

Michael Kurtz

From: Philip Hayet [philhayet@concentric.net]
Sent: Thursday, May 31, 2012 2:20 PM
To: 'Jim Miller'; Michael Kurtz; 'Brenton Meese'; dbrown@stites.com; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Cook, Larry (KYOAG)'; joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; 'Nguyen, Quang D (PSC)'; 'Burns, Faith (PSC)'; Kurt Boehm; 'Tyson Kamuf'; 'Lane Kollen'; 'Albert Yockey'; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; 'Joseph McLeer'
Subject: RE: Big Rivers Modeling Case 2012-00063

Sorry,

Obviously had been intended only to be sent to Ventyx, but I needed to make sure they knew the call was still set for Monday.

Speak to everyone Monday June 4th at 5 pm Eastern, using this call in number - 866-906-9888 pass code 518-4986

Thanks,

Phil Hayet

From: Philip Hayet [mailto:philhayet@concentric.net]
Sent: Thursday, May 31, 2012 2:12 PM
To: 'Jim Miller'; 'Michael Kurtz'; 'Brenton Meese'; 'dbrown@stites.com'; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Cook, Larry (KYOAG)'; 'joe@jchilderslaw.com'; 'childerslaw@yahoo.com'; 'kristin.henry@sierraclub.org'; 'Nguyen, Quang D (PSC)'; 'Burns, Faith (PSC)'; 'Kurt Boehm'; 'Tyson Kamuf'; 'Lane Kollen'; 'Albert Yockey'; 'Roger.Hickman@bigrivers.com'
Cc: 'briana@acespower.com'; 'johnst@acespower.com'; 'Joseph McLeer'
Subject: RE: Big Rivers Modeling Case 2012-00063

Joe and Brenton,

This provides the clarification from Big Rivers that I have been working hard to get. My client and I will have to discuss this and I will get back to you about how we are going to proceed, but let's still plan for Monday's conference call.

Thanks,

Phil

From: Jim Miller [mailto:jmiller@smsmlaw.com]
Sent: Thursday, May 31, 2012 1:56 PM
To: Philip Hayet; Michael Kurtz; Brenton Meese; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer
Subject: RE: Big Rivers Modeling Case 2012-00063

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All:

To clarify, Big Rivers is providing all the input data that it gave ACES to perform the production planning runs. Big Rivers has not received from ACES and is not furnishing the ACES internal database.

Jim

-----Original Message-----

From: Philip Hayet [<mailto:philhayet@concentric.net>]

Sent: Thu 5/31/2012 11:10 AM

To: Jim Miller; 'Michael Kurtz'; 'Brenton Meese'; dbrown@stites.com; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Cook, Larry (KYOAG)'; joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; 'Nguyen, Quang D (PSC)'; 'Burns, Faith (PSC)'; 'Kurt Boehm'; Tyson Kamuf; 'Lane Kollen'; 'Albert Yockey'; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; 'Joseph McLeer'
Subject: RE: Big Rivers Modeling Case 2012-00063

This is in response to both Jim Miller and John Sturm's emails. However, I will preface this by saying I will leave all legal issues to the attorneys to discuss. My interest in sending this email is purely to seek clarification of the technical aspects to get the information that we need in order to be able to reproduce Big Rivers/ACES's modeling results when we are with Ventyx early the week of June 11th.

John, please clarify what you mean "but it will be up to you and Ventyx to work together to build up your database/model." We know ACES has the database, which we are seeking and our goal is to reproduce your results exactly once we receive the database from you. Please clarify what you mean about what we will need to do after we receive your database in order "to build up the database".

What we don't know is how large the database will be that we receive from you, and what it will contain besides the Big River's data, if anything. But again, what we need to be able to do is get your exact database and be able to reproduce exactly the results that ACES produced.

Concerning Jim's email, I would also seek clarification if what we are going to receive are the ACES model input database files? For example our question 19 and possibly others attempt to get all models and inputs for those models, which would include the inputs used by ACES to run in the PAR model.

If there are any questions about interpretation, I will leave that for the attorneys to discuss.

Thanks,

Phil Hayet

000112

From: Jim Miller [<mailto:jmiller@smsmlaw.com>]
Sent: Thursday, May 31, 2012 11:05 AM
To: Philip Hayet; Michael Kurtz; Brenton Meese; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer
Subject: RE: Big Rivers Modeling Case 2012-00063

All:

Big Rivers can participate on a call on Monday at 5:00 p.m. EDT. With the additional information that Big Rivers will be serving and filing tomorrow, the Commission staff and all intervenors who have signed confidentiality agreements will have all the planning model input data in the form in which it was given to ACES. We believe that fulfills all commitments made by Big Rivers and ACES.

