

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

APPLICATION OF BIG RIVERS )  
ELECTRIC CORPORATION, INC. )  
FOR APPROVAL OF ITS )  
2012 ENVIRONMENTAL COMPLIANCE PLAN, )  
FOR APPROVAL OF ITS AMENDED )  
ENVIRONMENTAL COST RECOVERY )  
SURCHARGE TARIFF, FOR CERTIFICATES OF )  
PUBLIC CONVENIENCE AND NECESSITY, )  
AND FOR AUTHORITY TO ESTABLISH )  
A REGULATORY ACCOUNT )

JUN 21 2012

PUBLIC SERVICE  
COMMISSION

Case No. 2012-00063

ATTORNEY GENERAL'S SUPPLEMENTAL DATA REQUESTS  
**PUBLIC REDACTED VERSION**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits these Supplemental Requests for Information to Big Rivers Electric Corporation, Inc. [hereinafter referred to as "BREC"] to be answered by the date specified in the Commission's Order of Procedure, and in accord with the following:

(1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.

(2) Please identify the witness who will be prepared to answer questions concerning each request.

(3) Please repeat the question to which each response is intended to refer. The Office of the Attorney General can provide counsel for BREC with an electronic version of these questions, upon request.

(4) These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.

(5) Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

(6) If any request appears confusing, please request clarification directly from the Office of Attorney General.

(7) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar document, workpaper, or information.

(8) To the extent that any request may be answered by way of a computer printout, please identify each variable contained in the printout which would not be self evident to a person not familiar with the printout.

(9) If the company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, please notify the Office of the Attorney General as soon as possible.

(10) As used herein, the words "document" or "documents" are to be construed broadly and shall mean the original of the same (and all non-identical copies or drafts thereof) and if the original is not available, the best copy available. These terms shall include all information recorded in any written, graphic or other tangible form and shall include, without limiting the generality of the foregoing, all reports; memoranda; books or notebooks; written or recorded statements, interviews, affidavits and depositions; all letters or correspondence; telegrams, cables and telex messages; contracts, leases, insurance policies or other agreements; warnings and caution/hazard notices or labels; mechanical and electronic recordings and all information so stored, or transcripts of such recordings; calendars, appointment books, schedules, agendas and diary entries; notes or memoranda of conversations (telephonic or otherwise), meetings or conferences; legal pleadings and transcripts of legal proceedings; maps, models, charts, diagrams, graphs and other demonstrative materials; financial statements, annual reports, balance sheets and other accounting records; quotations or offers; bulletins, newsletters, pamphlets, brochures and all other similar publications; summaries or compilations of data; deeds, titles, or other instruments of ownership; blueprints and specifications; manuals, guidelines, regulations, procedures, policies and instructional materials of any type; photographs or pictures, film, microfilm and microfiche; videotapes; articles; announcements and notices of any type; surveys,

studies, evaluations, tests and all research and development (R&D) materials; newspaper clippings and press releases; time cards, employee schedules or rosters, and other payroll records; cancelled checks, invoices, bills and receipts; and writings of any kind and all other tangible things upon which any handwriting, typing, printing, drawings, representations, graphic matter, magnetic or electrical impulses, or other forms of communication are recorded or produced, including audio and video recordings, computer stored information (whether or not in printout form), computer-readable media or other electronically maintained or transmitted information, and all other rough drafts, revised drafts (including all handwritten notes or other marks on the same) and copies of documents as hereinbefore defined by whatever means made.

(11) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

(12) In the event any document called for has been destroyed or transferred beyond the control of the company, please state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

(13) Please provide written responses, together with any and all exhibits pertaining thereto, in one or more bound volumes, separately indexed and tabbed by each response, in compliance with Kentucky Public Service Commission Regulations.

