

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

Via Overnight Mail

March 9, 2012

RECEIVED

MAR 12 2012

PUBLIC SERVICE
COMMISSION

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

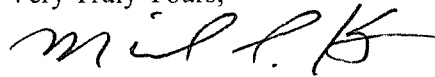
Re: Case No. 2011-00036

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC'S FIRST SET OF DATA REQUESTS ON REHEARING TO BIG RIVERS ELECTRIC CORPORATION for filing in the above-referenced matter.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place these documents of file.

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.


BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Richard Raff, Esq.
David C. Brown, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) or by mailing a true and correct copy by overnight mail, unless other noted, this 9th day of March, 2012 to the following



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.

Mark A Bailey
President CEO
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024

Douglas L Beresford
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004

J. Christopher Hopgood
Dorsey, King, Gray, Norment & Hopgood
318 Second Street
Henderson, KY 42420

Mr. Dennis Howard
Assistant Attorney General
1024 Capital Center Drive
Frankfort, KY 40601

Honorable James M Miller
Attorney at Law
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KY 42302-0727

Sanford Novick
President and CEO
Kenergy Corp.
P. O. Box 18
Henderson, KY 42419

Melissa D. Yates
Attorney
Denton & Keuler, LLP
555 Jefferson Street
P. O. Box 929
Paducah, KY 42002-0929

Albert Yockey
Vice President Government Relations
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024

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

In The Matter Of: The Application Of Big Rivers Electric Corporation :
For A General Adjustment In Rates : Case No. 2011-00036

**KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.'s
FIRST SET OF DATA REQUESTS
ON REHEARING TO
BIG RIVERS ELECTRIC CORPORATION**

Dated: March 9, 2012

DEFINITIONS

1. "Document(s)" is used in its customary broad sense and includes electronic mail and all written, typed, printed, electronic, computerized, recorded or graphic statements, memoranda, reports, communications or other matter, however produced or reproduced, and whether or not now in existence, or in your possession.
2. "Study" means any written, recorded, transcribed, taped, filmed, or graphic matter, however produced or reproduced, either formally or informally, a particular issue or situation, in whatever detail, whether or not the consideration of the issue or situation is in a preliminary stage, and whether or not the consideration was discontinued prior to completion whether preliminary or final, and whether or not referred to in Big Rivers' direct testimony.
3. If any document requested herein was at one time in existence, but has been lost, discarded or destroyed, identify such document as completely as possible, including the type of document, its date, the date or approximate date it was lost, discarded or destroyed, the identity of the person (s) who last had possession of the document and the identity of all persons having knowledge of the contents thereof.
4. "Person" means any natural person, corporation, professional corporation, partnership, association, joint venture, proprietorship, firm, or the other business enterprise or legal entity.
5. A request to identify a natural person means to state his or her full name and residence address, his or her present last known position and business affiliation at the time in question.
6. A request to identify a document means to state the date or dates, author or originator, subject matter, all addressees and recipients, type of document (e.g., letter, memorandum, telegram, chart, etc.), number of code number thereof or other means of identifying it, and its present location and custodian. If any such document was, but is no longer in the Company's possession or subject to its control, state what disposition was made of it.
7. A request to identify a person other than a natural person means to state its full name, the address of its principal office, and the type of entity.
8. "And" and "or" should be considered to be both conjunctive and disjunctive, unless specifically stated otherwise.
9. "Each" and "any" should be considered to be both singular and plural, unless specifically stated otherwise.
10. Words in the past tense should be considered to include the present, and words in the present tense include the past, unless specifically stated otherwise.
11. "You" or "your" means the person whose filed testimony is the subject of these interrogatories and, to the extent relevant and necessary to provide full and complete answers to any request, "you" or "your" may be deemed to include any person with information relevant to any interrogatory who is or was employed by or otherwise associated with the witness or who assisted, in any way, in the preparation of the witness' testimony.
12. "BREC" means Big Rivers Electric Corporation and/or any of their officers, directors, employees, or agents who may have knowledge of the particular matter addressed.