Jim

-----Original Message-----

From: Philip Hayet [<mailto:philhayet@concentric.net>]
Sent: Thu 5/31/2012 8:20 AM
To: 'Michael Kurtz'; 'Brenton Meese'; Jim Miller; dbrown@stites.com; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Cook, Larry (KYOAG)'; joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; 'Nguyen, Quang D (PSC)'; 'Burns, Faith (PSC)'; 'Kurt Boehm'; Tyson Kamuf; 'Lane Kollen'; 'Albert Yockey'; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; 'Joseph McLeer'
Subject: RE: Big Rivers Modeling Case 2012-00063

I am going to have to ask everyone's indulgence. Last night I was informed of a family commitment, which I want to attend, which is my child's grad school orientation that is also scheduled for Monday at 11 am. I am going to float another time, and after having spoken with Joe McLeer at Ventyx, this would actually be better for him as well. That would still be Monday June 4th, but at 5pm Eastern Time. Joe prefers this too as he could do it from the comfort of his hotel room (will be 6pm where he will be at).

I am hoping this will work for everyone and that Mike, you will be able to schedule the same call in number for that time. Please let me know if that time works for everyone, but for scheduling purposes, the most important people to be on the call are the ones that are able to discuss the technical issues.

Also, just to give everyone a heads up, we will need to have the ACES database in hand by Monday June 11 in order to begin working with Ventyx for

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installation of the software and database. We can discuss the logistics of getting that by then on the conference call. Or if that looks like it will present any issues, please respond to this email, as it would be better to start addressing that now.

Thanks,

Phil

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]
Sent: Wednesday, May 30, 2012 9:04 AM
To: 'Brenton Meese'; Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer
Subject: RE: Big Rivers Modeling Case 2012-00063

Everyone.

Thank you for the response. It looks like Monday June 4 at 11:00 am Eastern is the best time. Please use the following call in number: 866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKLlawfirm.com

From: Brenton Meese [<mailto:Brenton.Meese@ventyx.abb.com>]
Sent: Tuesday, May 29, 2012 9:11 PM
To: Jim Miller; Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer
Subject: RE: Big Rivers Modeling Case 2012-00063

000154

The Ventyx project manager, Joe McLeer, is very constrained next Monday as he will be at a client site in New Brunswick, Canada.

It is possible that Joe can attend if the call can take place at 11:00am Eastern or thereabouts. We would like to request that an (800) dial-in number be issued with the meeting notice. Please include him on any invitation. Thanks.

BRENTON MEESE
Executive Account Manager
(O) 678.825.1467
(M) 404.964.8882

VENTYX
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www.ventyx.com

From: Jim Miller [<mailto:jmiller@smsmlaw.com>]
Sent: Tuesday, May 29, 2012 6:31 PM
To: Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: Brenton Meese; briana@acespower.com; johnst@acespower.com
Subject: RE: Big Rivers Modeling Case 2012-00063

All:

Big Rivers can participate in a call on Monday as requested by ACES.

Jim

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tue 5/29/2012 3:32 PM
To: Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: 'Brenton.Meese@ventyx.abb.com'; 'briana@acespower.com'; 'johnst@acespower.com'
Subject: Big Rivers Modeling Case 2012-00063

Counsel,

000155

After having explored the option of our going to ACES Power Marketing's ("ACES") office to make KIUC's production cost runs, we have now decided to obtain a PAR model license from Ventyx, and will make our own runs. This email is going to all parties involved in providing the software, data and results, including Big Rivers, Ventyx, and ACES Power Marketing,

Mr. Hayet is coordinating with Ventyx to acquire a license to access the same tools (EnerPrise database/Microsoft SQL) that ACES uses to run the PAR model. Mr. Hayet is aware this will require certain hardware and software requirements, which he will arrange for with Ventyx. Mr. Hayet will also work with Ventyx to install the software with the goal of being able to reproduce ACES' results on his own computer. In order to do that, Mr. Hayet understands from Ventyx, that early coordination between ACES, Ventyx, and me will be required.

We suggest that we arrange a conference call for tomorrow if at all possible, between Mr. Hayet, Ventyx, and ACES (and whoever else would be appropriate) to discuss the technical details to help smooth the way, and to minimize unnecessary delays. For example, one question that will have to be answered is whether ACES will provide a database containing just the Big Rivers data, or a large database with all of the companies that it models in it, including Big Rivers. This will be important for us to know what we will have to do to install the model. We are also aware that Ventyx would likely have other questions as well that will have to be answered.

We are targeting the week of June 11th to install the software, so we would like to work through all of the details prior to that.

We would like to have this call tomorrow or Thursday if at all possible so that we can clear Ventyx to proceed with the process and we can finalize the license. We would like to ask ACES, Ventyx, Mr. Hayet, and anyone else who wants to be on the call, to indicate times that you are not available on Wednesday and on Thursday, and we will find a time that will hopefully work for everyone.

Thank you for your assistance.

Mike

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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copies of the original message.

Any views expressed in this email message are those of the individual sender except where the sender specifically states them to be the views of Ventyx.

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Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 04, 2012 9:55 AM
To: 'Kristin Henry'
Subject: FW: Motion to Compel
Attachments: 2012-00063 Motion to Compel.doc

Kristen.