Respectfully submitted,  
JACK CONWAY  
ATTORNEY GENERAL



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*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Mark A. Bailey  
President and CEO  
Big Rivers Electric Corporation  
201 3rd St.  
Henderson, KY 42420

Robert W. Berry, Vice President  
Production  
Big Rivers Electric Corporation  
201 3rd St.  
Henderson, KY 42420

Hon. James M. Miller  
Hon. Tyson Kamuf  
Sullivan, Mountjoy, Stainback & Miller, PSC  
P.O. Box 727  
Owensboro, KY 42302-0727

Hon. Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 E. 7th St.  
Ste. 1510  
Cincinnati, Ohio 45202

Albert Yockey, Vice President,  
Governmental Relations & Enterprise Risk  
Management  
Big Rivers Electric Corporation  
201 3rd St.  
Henderson, KY 42420

Joe Childers  
Joe F. Childers & Associates  
300 Lexington Building  
201 West Short Street  
Lexington, KY 40507

this 21<sup>st</sup> day of June, 2012

  
\_\_\_\_\_  
Assistant Attorney General

Application of Big Rivers Electric Corporation, Inc.  
For Approval of its 2012 Environmental Compliance Plan, Amended Environmental Cost  
Recovery Surcharge Tariff, for Certificates of Public Convenience  
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1. Reference BREC's response to AG DR 1-1, wherein BREC was asked to provide "the actual, average usage for BREC's rural class of customers for the past five years" [emphasis added]. Provide the amount of energy consumed by the average rural customer of the three member rural electric cooperatives ("coops"). (Note that the question did not ask to provide this information with regard to the average of the three coops' kwh sales.)
2. Reference BREC's response to AG DR 1-2, wherein BREC was asked to provide "the actual, average monthly usage for BREC's industrial class of customers for the past five years" [emphasis added]. Provide the amount of energy consumed by the average industrial customer of the three member coops (Note that the question did not ask to provide this information with regard to the average of the three coops' kwh sales.)
3. Reference BREC's response to AG DR 1-5. Provide the chart which was requested.
4. Reference BREC's response to AG DR 1-7.
  - a. BREC failed to state whether the total costs of the \$49.185 million in gross plant retirement for the Wilson scrubber is included in the total costs which are the subject of the instant filing. If so, identify exactly and precisely where such an entry can be located in the filing materials.
  - b. With regard to BREC's response to subpart (a) of this question, BREC failed to provide the chart requested, and instead stated only "not applicable," without stating why such a chart is not applicable. Provide the chart and a complete explanation.
5. Reference BREC's response to AG DR 1-13 and Hite Testimony, Section V. Has BREC consulted with Goldman Sachs and its bond counsel, Orrick Herrington & Sutcliffe LLP concerning the opportunities available for public financing, including qualified private activity bonds pursuant to Internal Revenue Code Section 142(a)(6)?

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- a. If the answer is in the affirmative, please provide all records and related communication concerning the analysis of the opportunity for using tax-exempt, qualified private activity bonds under Kentucky's 2012 calendar year volume cap allocation for private activity bonds. If no, why not?
  - b. Would BREC consider evaluating whether it could obtain financing at a favorable interest rate using tax-exempt qualified private activity bonds? If not, why not?
  - c. Has BREC or their representative contacted the Finance Cabinet about the availability of private activity volume cap for qualifying portions of the project? If yes, please discuss. If not, why not?
6. If BREC should attempt to obtain forms of secured financing other than through the RUS (e.g., through private placement and public capital debt markets, or industry lenders such as CoBank and ACB) would it first be required to obtain a lien accommodation from the RUS?
- a. If the response is "yes," please provide an estimate of how long it would take to obtain such a lien accommodation, and any and all other requirements BREC would have to meet in order to qualify for the accommodation.
7. Has BREC considered the option of obtaining a trust indenture to finance its ECR costs, similar to that set forth in EKPC's application in Case No. 2012-00249?
8. Reference BREC's response to AG DR 1-14 and 1-21. Please provide a copy of the Request for Proposal (RFP) for the Wilson FGD replacement project.
9. Reference BREC's response to AG DR 1-18. BREC was asked, to provide a detailed breakdown of, *inter alia*, "other costs, identifying fully the nature of such other costs." No such description was provided. Provide a complete description and detailed breakdown of such costs.
10. Reference BREC's response to AG DR 1-26. State who will be responsible for providing notice to retail ratepayers: BREC, or the member coops?