INSTRUCTIONS

1. If any matter is evidenced by, referenced to, reflected by, represented by, or recorded in any document, please identify and produce for discovery and inspection each such document.
2. These interrogatories are continuing in nature, and information which the responding party later becomes aware of, or has access to, and which is responsive to any request is to be made available to Kentucky Industrial Utility Customers. Any studies, documents, or other subject matter not yet completed that will be relied upon during the course of this case should be so identified and provided as soon as they are completed. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as it first becomes available to the Respondent after the answers hereto are served.
3. Unless otherwise expressly provided, each interrogatory should be construed independently and not with reference to any other interrogatory herein for purpose of limitation.
4. The answers provided should first restate the question asked and also identify the person(s) supplying the information.
5. Please answer each designated part of each information request separately. If you do not have complete information with respect to any interrogatory, so state and give as much information as you do have with respect to the matter inquired about, and identify each person whom you believe may have additional information with respect thereto.
6. In the case of multiple witnesses, each interrogatory should be considered to apply to each witness who will testify to the information requested. Where copies of testimony, transcripts or depositions are requested, each witness should respond individually to the information request.
7. The interrogatories are to be answered under oath by the witness(es) responsible for the answer.
8. Responses to requests for revenue, expense and rate base data should provide data on the basis of Total Company as well as Intrastate data, unless otherwise requested.

**FIRST SET OF DATA REQUESTS OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.
ON REHEARING TO
BIG RIVERS ELECTRIC CORPORATION
Case No. 2011-00036**

QR1-1. Refer to page 8 lines 7-8 of Mr. Hite's Rehearing Testimony regarding the CWIP amount at the end of the test year for which the Company sought depreciation expense.

- a. Please confirm that the Company maintains its accounting books in accordance with Generally Accepted Accounting Principles ("GAAP").
- b. Please provide a copy of the Company's most recent audited financial statements along with the auditor's opinion and management's representations that the financial statements comply in all material respects with GAAP.
- c. Please identify all loan agreements and/or covenants that require the Company to maintain its accounting books in accordance with GAAP, if any.
- d. Please confirm that the Company maintains its accounting books in accordance with the requirements of the RUS Uniform System of Accounts ("USOA").
- e. Please provide a copy of the Company's most recent annual Form 7 along with the auditor's opinion and management's representations that the financial statements comply in all material respects with the RUS USOA.
- f. Please identify all loan agreements and/or covenants that require the Company to maintain its accounting books in accordance with the RUS USOA, if any.

QR1-2. Refer to page 8 lines 9-12 of Mr. Hite's Rehearing Testimony wherein he states that \$18,654,607 of the CWIP balance at the end of the test year was in-service.

- a. Were the Company's accounting books in error at the end of the test year for GAAP accounting purposes? Please explain your response and provide a copy of all authorities relied on to support your response.
- b. Were the Company's accounting books in error at the end of the test year for RUS USOA accounting purposes? Please explain your response and provide a copy of all authorities relied on to support your response.
- c. Please identify and describe the test the Company applied to determine that \$18,654,607 of the CWIP balance at the end of the test year was in service for purposes of the Company's rehearing request.
- d. Is the test identified and described in response to part (c) of this question for purposes of the Company's rehearing request different in any respect than the test the Company applied for GAAP accounting purposes? If so, then please describe each such difference and how the Company

applied this difference so that it resulted in a different result for the rehearing request than the Company recorded on its accounting books.

- e. Is the test identified and described in response to part (c) of this question for purposes of the Company's rehearing request different in any respect than the test the Company applied for RUS USOA purposes? If so, then please describe each such difference and how the Company applied this difference so that it resulted in a different result for the rehearing request than the Company recorded for RUS accounting purposes.

QR1-3. Please confirm that a difference in whether costs are accounted for as CWIP or plant-in-service is that CWIP *cannot be* depreciated and plant-in-service *must be* depreciated for GAAP accounting purposes. Please explain your response and provide a copy of all authorities relied on for your response.

QR1-4. Please confirm that a difference in whether costs are accounted for as CWIP or plant-in-service is that CWIP *cannot be* depreciated and plant-in-service *must be* depreciated for RUS USOA accounting purposes. Please explain your response and provide a copy of all authorities relied on for your response.

QR1-5. Refer to page 8 lines 1-12 of Mr. Hite's Rehearing Testimony. Please provide the effect on the Company's TIER for the test year of the \$359,678 in depreciation expense. Provide all computations, including electronic spreadsheets with formulas intact.

