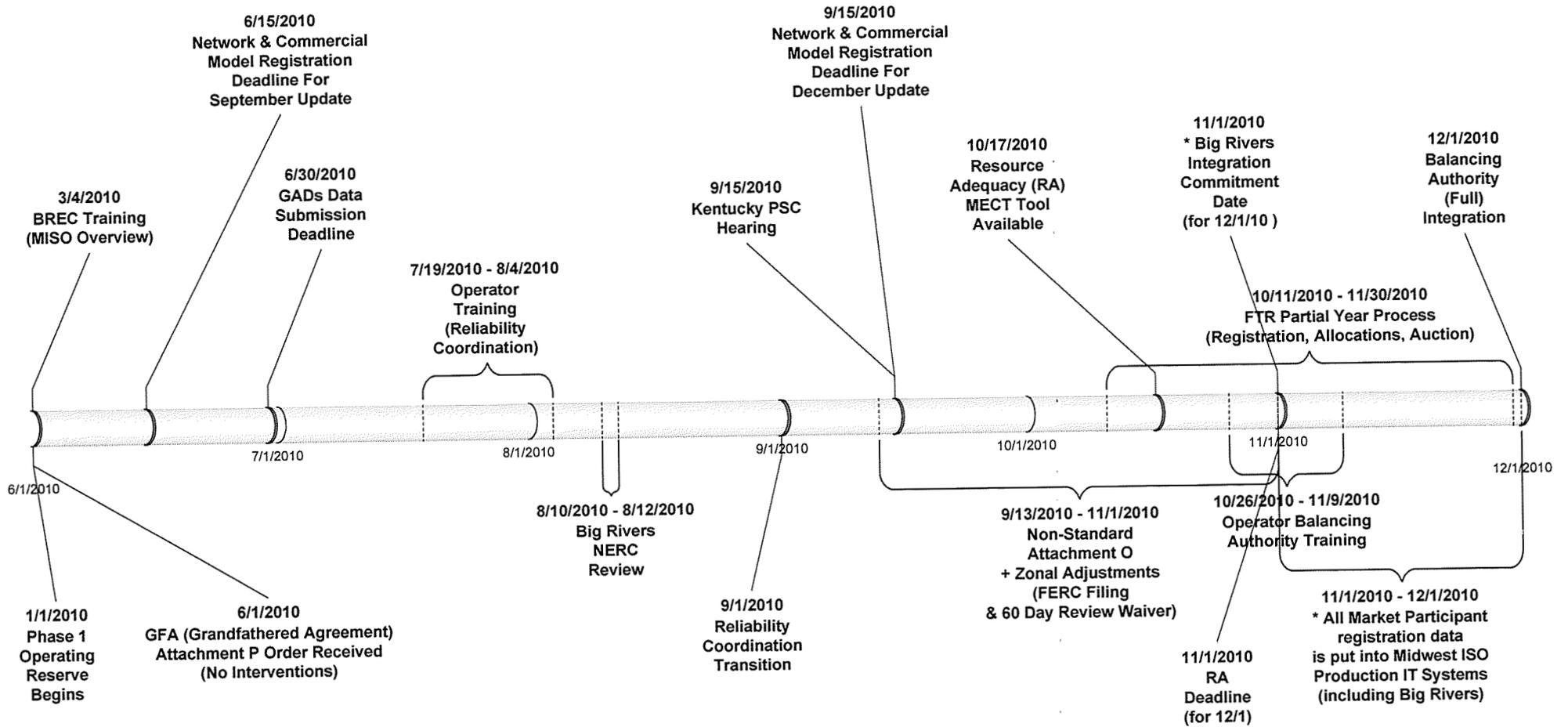
Counsel for Big Rivers

Counsel for Midwest ISO



Counsel for KIUC

Counsel for the Attorney General



Last Update
8/31/10

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

Case No. 2010-00043

**RESPONSE OF
RALPH L. LUCIANI**

**ON BEHALF OF
APPLICANTS**

JUNE 2010

RESPONSE OF RALPH L. LUCIANI

1 **Q. Please state your name, title and business address.**

2

3 A. My name is Ralph L. Luciani. I am a Vice President of Charles River Associates
4 (“CRA”). My business address is 1201 F St., NW, Washington, DC 20004.

5

6 **Q. Are you the same Ralph L. Luciani that filed Direct Testimony in this**
7 **proceeding?**

8

9 A. Yes.

10

11 **Q. What is the purpose of this response?**

12

13 A. Big Rivers Electric Corporation (“Big Rivers”) has asked me to provide
14 comments on the Direct Testimony of Dr. Mathew J. Morey filed in this
15 proceeding in May 2010.