The attached draft motion to compel basically spells out the discovery impasse we expect after today's call. My plan is to more educate Staff today than change the mind of the utility, if Staff is on the call. If you can add in that may be helpful.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

0001:13

Michael Kurtz

From: Kristin Henry [kristin.henry@sierraclub.org]
Sent: Monday, June 04, 2012 12:06 AM
To: Michael Kurtz
Cc: Brenton Meese; Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com; briana@acespower.com; johnst@acespower.com; Joseph McLeer; Shannon Fisk; Christopher Leung
Subject: Re: Big Rivers Modeling Case 2012-00063

Mike,

I just wanted to confirm that the call-in information is the same for the new 5:00 pm time.

Thanks,

Kristin Henry

On Wed, May 30, 2012 at 6:03 AM, Michael Kurtz <MKurtz@bkllawfirm.com> wrote:

Everyone.

Thank you for the response. It looks like Monday June 4 at 11:00 am Eastern is the best time. Please use the following call in number: 866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

E-mail: mkurtz@BKllawfirm.com

From: Brenton Meese [mailto:Brenton.Meese@ventyx.abb.com]

Sent: Tuesday, May 29, 2012 9:11 PM

To: Jim Miller; Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert

Yockey; Roger.Hickman@bigrivers.com

Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer

Subject: RE: Big Rivers Modeling Case 2012-00063

The Ventyx project manager, Joe McLeer, is very constrained next Monday as he will be at a client site in New Brunswick, Canada.

It is possible that Joe can attend if the call can take place at 11:00am Eastern or thereabouts. We would like to request that an (800) dial-in number be issued with the meeting notice. Please include him on any invitation. Thanks.

BRENTON MEESE

Executive Account Manager

(O) [678.825.1467](tel:678.825.1467)

(M) [404.964.8882](tel:404.964.8882)

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www.ventyx.com

From: Jim Miller [<mailto:jmiller@smsmlaw.com>]

Sent: Tuesday, May 29, 2012 6:31 PM

To: Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com

Cc: Brenton Meese; briana@acespower.com; johnst@acespower.com

Subject: RE: Big Rivers Modeling Case 2012-00063

All:

Big Rivers can participate in a call on Monday as requested by ACES.

Jim

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]

Sent: Tue 5/29/2012 3:32 PM

To: Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com

Cc: 'Brenton.Meese@ventyx.abb.com'; 'briana@acespower.com'; 'johnst@acespower.com'

Subject: Big Rivers Modeling Case 2012-00063

000160

Counsel,

After having explored the option of our going to ACES Power Marketing's ("ACES") office to make KIUC's production cost runs, we have now decided to obtain a PAR model license from Ventyx, and will make our own runs. This email is going to all parties involved in providing the software, data and results, including Big Rivers, Ventyx, and ACES Power Marketing,

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We would like to have this call tomorrow or Thursday if at all possible so that we can clear Ventyx to proceed with the process and we can finalize the license. We would like to ask ACES, Ventyx, Mr. Hayet, and anyone else who wants to be on the call, to indicate times that you are not available on Wednesday and on Thursday, and we will find a time that will hopefully work for everyone.

Thank you for your assistance.

Mike

Michael L. Kurtz, Esq.
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Cincinnati, Ohio 45202
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E-mail: mkurtz@BKLawfirm.com

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Any views expressed in this email message are those of the individual sender except where the sender specifically states them to be the views of Ventyx.

000161

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Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

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Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 04, 2012 9:49 AM
To: 'Kristin Henry'
Cc: Brenton Meese; Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com; briana@acespower.com; johnst@acespower.com; Joseph McLeer; Shannon Fisk; Christopher Leung
Subject: RE: Big Rivers Modeling Case 2012-00063

Kristen.

Yes, the call is today at 5:00 eastern. 866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKllawfirm.com

From: Kristin Henry [mailto:kristin.henry@sierraclub.org]
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BRENTON MEESE

Executive Account Manager

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(PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
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Counsel,

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Mr. Hayet is coordinating with Ventyx to acquire a license to access the same tools (EnerPrise database/Microsoft SQL) that ACES uses to run the PAR model. Mr. Hayet is aware this will require certain hardware and software requirements, which he will arrange for with Ventyx. Mr. Hayet will also work with Ventyx to install the software with the goal of being able to reproduce ACES' results on his own computer. In order to do that, Mr. Hayet understands from Ventyx, that early coordination between ACES, Ventyx, and me will be required.

We suggest that we arrange a conference call for tomorrow if at all possible, between Mr. Hayet, Ventyx, and ACES (and whoever else would be appropriate) to discuss the technical details to help smooth the way, and to minimize unnecessary delays. For example, one question that will have to be answered is whether ACES will provide a database containing just the Big Rivers data, or a large database with all of the companies that it models in it, including Big Rivers. This will be important for us to know what we will have to do to install the model. We are also aware that Ventyx would likely have other questions as well that will have to be answered.