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- a. Provide copies of the notice that will be provided to retail rural class customers.
  - b. How will any such notice referenced in subpart (a), above, be provided? If necessary, provide a complete list of any and all media outlets who will publish any such notice.
  - c. AG DR 1-26 asked the company to identify where in the notice to ratepayers the actual dollar amount was listed. The question did not ask for how the amounts could be calculated. Respond to the question.
11. Reference the response to AG 1-33, the Fitch Ratings rating report dated June, 2011. Confirm that this report indicates that a rating action could be triggered by EPA regulations.
12. Reference the Fitch Rating Report attached to BREC's response to AG 1-33, p. 7. Confirm that the report states: "Big Rivers estimates that full compliance with the regulations could require expenditures of \$785 million by 2015, and increase wholesale rates and member retail rates by 39% and 20%, respectively."
- a. Please explain what caused the company to change the above-referenced cost estimate of achieving compliance to the cost estimate which is set forth in the instant filing.
13. Reference BREC's response to AG 1-44 (a) and (b), wherein BREC states that in 2018, the rural class should experience an increase of approximately 6.9%. Provide this figure in terms of actual dollars for the monthly bill of the average rural customer for each of the three members.
14. Reference BREC's response to AG 1-46, Update to BREC's Board, dated February 21, 2012, p. 7. Explain under what circumstances, and when, BREC will seek the increase in base rates as set forth in this slide.
15. Reference BREC's response to AG 1-46, "Environmental Compliance Update to Big Rivers Board" at p. 5, wherein a chart indicates "Overall CSAPR & MATS Capital Expense" total of \$213.5 million and at p. 6, wherein a chart indicates "Overall CSAPR & MATS O & M Expense" of \$10.18 million. Reconcile the above-referenced estimates with the figures set forth in BREC's application.

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16. Reference BREC's response to AG 1-46, "Big Rivers Letter to Rural Utilities Service" at p. 2, wherein it is stated: "We are unclear about whether the term 'generating facilities' includes pollution control equipment added to existing generating facilities." Has RUS responded to this query? If yes, please provide the responsive communication or identify where it has been provided in response to initial requests for information.
  
17. Reference BREC's response to AG 1-64, attachment 1 (letter from Mark Hite dated March 6, 2012). At page 2 of this letter, Mr. Hite states, "We understand that qualifying for RUS loan funds requires compliance with a number of requirements, including compliance with the National Environmental Policy Act."
  - a. Please describe the requirements referenced in Mr. Hite's letter, with which BREC will need to comply in order to qualify for RUS loans.
  - b. If BREC is still learning what these requirements will be, does it agree to promptly supplement its response hereto in order to provide this information to the Commission and to the parties?
  
18. Reference BREC's response to AG 1-64, attachment 4 ("Financing Document RUS Loan Application Package"). At p. 26 of that document, BREC states that annual O & M costs are estimated at \$13.230 million.
  - a. Reconcile this figure with the figure of \$15.73 million for annual O & M costs provided in BREC's response to AG 1-56.
  - b. Reconcile the two above-referenced O & M figures with that set forth in BREC's response to KIUC 1-43, February 21, 2012 minutes of BREC's Board of Directors, the attached "Environmental Compliance Update," dated February 21, 2012, p. 6, which indicates annual O & M will be \$11.99 million.
  
19. Reference BREC's response to AG 1-39 and (a) wherein BREC states: "The additional O & M costs were estimated in 2011 dollars and adjusted for inflation at 2.5% each year through 2023." Please provide a total sum of estimated O & M costs that BREC is requesting to recover between 2012 and 2023, broken down by each year.