16

17 **Q. In his Direct Testimony, Dr. Morey performs an analysis comparing the**
18 **economics of Big Rivers joining the Midwest ISO to the “status quo today”**
19 **(page 14). Does this analysis contribute in a positive way to the discussion**

1 **about the best way for Big Rivers to solve its Contingency Reserve**
2 **requirement?**

3
4 A. No. At best, Dr. Morey's analysis would quantify the potential change in costs to
5 Big Rivers of satisfying its Contingency Reserve requirement through Midwest
6 ISO membership rather than through the defunct Midwest Contingency Reserve
7 Sharing Group ("MCRSG"). That is a purely academic exercise, the results of
8 which are irrelevant to the question of whether Midwest ISO membership is the
9 best viable means of satisfying Big Rivers' Contingency Reserve requirement.

10
11 Big Rivers' witnesses explained in their testimony that they have been seeking a
12 less complex and less expensive option than Midwest ISO membership for
13 satisfying Big Rivers' Contingency Reserve requirement. But the fact remains
14 that in the near term, Big Rivers has no viable options for meeting its
15 Contingency Reserve requirements other than stand-alone self-supply or joining
16 the Midwest ISO. There are no other reserve sharing groups currently available to
17 Big Rivers. Yet, Dr. Morey performs an analysis over the 2011 to 2025 period
18 comparing the costs and benefits of Big Rivers joining the Midwest ISO to Big
19 Rivers' membership in the MCRSG. The MCRSG arrangement terminated
20 December 31, 2009. Thus, Dr. Morey is comparing the economics of Big Rivers
21 joining the Midwest ISO to an alternative that is not available to Big Rivers. As
22 such, Dr. Morey's analysis is not relevant to the decision facing Big Rivers and

1 does not inform the Commission in evaluating Big Rivers' request to join the
2 Midwest ISO.

3
4 **Q. Dr. Morey asserts that the timeframe of Big Rivers' economic analysis of**
5 **joining the Midwest ISO at five years is too short (page 6). Can you**
6 **comment?**

7
8 A. Yes. Dr. Morey asserts that Big Rivers could be a member of the Midwest ISO
9 for longer than five years and thus the five-year cost-benefit analysis presented by
10 Big Rivers is too short. However, this approach incorrectly assumes that Midwest
11 ISO membership is an inescapable, very long-term commitment. In fact, Big
12 Rivers would be allowed to withdraw from the Midwest ISO in 2015, the end of
13 the five year period analyzed by Big Rivers. After that point, Big Rivers could
14 withdraw at the end of any calendar year (on at least one year's notice). Big
15 Rivers would address each year the costs and benefits of continuing to remain in
16 the Midwest ISO, and if membership is found to be disadvantageous, could elect
17 the membership termination "exit ramp." Thus, the first five years are the key
18 years to analyze for purposes of evaluating a decision by Big Rivers to join the
19 Midwest ISO. As Mr. Crockett notes, the Big Rivers exit fee in 2015 is estimated
20 to be \$3.3 million, excluding any Big Rivers allocation of Midwest ISO
21 transmission costs approved from 2011 to 2014. In contrast, the net benefit to Big
22 Rivers of joining the Midwest ISO in comparison to the Stand-alone option (as
23 described in my Direct Testimony) over the 2011 to 2015 five-year period is

1 \$132.8 million. While Midwest ISO transmission costs approved through 2014
2 are an additional cost factor that would be faced by Big Rivers if it were to
3 withdraw from the Midwest ISO, it must be compared to this \$130 million
4 advantage, net of the exit fee, of the Midwest ISO alternative at the end of five
5 years.

6
7 **Q. Dr. Morey asserts that in evaluating the Midwest ISO alternative, Big Rivers**
8 **should include an estimate of the Midwest ISO MTEP costs it would incur**
9 **(pages 4-6). Can you comment?**

10
11 A. Yes. In his testimony, Dr. Morey states that Midwest ISO Transmission
12 Expansion Plan (“MTEP”) costs are “the costs of the high voltage transmission
13 investment in MISO that are deemed to have region-wide benefits” (page 4,
14 emphasis added). Dr. Morey further notes that “the MTEP planning process
15 anticipates \$22 billion in investment in an extra high voltage transmission overlay
16 designed to transport vast amounts of wind generation from the upper Midwest”
17 and that “if BREC joins MISO, then it will be responsible for its share of these
18 transmission projects, if they are built.” (page 5, emphasis added). With this
19 explanation, Dr. Morey then argues that an estimate of the MTEP costs that would
20 be allocated to Big Rivers should be applied to the cost of the Midwest ISO
21 alternative.