We are targeting the week of June 11th to install the software, so we would like to work through all of the details prior to that.

We would like to have this call tomorrow or Thursday if at all possible so that we can clear Ventyx to proceed with the process and we can finalize the license. We would like to ask ACES, Ventyx, Mr. Hayet, and anyone else who wants to be on the call, to indicate times that you are not available on Wednesday and on Thursday, and we will find a time that will hopefully work for everyone.

Thank you for your assistance.

Mike

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)
E-mail: mkurtz@BKLlawfirm.com

000165

DISCLAIMER:

This email message and all attachments transmitted with it are for the sole use of the intended recipient(s) and may contain confidential and privileged information. Please DO NOT forward this email outside of the recipient's Company unless expressly authorized to do so herein. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

Any views expressed in this email message are those of the individual sender except where the sender specifically states them to be the views of Ventyx.

--

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law as attorney-client and work-product confidential or otherwise confidential communications. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify me at the telephone number above.

000156

Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 04, 2012 9:55 AM
To: 'Kristin Henry'
Subject: FW: Motion to Compel
Attachments: 2012-00063 Motion to Compel.doc

Kristen.

The attached draft motion to compel basically spells out the discovery impasse we expect after today's call. My plan is to more educate Staff today than change the mind of the utility, if Staff is on the call. If you can add in that may be helpful.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000167

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Monday, June 04, 2012 5:33 PM
To: Michael Kurtz; Tyson Kamuf
Cc: Brenton Meese; Jim Miller; dbrown@stites.com; Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com; briana@acespower.com; johnst@acespower.com; Joseph McLeer; Shannon Fisk; Christopher Leung; kristin.henry@sierraclub.org
Subject: RE: Big Rivers Modeling Case 2012-00063

Counsel:

This is just to advise you that Assistant Attorney General Matt James also joined me on this call. Matt has signed the Confidentiality Agreement supplied by counsel for Big Rivers.

Thank you.

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]
Sent: Monday, June 04, 2012 9:49 AM
To: 'Kristin Henry'
Cc: Brenton Meese; Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com; briana@acespower.com; johnst@acespower.com; Joseph McLeer; Shannon Fisk; Christopher Leung
Subject: RE: Big Rivers Modeling Case 2012-00063

Kristen.

000188

Yes, the call is today at 5:00 eastern. 866-906-9888 pass code 518-4986

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

From: Kristin Henry [<mailto:kristin.henry@sierraclub.org>]

Sent: Monday, June 04, 2012 12:06 AM

To: Michael Kurtz

Cc: Brenton Meese; Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com; briana@acespower.com; johnst@acespower.com; Joseph McLeer; Shannon Fisk; Christopher Leung

Subject: Re: Big Rivers Modeling Case 2012-00063

Mike,

I just wanted to confirm that the call-in information is the same for the new 5:00 pm time.

Thanks,

Kristin Henry

On Wed, May 30, 2012 at 6:03 AM, Michael Kurtz <MKurtz@bkllawfirm.com> wrote:

Everyone.

Thank you for the response. It looks like Monday June 4 at 11:00 am Eastern is the best time. Please use the following call in number: [866-906-9888](tel:866-906-9888) pass code 518-4986

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)

E-mail: mkurtz@BKLawfirm.com

From: Brenton Meese [<mailto:Brenton.Meese@ventyx.abb.com>]

000169

Sent: Tuesday, May 29, 2012 9:11 PM

To: Jim Miller; Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com

Cc: briana@acespower.com; johnst@acespower.com; Joseph McLeer

Subject: RE: Big Rivers Modeling Case 2012-00063

The Ventyx project manager, Joe McLeer, is very constrained next Monday as he will be at a client site in New Brunswick, Canada.

It is possible that Joe can attend if the call can take place at 11:00am Eastern or thereabouts. We would like to request that an (800) dial-in number be issued with the meeting notice. Please include him on any invitation. Thanks.

BRENTON MEESE
Executive Account Manager
(O) [678.825.1467](tel:678.825.1467)
(M) [404.964.8882](tel:404.964.8882)

VENTYX
an ABB company
www.ventyx.com

From: Jim Miller [<mailto:jmiller@smsmlaw.com>]

Sent: Tuesday, May 29, 2012 6:31 PM

To: Michael Kurtz; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com

Cc: Brenton Meese; briana@acespower.com; johnst@acespower.com

Subject: RE: Big Rivers Modeling Case 2012-00063

All:

Big Rivers can participate in a call on Monday as requested by ACES.