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20. Reference the company's response to AG 1-77. Provide the proposed return on investment in terms of a percentage, over the life span of the project. If necessary in order to fully address this question, use hypothetical data, but carefully note where any such hypothetical data is employed.
21. Reference the company's response to AG 1-78, regarding the **proposed** deviation (total adjusted revenue) from BREC's ECR methodology, in particular the fixed cost recovery component. Express the data provided on the attached "Allocation of Environmental Plan Costs" in terms of percentages (i.e., the rural class will pay what percentage of the total costs, etc.). Provide the same data, again in terms of percentages, using the **existing** ECR methodology (\$/kWh).
  - a. Explain the statement " . . . the Rural class has a lower load factor than Big Rivers' other customer classes."
  - b. Do the rural classes of all three members, when taken as a whole, in fact comprise a lower load factor than all of the other classes? Explain in complete detail.
22. Reference BREC's response to AG 1-90. The company failed to provide a substantive, meaningful response to AG 1-1, 1-2 and 1-3, and does so again in 1-90. Provide a chart, broken down by the three members, further broken down by the classes; for each average customer (as defined by the average level of consumption for each class, and for each member) provide a dollar amount of the percentage increases noted in Wolfram exhibit 6. If necessary, contact counsel for the Attorney General if you should have any questions.
23. Reference the company's response to AG 1-92. Please provide a substantive, meaningful response to the question.
24. Reference BREC's response to KIUC 1-36, file named "Capital Cost Estimates" on the CD attached in response thereto. This e-mail from Eric Robeson indicates that "Scenario 2 is most likely one," and gives a total of \$458 million including HAPS and MACT.
  - a. To what scenario or document(s) does this e-mail make reference?

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- b. Have any and all such documents already been provided by BREC? If so, please provide a specific reference.
  - c. How was the \$458 million figure developed, and by whom? Upon what plan(s) was or were that figure based?
  - d. Has BREC already provided any and all documents, memoranda, and workpapers associated with the projects which are included within that dollar figure? If not, please do so.
25. Reference BREC's response to KIUC 1-36, file named "Capital Cost Estimates 0000" on the CD attached in response thereto. Please explain the meaning of the sentence: "If scenario 2 is more likely than scenario 1, how hard would it be to reverse the numbering of them?"
26. Reference BREC's response to KIUC 1-43, April 20, 2012 minutes of BREC's Board, the attached "Smelter Mitigation Plan Update to the Board of Directors, April 2012," p.8. The document indicates the rural class would face rate increases, net of the MSRM, ranging from 9.3% to 11.8% in the various scenarios. Reconcile this information with the Wolfram testimony, and with the company's response to AG 1-87, which indicate the rurals would experience no rate impact.
27. Reference BREC's Updated Response to KIUC 1-43, "Financial Forecast 2012-2026; Presentation June 15, 2012," p. 2. This particular model carries the express major assumption that both smelter contracts will continue beyond 2023. Explain whether BREC has a financial model that utilizes the assumptions that one or both smelters would leave by 2014. If so, please provide a copy, or if it is already filed of record, please identify where. If BREC does not have such a model, please state why not.
28. Reference the BREC response to AG 1-78, and to the Wolfram pre-filed testimony beginning at p. 7. Mr. Wolfram attempts to justify the change of methodology for calculating the ECR from the existing \$/kWh to the proposed total adjusted revenue methodology based in part upon the assertion that the ECR costs for the 2012 plan are all fixed. Reconcile this assertion with the company response to KIUC 1-43, February 21, 2012 minutes of the Board of Directors' meeting, the attached "Big Rivers Environmental Surcharge (ES) Rate Formula," dated February 21, 2012, p. 5, which indicates, *inter alia*, that 32% of the proposed costs in the 2012 plan are variable.

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- a. Has the company considered revising the ECR methodology to have two components, one for variable costs using the kWh methodology, and the second for fixed costs utilizing the total adjusted revenue methodology? If not, why not?
- b. Does the company agree that such an approach would provide a more just and equitable means of allocating costs?
- c. Would the company agree to consider such an option? If not, why not?

29. Reference BREC's response to KIUC 1-43, the March 16, 2012 Board of Directors' minutes, attachment entitled "Smelter Mitigation Plan," dated March 2012, p. 4. Please provide a complete explanation of what this chart depicts, and explain whether the data referenced therein comports in all ways with BREC's application, and all of its responses to data requests.

- a. Regarding the cost data set forth on the left side of that page, provide a breakdown in terms of dollars and cents that will appear on the monthly bills of all three members' average ratepayers, in all classes. For purposes of this question, "average ratepayer" is defined as the average level of consumption.

30. Provide an update on Phase 2 of BREC's transmission expansion programs.

31. Reference BREC's Confidential Updated Response to KIUC 1-43, {BEGIN CONFIDENTIAL} [REDACTED]

[REDACTED]

e. [REDACTED] {END CONFIDENTIAL}