22

1 In doing so, Dr. Morey ignores two fundamental issues that he himself raises.

2 The first is that these future Midwest ISO transmission expansion costs are
3 uncertain (i.e., “if they are built”). The second is that the transmission lines will
4 only be built if they provide “region-wide benefits” by transporting “vast amounts
5 of wind power”. The transmission lines will only provide regional benefits if
6 they support the transmittal of large amounts of cost-effective wind power to the
7 Midwest ISO region, i.e., the benefits of wind power must exceed the capital costs
8 of the wind power and the new transmission needed to transport it. In turn, for
9 wind power to economically support the billions of dollars of capital investment
10 required would depend in large part on the development and implementation of
11 national carbon regulations and renewable energy standards, the prospects for
12 which are currently uncertain.

13
14 In an economic analysis, it is inappropriate to consider costs without considering
15 offsetting benefits. If the Midwest ISO transmission lines are constructed, the
16 decision will be based on an analysis that the lines provide the Midwest ISO
17 regional benefits that exceed costs. As I noted in my Direct Testimony, if there
18 are such regional benefits, as a member of the Midwest ISO, Big Rivers would
19 benefit under an integrated market from increased wind power access if the lines
20 are constructed. Of course, Big Rivers also will be able to evaluate these MTEP
21 costs on an on-going basis in deciding whether it would be appropriate to
22 withdraw from membership. Finally, along with the uncertainty of the amount of
23 transmission that will be built under uncertain carbon regulations, the MTEP cost

1 allocation itself is uncertain. As an example, Dr. Morey uses the proposed
2 injection-withdrawal MTEP cost allocation approach in his testimony, but it is my
3 understanding that this method is no longer being considered by the Midwest ISO.
4

5 In sum, as I noted in my Direct Testimony, given uncertainties in how much
6 transmission will be built, how much it will cost, how the costs will be allocated
7 and the resulting offsetting benefits from increased access to wind power, I have
8 not quantified the net impact of these potential MTEP costs and benefits.

9 However, ultimately, transmission costs are likely to be spread region-wide only
10 with a showing that there are region-wide benefits.
11

12 **Q. Dr. Morey expresses concern that GFA status for Big Rivers' Member**
13 **contracts may not take place (page 3). Is his concern justified?**

14
15 A. No. On May 26, 2010, the Federal Energy Regulatory Commission ("FERC")
16 accepted the inclusion of Big Rivers' Member contracts as Grandfathered
17 Agreements ("GFA") in connection with the integration of Big Rivers in the
18 Midwest ISO as a transmission-owning member. A copy of that order is attached
19 to my comments as Exhibit RLL-4. GFAs are not allocated Midwest ISO MTEP
20 costs, and this FERC decision will decrease the MTEP costs that Big Rivers
21 would have to pay as a member of the Midwest ISO.
22

1 Q. Dr. Morey seeks to include certain “minor” uplift costs in the analysis of
2 Midwest ISO costs to Big Rivers (page 8). Can you comment?

3
4 A. Yes. Dr. Morey seeks to include the costs of two specific uplift payments,
5 revenue neutrality uplift and infeasible long-term transmission rights uplift costs.
6 As I noted in my Direct Testimony, there are a number of uplift payments and
7 charges assessed by the Midwest ISO to market participants that take place as part
8 of the Midwest ISO market process, including revenue sufficiency guarantee
9 payments, revenue neutrality uplift amounts, and excess congestion
10 disbursements. These uplifts are designed to leave the Midwest ISO in a revenue-
11 neutral position. From Big Rivers’ perspective, these uplifts may largely offset
12 one another, but ultimately could impact Big Rivers in a positive or negative
13 direction. Dr. Morey has highlighted two of the uplift charges, but not quantified
14 any uplift payments. Dr. Morey also ignores that transmission revenues for
15 wheeling “through or out” of the Midwest ISO are shared among Midwest ISO
16 entities according to formulations in the Midwest ISO tariff. Given that the Big
17 Rivers transmission system is surrounded by the TVA, E.ON and Midwest ISO
18 transmission systems, it currently can often be “bypassed” by entities seeking to
19 transport power to/from TVA, SPP and the Midwest ISO. Thus, inclusion in the
20 Midwest ISO may permit Big Rivers to collect additional transmission revenues
21 under the Midwest ISO OATT than it would otherwise as a non-Midwest ISO
22 member.