Jim

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]

Sent: Tue 5/29/2012 3:32 PM

000170

To: Jim Miller; dbrown@stites.com; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG); joe@jchilderslaw.com; childerslaw@yahoo.com; kristin.henry@sierraclub.org; Nguyen, Quang D (PSC); Burns, Faith (PSC); Kurt Boehm; Tyson Kamuf; Lane Kollen; Philip Hayet; Albert Yockey; Roger.Hickman@bigrivers.com
Cc: 'Brenton.Meese@ventyx.abb.com'; 'briana@acespower.com'; 'johnst@acespower.com'
Subject: Big Rivers Modeling Case 2012-00063

Counsel,

After having explored the option of our going to ACES Power Marketing's ("ACES") office to make KIUC's production cost runs, we have now decided to obtain a PAR model license from Ventyx, and will make our own runs. This email is going to all parties involved in providing the software, data and results, including Big Rivers, Ventyx, and ACES Power Marketing,

Mr. Hayet is coordinating with Ventyx to acquire a license to access the same tools (EnerPrise database/Microsoft SQL) that ACES uses to run the PAR model. Mr. Hayet is aware this will require certain hardware and software requirements, which he will arrange for with Ventyx. Mr. Hayet will also work with Ventyx to install the software with the goal of being able to reproduce ACES' results on his own computer. In order to do that, Mr. Hayet understands from Ventyx, that early coordination between ACES, Ventyx, and me will be required.

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Thank you for your assistance.

Mike

Michael L. Kurtz, Esq.
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36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: [513.421.2255](tel:513.421.2255) Fax: [513.421.2764](tel:513.421.2764)
E-mail: mkurtz@BKLLawfirm.com

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Any views expressed in this email message are those of the individual sender except where the sender specifically states them to be the views of Ventyx.

--
Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105-3441
415.977.5716 phone
415.977.5793 fax
kristin.henry@sierraclub.org

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Michael Kurtz

From: Michael Kurtz
Sent: Monday, June 04, 2012 5:50 PM
To: Shannon Fisk; 'Brown, David'; 'Philip Hayet'; 'Kristin Henry'
Subject: BREC Environmental Complinance
Attachments: 2012-00063 Motion to Compel.doc

Shannon/Kristen.

It appears that KIUC and Sierra Club are in agreement with respect to the discovery impasse. I think a joint motion to compel would carry the most weight with the Commission. A draft motion is attached. If you want to go jointly, then please review and make any improvements you think appropriate. I think we should file something sooner rather than later.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

000173

Michael Kurtz

From: Michael Kurtz
Sent: Tuesday, June 05, 2012 9:11 AM
To: Jody Kyler; kristin.henry@sierraclub.org; David Brown
Subject: Fwd: Motion to Compel
Attachments: 2012-00063 Motion to Compel.hayet.doc; ATT00001.htm

Sent from my iPad

Begin forwarded message:

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

Here are my changes. If you would like to discuss please call my cell at 770-855-1815. I may not be immediately available but will be able to call back. I will be back in the office tomorrow.

Thanks,

Phil

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

000174

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000175

Michael Kurtz

From: Michael Kurtz
Sent: Tuesday, June 05, 2012 11:00 AM
To: Kristin Henry; Shannon Fisk
Subject: KIUC's Motion to Compel - Docket #2012-00063
Attachments: 2012-00063 Motion to Compel.hayet.doc

F.Y.I. Attached please find a current draft of KIUC's Motion to Compel for filing in the BREC environmental surcharge case.

Mike

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLawfirm.com

000176

Michael Kurtz

From: Shannon Fisk [sfisk@earthjustice.org]
Sent: Tuesday, June 05, 2012 11:19 AM
To: Michael Kurtz; Kristin Henry
Subject: RE: KIUC's Motion to Compel - Docket #2012-00063

Thanks, Mike. We'll look it over and get back to you.

From: Michael Kurtz [MKurtz@bkllawfirm.com]
Sent: Tuesday, June 05, 2012 11:00 AM
To: Kristin Henry; Shannon Fisk
Subject: KIUC's Motion to Compel - Docket #2012-00063

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Mike

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
MKurtz@BKLLawfirm.com<mailto:MKurtz@BKLLawfirm.com>

000177

Michael Kurtz

From: Michael Kurtz
Sent: Tuesday, June 05, 2012 11:48 AM
To: Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: Re: Motion to Compel

David. Please send your changes to Kristen and Shannon also. Hopefully we will file a joint motion.

Sent from my iPad

On Jun 5, 2012, at 11:41 AM, "Brown, David" <DBROWN@stites.com> wrote:

Mike - I have revisions to suggest and will get those to you in a bit. I think we need to put the precise issue up front.

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

From: Philip Hayet <philhaye@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

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Phil

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

000178

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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Thanks,

Jody

000179

Michael Kurtz

From: Brown, David [DBROWN@stites.com]
Sent: Tuesday, June 05, 2012 1:30 PM
To: Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: RE: Motion to Compel
Attachments: KIUC Motion to Compel (first draft) - rtf.DOC; KIUC Motion to Compel (first draft) - 2.DOC

Mike and All - attached is a clean and marked copy of the original draft that came out last night. Sorry it turned out so messy. What I have tried to do is (i) make it a joint motion, (ii) explain the process and the main issue up front, and (iii) give the Commission the option to issue a subpoena although ACES is in Indiana. The rest of the editing is mainly to eliminate repetition and keeping the focus on the main issue. Mike, I'll leave this up to you. Also I thought I saw some comment from you but they did not make it into this draft.