QR1-6. Q. Refer to page 9 lines 7-8 of Mr. Hite's Rehearing Testimony. Please provide the effect on the Company's TIER for the test year of the \$1,284,476 in depreciation expense. Provide all computations, including electronic spreadsheets with formulas intact.

QR1-7. Refer to Exhibit Hite Rehearing-1, which provides a summary table of rate case expenses incurred through August 2011.

- a. Please reconcile the amounts through August 2011 to the amounts requested in the Company's filing.
- b. Please provide a copy of any variance analysis performed by the Company comparing the actual to the estimated amounts requested in the Company's filing prepared prior to the receipt of this request. If the Company did not prepare such an analysis prior to the receipt of this request, then please explain why it did not do so.
- c. For each variance identified in response to part (a) of this question, please provide a detailed explanation of why the actual cost was greater than the estimated cost included in the Company's filing.
- d. Please provide a copy of all engagement letters and purchase orders for each outside firm retained to assist the Company in its rate case, including all subsequent modifications and revisions, if any.

- e. The summary table indicates that rate case expense was charged to account 928. Please indicate whether the Company expensed the rate case expenses or deferred them as they were incurred. Please provide a copy of the monthly journal entries for each month during which rate case expenses were incurred showing the accounts and amounts, including any journal entries for deferrals.


QR1-8. Please describe how the Company managed its rate case expenses, including, but not limited to, the following:

- a. Overall control of the case and the cost of outside services. In addition to the general description, please identify the names and positions of the people responsible for each aspect of this process, and describe specifically how each such person managed the case and the cost of outside services.
- b. Control over the scope of work and cost of individual firms and attorneys/consultants employed by those firms. Please identify the names and positions of the people responsible for each aspect of this process, and describe specifically how each such person managed the scope of work and the cost of each firm and its employees.
- c. Copies of all documents related to the Company's control over the scope of work and cost of outside services, including, but not limited to, reports used for this purpose and all correspondence between the Company and individual firms and all correspondence internally within the Company.
- d. Please describe in detail the Company's decision criteria applied to select each individual firm and the attorneys/consultants applied by those firms. Provide a copy of all documents that address these criteria and the weighting that was applied, if any.
- e. Please indicate if the Company engaged in competitive bids for its attorneys and consultants. If so, then please provide a copy of all bid documents. If not, then please explain why it did not do so.
- f. Please provide a copy of all correspondence between the Company and individual outside firms regarding the Company's evaluation of or satisfaction with the firm's performance.
- g. Please provide a copy of all internal correspondence regarding the Company's evaluation of or satisfaction with each outside firm's performance and/or individual attorney/consultant performance.
- h. Please provide a copy of the Company's written policies and guidelines addressing the retention of outside services, and more specifically, professional outside services.

QR1-9. Refer to page 8 lines 4-5 of Mr. Wolfram's Rehearing Testimony wherein he asserts that the Company's requested rate increase expenses are "reasonable" and "should be accepted by the Commission." Please describe and provide a copy of all analyses performed by or on behalf of Mr. Wolfram to assess the reasonableness of the Company's requested rate case expenses prior to the filing of his testimony.

QR1-10. Please refer to the Company's response and updated responses to Staff 1-52(c). Please provide copies of the invoices from the outside attorneys with the descriptions of the activities related to the rate case unredacted. The non-rate case activities may remain redacted.

Respectfully submitted,



Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

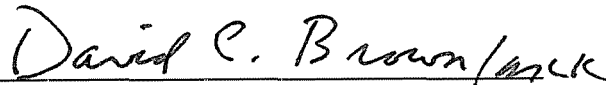
36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: mkurtz@BKLawfirm.com

**COUNSEL FOR KENTUCKY INDUSTRIAL UTILITY
CUSTOMERS, INC.**



David C. Brown, Esq.

STITES & HARBISON

1800 Providian Center, 400 West Market Street

Louisville, KY 40202

Ph: (502) 587-3400 Fax: (502) 587-6391

E-mail: dbrown@stites.com

**CO-COUNSEL FOR ALCAN PRIMARY PRODUCTS
CORPORATION**

March 9, 2012