23

1 Q. Dr. Morey recommends that the Commission in this proceeding “require and
2 assist in the search for a lower-cost option” to joining the Midwest ISO (page
3 4). Can you comment?
4

5 A. Yes. Dr. Morey is suggesting a delay to further evaluate Big Rivers’ Contingency
6 Reserve alternatives, but delay is not an option as Big Rivers faces significant
7 risks that are beyond its control, and potentially substantial penalties if it is unable
8 to meet its Contingency Reserve requirements. The current Midwest ISO
9 Attachment RR reserves service is available for only nine months (until
10 September 2010), leaving no time for delay. Moreover, Dr. Morey has not
11 presented a specific feasible alternative for Big Rivers to consider other than
12 noting that the smelters “may” be able to provide up to 320 MW of interruptible
13 power (page 17). It is unclear if this is meant to be a genuine offer to provide
14 interruptible power capable of meeting Big Rivers’ Contingency Reserve
15 requirement, if the terms on which the smelters might provide interruptible power
16 would make that option workable, if the other necessary elements of an
17 alternative that includes smelter interruptible power are available, and if an option
18 incorporating smelter interruptible power is achievable in a reasonable time
19 frame. It is also unclear if the smelter load can be interrupted for longer than 90
20 minutes, as Big Rivers must restore Contingency Reserve within 90 minutes after
21 the initial 15-minute disturbance period. If not, Big Rivers would be required to
22 contract, if available, for other sources of replacement power at additional cost.
23

1 **Q. Based on Dr. Morey's testimony, do you have any changes to the conclusions**
2 **provided in your Direct Testimony?**

3
4 A. No, my conclusions are unchanged. In the near term, Big Rivers has no viable
5 options for meeting its Contingency Reserve requirements other than stand-alone
6 self-supply or joining the Midwest ISO. There are no other reserve sharing
7 groups currently available to Big Rivers. A stand-alone self-supply alternative is
8 feasible if the smelters on the Big Rivers system are able to provide a significant
9 amount (e.g., 200 MW) of interruptible load to Big Rivers that meets NERC
10 standards. An analysis of the Midwest ISO alternative indicates that it would
11 provide \$32 million in net benefits to Big Rivers over the five-year period from
12 2011 to 2015 in comparison to a Stand-alone Case, excluding any cost for the 200
13 MW of qualifying Contingency Reserve supplied by the smelters in the Stand-
14 alone Case. If the cost of the 200 MW of additional reserves in the Stand-alone
15 Case is based on the cost of new peaking capacity, the net benefit of the Midwest
16 ISO alternative is \$133 million. While other qualitative-type considerations
17 regarding joining the Midwest ISO may result in additional impacts to Big Rivers,
18 these issues have been addressed for many years by a number of existing Midwest
19 ISO G&T cooperatives and there are risks associated with a reserve self-supply
20 option as well. In sum, joining the Midwest ISO is the best available option for
21 Big Rivers to meet its Contingency Reserve requirements at this time.

22
23 **Q. Does this conclude your comments?**

1

2 A. Yes.

VERIFICATION

I verify, state, and affirm that the comments filed with this verification are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

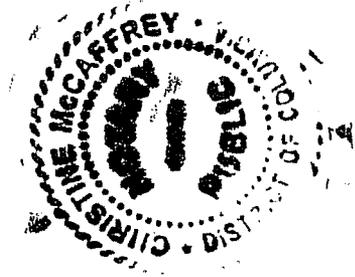
Ralph L. Luciani
Ralph L. Luciani

DISTRICT OF COLUMBIA)

SUBSCRIBED AND SWORN TO before me by Ralph L. Luciani on this the 7th day of June, 2010.

Christine McCaffrey
Notary Public, District of Columbia
My Commission Expires October 14, 2012

**CHRISTINE McCAFFREY
NOTARY PUBLIC
DISTRICT OF COLUMBIA
My Commission Expires
October 14, 2012**



FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Midwest Independent Transmission
System Operator, Inc.

Docket No. ER10-1024-000

May 26, 2010

Duane Morris, LLP
Attention: Daniel M. Malabonga
Counsel
505 Ninth Street, NW
Suite 1000
Washington, DC 20004

Reference: Revised Attachment P (List of Grandfathered Agreements)

Dear Mr. Malabonga:

On April 6, 2010, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed revised tariff sheets proposing to classify certain Grandfathered Agreements of Big Rivers Electric Corporation's (Big Rivers) in connection with the integration of Big Rivers into Midwest ISO as a transmission-owning member. Pursuant to authority delegated to the Director, Division of Electric Power Regulation- Central, under 18 C.F.R. 375.307, your submittal in the above referenced docket is accepted for filing, effective September 1, 2010, as requested.

Notice of the filing was published in the *Federal Register* with comments, protests, or interventions due April 27, 2010. Under 18 C.F.R. 385.210, interventions are timely if made within the time prescribed by the Secretary. Under 18 C.F.R. 385.214, the filing of a timely motion to intervene makes the movant a party to the proceeding, if no answer in opposition is filed within fifteen days. No adverse comments or protests were filed. The filing of a timely notice of intervention makes a State Commission a party to the proceeding.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in

the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. 385.713.

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central