David

David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 05, 2012 11:48 AM
To: Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: Re: Motion to Compel

David. Please send your changes to Kristen and Shannon also. Hopefully we will file a joint motion.

Sent from my iPad

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

000130

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen'
<lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

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Phil

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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Thanks,

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000131

Michael Kurtz

From: Shannon Fisk [sfisk@earthjustice.org]
Sent: Tuesday, June 05, 2012 10:47 PM
To: Brown, David; Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
Subject: RE: Motion to Compel
Attachments: KIUC Motion to Compel (first draft) - 2 - SC Edits.doc

Thanks, Mike and David, for drafting this. Attached are some proposed edits and additions from Kristin and me. Please let us know if you have any questions, concerns, etc.

Shannon

From: Brown, David [mailto:DBROWN@stites.com]
Sent: Tuesday, June 05, 2012 1:30 PM
To: Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk
Subject: RE: Motion to Compel

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David C. Brown
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Suite 1800
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Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

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000132

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Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
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36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

000183

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000184

Michael Kurtz

From: Shannon Fisk [sfisk@earthjustice.org]
Sent: Tuesday, June 05, 2012 1:39 PM
To: Brown, David; Michael Kurtz
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
Subject: RE: Motion to Compel

Thanks, David. Sierra Club is interested in a joint motion on this – should I review and send any edits to this draft, or should I wait for Mike to review? I just want to make sure we aren't duplicating efforts.

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk
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David C. Brown
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Suite 1800
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Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]
Sent: Tuesday, June 05, 2012 11:48 AM
To: Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: Re: Motion to Compel

David. Please send your changes to Kristen and Shannon also. Hopefully we will file a joint motion.

Sent from my iPad

On Jun 5, 2012, at 11:41 AM, "Brown, David" <DBROWN@stites.com> wrote:

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From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]
Sent: Tuesday, June 05, 2012 10:36 AM

000185

To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

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Here are my changes. If you would like to discuss please call my cell at 770-855-1815. I may not be immediately available but will be able to call back. I will be back in the office tomorrow.

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Phil

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Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
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000187

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Sent: Tuesday, June 05, 2012 2:28 PM
To: Shannon Fisk
Cc: Brown, David; Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org
Subject: Re: Motion to Compel

Shannon go ahead

Sent from my iPad

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000190

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Sent: Tuesday, June 05, 2012 2:43 PM
To: Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org
Subject: Re: Motion to Compel

David The value of a good liberal arts education. Well done. Shannon, we now look to you.

BTW, I called Quang this morning and filled him in procedurally about the possibility of a motion.

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000102

Environmental
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<KIUC Motion to Compel (first draft) - 2.DOC>

000193

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000196

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org; Jennifer Hans; dennis.howard@ag.ky.gov; larry cook
Subject: Re: Motion to Compel

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<KIUC Motion to Compel (first draft) - rtf.DOC>

<KIUC Motion to Compel (first draft) - 2.DOC>

000109

Michael Kurtz

From: Michael Kurtz
Sent: Tuesday, June 05, 2012 2:59 PM
To: Jennifer Hans
Subject: Fwd: Motion to Compel
Attachments: KIUC Motion to Compel (first draft) - rtf.DOC; ATT00001.htm; KIUC Motion to Compel (first draft) - 2.DOC; ATT00002.htm

Does this work? I am out of the office.

Sent from my iPad

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From: "Brown, David" <DBROWN@stites.com>
Date: June 5, 2012 1:29:53 PM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>
Cc: Jody Kyler <jk Tyler@bkllawfirm.com>, "philhaye@concentric.net" <philhaye@concentric.net>, "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, "sfisk@earthjustice.org" <sfisk@earthjustice.org>
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To: Michael Kurtz

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Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Tuesday, June 05, 2012 3:03 PM
To: Michael Kurtz; Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; sfisk@earthjustice.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

Mike --

The attachments did not come through in my email. Please re-send if possible. Also, please note that we are having technical difficulties at OAG. If necessary, would it be possible to send the drafts to the facsimile number below my signature line?

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

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Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

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From: Philip Hayet <philhay@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen'

000204

<lkollen@jkenn.com>

Subject: RE: Motion to Compel

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Sent: Monday, June 04, 2012 10:51 AM

To: 'Lane Kollen'; 'Philip Hayet'

Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

-----Original Message-----

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Sent: Sunday, June 03, 2012 6:10 PM

To: Michael Kurtz

Subject: Motion to Compel

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000205

May 11, 2012 accurately.

Thanks,

Jody

<KIUC Motion to Compel (first draft) - rtf.DOC>

<KIUC Motion to Compel (first draft) - 2.DOC>

000206

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Tuesday, June 05, 2012 3:05 PM
To: Michael Kurtz
Subject: RE: Motion to Compel

Got it. Thanks.

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
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To: Hans, Jennifer (KYOAG)
Subject: Fwd: Motion to Compel

Does this work? I am out of the office.

Sent from my iPad

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Date: June 5, 2012 1:29:53 PM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>
Cc: Jody Kyler <jkyler@bkllawfirm.com>, "philhaye@concentric.net" <philhaye@concentric.net>, "kristin.henry@sierraclub.org" <kristin.henry@sierraclub.org>, "sfisk@earthjustice.org" <sfisk@earthjustice.org>
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000700

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
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000010

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000212

Michael Kurtz

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Sent: Wednesday, June 06, 2012 9:38 AM
To: Michael Kurtz; Shannon Fisk
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

I think the additions by the Sierra Club are very fine. There are a few editing comments that i will send momentarily.

David

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Shannon

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Sent: Tuesday, June 05, 2012 1:30 PM
To: Michael Kurtz

000213

Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk
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To: 'Lane Kollen'; 'Philip Hayet'

Subject: FW: Motion to Compel

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000215

Michael Kurtz

From: Hans, Jennifer (KYOAG) [jennifer.hans@ag.ky.gov]
Sent: Wednesday, June 06, 2012 9:39 AM
To: Michael Kurtz; Shannon Fisk; Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG); James, Matt (KYOAG)
Subject: RE: Motion to Compel
Attachments: KIUC Motion to Compel (first draft) - 2.DOC

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000216

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Subject: RE: Motion to Compel

Thanks Jennifer. We will incorporate your additions and try to get a final version out soon after lunch.

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From: Brown, David [<mailto:DBROWN@stites.com>]

Sent: Tuesday, June 05, 2012 1:30 PM

To: Michael Kurtz

Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Shannon Fisk

Subject: RE: Motion to Compel

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David

000221

David C. Brown
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352
Direct Dial: (502) 681-0421
Fax: (502) 779-8251
dbrown@stites.com

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Sent: Tuesday, June 05, 2012 11:48 AM
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Date: June 5, 2012 7:57:36 AM EDT
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Subject: RE: Motion to Compel

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Thanks,

Phil

000222

-----Original Message-----

From: Michael Kurtz [mailto:MKurtz@bkllawfirm.com]

Sent: Monday, June 04, 2012 10:51 AM

To: 'Lane Kollen'; 'Philip Hayet'

Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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Sent: Sunday, June 03, 2012 6:10 PM

To: Michael Kurtz

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Subject: RE: Motion to Compel
Attachments: Joint Motion to Compet (BR Compliance) - 2.DOC

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Subject: RE: Motion to Compel

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060224

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I am heading off to a PSC meeting scheduled for 10:00 am, but will be available most of the rest of the day.

Thanks to you and your team for doing the heavy lifting on this one.

Jennifer Black Hans

Assistant Attorney General
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

From: Michael Kurtz [<mailto:MKurtz@bklawfirm.com>]

Sent: Wednesday, June 06, 2012 9:17 AM

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)

Subject: RE: Motion to Compel

All.

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000225

E-mail: mikurtz@BKLawfirm.com

From: Shannon Fisk [<mailto:sfisk@earthjustice.org>]
Sent: Tuesday, June 05, 2012 10:47 PM
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Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
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To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
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From: Philip Hayet [philhayet@concentric.net]
Sent: Wednesday, June 06, 2012 10:11 AM
To: 'Brown, David'; Michael Kurtz; 'Shannon Fisk'
Cc: Jody Kyler; kristin.henry@sierraclub.org; 'Hans, Jennifer (KYOAG)'; 'Howard, Dennis (KYOAG)'; 'Cook, Larry (KYOAG)'
Subject: RE: Motion to Compel

Mike,

Given that my review from the road was a little rushed and many changes have been made, could I do a quick review after it is all cleaned up, before you send it out. For one thing I noticed my name was spelled wrong, should be Phil Hayet. But there are other things I want to look at as well.

Thanks,

Phil

From: Brown, David [mailto:DBROWN@stites.com]
Sent: Wednesday, June 06, 2012 9:38 AM
To: Michael Kurtz; Shannon Fisk
Cc: Jody Kyler; philhayet@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
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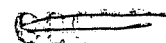
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E-mail: mkurtz@BKLawfirm.com

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000232

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Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
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From: Hans, Jennifer (KYOAG) [<mailto:jennifer.hans@ag.ky.gov>]
Sent: Wednesday, June 06, 2012 9:39 AM
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Jennifer Black Hans

Assistant Attorney General
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Fax: 502-573-1009
jennifer.hans@ag.ky.gov

NOTICE OF CONFIDENTIALITY

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From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Wednesday, June 06, 2012 9:17 AM
To: 'Shannon Fisk'; Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Cook, Larry (KYOAG)
Subject: RE: Motion to Compel

000238

All.

Shannon/Kristen.

Thank you for the additions. I think the motion is very compelling. I would like to file it today. I will accept all changes and then make final clean ups. I don't think affidavits are essential and I don't want to delay, so I will remove those references.

Jennifer, we would like to have the AG sign on if you give the go ahead.

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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000210

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

36 E. Seventh St., Suite 1510
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Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLLawfirm.com

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Subject: RE: Motion to Compel
Attachments: Joint Motion to Compel FINAL.docx; Ltr to Jim Miller Esq 05112012.pdf

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Subject: RE: Motion to Compel

I can file it today. I am happy to sign for you and David if I have both of your permissions, and I see where Joe has already signed on behalf of the Sierra Club.

Great effort everyone!

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
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You big city lawyers cannot leave well enough alone.

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Government lawyers too.

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060260

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Great effort everyone!

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

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Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'

000209

Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

000770

Michael Kurtz

From: Cook, Larry (KYOAG) [larry.cook@ag.ky.gov]
Sent: Wednesday, June 06, 2012 1:57 PM
To: Michael Kurtz; Hans, Jennifer (KYOAG); Shannon Fisk; Brown, David
Cc: Jody Kyler; philhaye@concentric.net; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG)
Subject: RE: Motion to Compel

You're starting to get personal now. ☺

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Government lawyers too.

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<lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

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Subject: RE: Motion to Compel

You have my permission. David may be out of pocket for a while, but I'm sure is fine to sign for him if he does not respond personally.

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I can file it today. I am happy to sign for you and David if I have both of your permissions, and I see where Joe has already signed on behalf of the Sierra Club.

Great effort everyone!

Jennifer Black Hans

Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

000275

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

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Second, please add "Ben Taylor" to the caption.

Thanks!

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Attachments: Joint Motion to Compel FINAL.docx

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Mike & Phil:

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Thank you all again!

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Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive
Frankfort, KY 40601
(502) 696-5453 (Rate Intervention)
(502) 696-5408 (Direct)
Fax: 502-573-1009
jennifer.hans@ag.ky.gov

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Sent: Wednesday, June 06, 2012 1:59 PM
To: Cook, Larry (KYOAG); Michael Kurtz; Hans, Jennifer (KYOAG); Brown, David
Cc: Jody Kyler; philhay@concentric.net; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG)
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000285

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Government lawyers too.

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To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

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Phil

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To: Michael Kurtz
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Subject: RE: Motion to Compel

Thanks, Jennifer. Assuming there are no other major changes, you may file for us.

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Sent: Wednesday, June 06, 2012 2:13 PM
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Cc: Jody Kyler; kristin.henry@sierraclub.org; Howard, Dennis (KYOAG); Cook, Larry (KYOAG); James, Matt (KYOAG); joe@jchilderslaw.com; dbrown@stites.com
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Shannon:

The changes you identified have been made. See attached.

Mike & Phil:

I have the May 11th letter from your office to attach to the Motion. Just advise me after Phil has completed his final review.

Thank you all again!

Jennifer Black Hans

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Jennifer - please sign my name to the final.

David Brown

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Great effort everyone!

Jennifer Black Hans

Executive Director

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On Jun 5, 2012, at 11:41 AM, "Brown, David" <DBROWN@stites.com> wrote:

Mike - I have revisions to suggest and will get those to you in a bit. I think we need to put the precise issue up front.

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Tuesday, June 05, 2012 10:36 AM
To: Brown, David; Jody Kyler
Subject: Fwd: Motion to Compel

Sent from my iPhone

Begin forwarded message:

From: Philip Hayet <philhayet@concentric.net>
Date: June 5, 2012 7:57:36 AM EDT
To: Michael Kurtz <MKurtz@bkllawfirm.com>, 'Lane Kollen' <lkollen@jkenn.com>
Subject: RE: Motion to Compel

Mike,

Here are my changes. If you would like to discuss please call my cell at 770-855-1815. I may not be immediately available but will be able to call back. I will be back in the office tomorrow.

Thanks,

Phil

-----Original Message-----

From: Michael Kurtz [<mailto:MKurtz@bkllawfirm.com>]
Sent: Monday, June 04, 2012 10:51 AM
To: 'Lane Kollen'; 'Philip Hayet'
Subject: FW: Motion to Compel

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh St., Suite 1510
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Ph: 513.421.2255 Fax: 513.421.2764
E-mail: mkurtz@BKLawfirm.com

-----Original Message-----

From: Jody Kyler
Sent: Sunday, June 03, 2012 6:10 PM
To: Michael Kurtz
Subject: Motion to Compel

Mike,

Attached is a draft Motion to Compel in the Big Rivers' Environmental Surcharge case. I will probably review the Motion again, but wanted to get you something now since I will likely be in the Columbus hearing Monday and Tuesday and at Kentucky new lawyer training on Wednesday and Thursday. I based the information in the May 11, 2012 letter on the e-mails I reviewed, but you may want to verify that I quoted the final letter actually sent on May 11, 2012 accurately.

Thanks,

Jody

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