

JUN 27 2013

PUBLIC SERVICE
COMMISSION

DINSMORE & SHOHL LLP
101 South Fifth Street ^ Suite 2500 ^ Louisville, KY 40202
www.dinsmore.com

Edward T. Depp
502-540-2347
tip.depp@dinsmore.com

June 27, 2013

Via Hand Delivery

Hon. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

***Re: In the Matter of Application of Big Rivers Electric Corporation for a
General Adjustment in Rates, Case No. 2012-00535***

Dear Mr. Derouen:

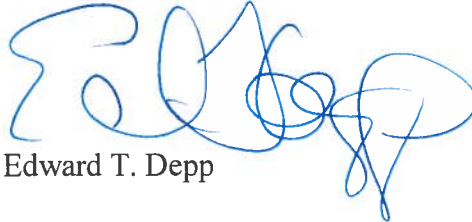
With this letter I am enclosing one (1) original and eleven (11) copies of Big Rivers Electric Corporation's response to the joint motion of Attorney General, Ben Taylor, and Sierra Club to reschedule the hearing in regard to the above matter.

Please return a file stamped copy to our courier.

Thank you, and if you have any questions, please call me.

Sincerely,

DINSMORE & SHOHL LLP



Edward T. Depp

ETD/kwi
Enclosure

cc: All Parties of Record

JUN 27 2013

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

In the Matter of:

Application of Big Rivers Electric)
Corporation for a General) Case No. 2012-00535
Adjustment in Rates)

**RESPONSE OF BIG RIVERS ELECTRIC CORPORATION TO JOINT MOTION
OF ATTORNEY GENERAL, BEN TAYLOR AND SIERRA CLUB TO
RESCHEDULE HEARING**

Comes Big Rivers Electric Corporation (“Big Rivers”), by counsel, and for its response to the Joint Motion to Reschedule Hearing (the “Motion”) filed by the Office of the Attorney General (the “Attorney General”), Ben Taylor and Sierra Club (together, “Sierra Club”), states as follows:

A. Introduction.

1. The hearing in this matter is set for next Monday, July 1. All parties and the Commission staff have spent significant time and resources in recent weeks preparing for the upcoming hearing and making arrangements for out-of-town witnesses. All of Big Rivers’ witnesses have made travel arrangements to appear at the hearing.

2. Yesterday, just five calendar days before the final hearing, the Attorney General and Sierra Club filed a Motion seeking to reschedule the hearing. As support for their Motion, the Attorney General and Sierra Club rely entirely on misapprehensions of the record in this case, the Commission, and the other intervenors in this case. Although it does not object, Kentucky Industrial Utility Customers, Inc. did not join the motion.

(See Motion, p. 1.)

1 3. Neither the Attorney General nor Sierra Club cite any specific information
2 they need, but do not have, in order to proceed with the scheduled hearing. Similarly,
3 they do not identify any specific harm allegedly caused by the concerns they describe in
4 their Motion. As discussed in more detail below, the claims made by the Attorney
5 General and Sierra Club do not undermine the reasonableness or accuracy of Big Rivers’
6 forecast or its proposed rates, and the cited facts are absolutely not an amendment to Big
7 Rivers’ Application. As a result, it is not clear why the allegations set forth in the Motion
8 would justify a rescheduling of the hearing in this matter even if the allegations were
9 correct, which they are not.

10 4. Instead, the Attorney General and Sierra Club disregard the record and
11 rely on the false premise that Big Rivers “disclosed for the first time” in its rebuttal
12 testimony that it is not idling the D.B. Wilson Station (the “Wilson Station”) and instead
13 will consider idling the Kenneth W. Coleman Station (the “Coleman Station”). (Motion,
14 p. 2.) As discussed in detail below, from the time of the initial Application in this matter,
15 Big Rivers has consistently explained that the anticipated idling of the Wilson Station
16 was an interim assumption based on the information available at the time. The Attorney
17 General repeatedly and expressly acknowledged that Big Rivers had not finalized plans to
18 idle any specific generation asset and that Big Rivers was still exploring its options in
19 order to determine the path forward most beneficial to its Members. As early as
20 February, the Attorney General referred to Big Rivers’ “proposed plan to idle one or
21 more generation plants”¹ Furthermore, Big Rivers’ testimony and data responses
22 were provided to Sierra Club when it was permitted to intervene in this case, and as

¹ See Office of the Attorney General’s Initial Request for Information, Item 111 (Feb. 14, 2013) (“**If** Big Rivers implements the **proposed** plan to idle **one or more** generation plants, describe or discuss fully the following items” (emphases added)).

1 recently as May 6, 2013 Sierra Club had an opportunity to issue data requests following
2 up on all previously-filed testimony and data responses. This information is not new, and
3 it should not justify abandoning a major scheduled hearing mere days before it takes
4 place.

5 5. The Attorney General and Sierra Club also incorrectly claim that Big
6 Rivers “announced yet another plan” this week, in a Platts newspaper article, to consider
7 selling generation assets. Big Rivers has consistently explained that it has explored and
8 is continuing to explore the possibility of selling certain generation assets. This
9 information is also not new, and it should not justify abandoning a major scheduled
10 hearing mere days before it takes place.

11 6. The Attorney General and Sierra Club’s Motion relies entirely on their
12 allegations that “major and material change[s]” have arisen in the past week. (*See*
13 *Motion*, pp. 2-3.) In fact, as detailed in the Response below, both the Attorney General
14 and Sierra Club have had this information for months.

15 7. Despite the claims set forth in the Motion, none of the concerns raised by
16 the Attorney General and Sierra Club undermine the reasonableness, accuracy, or
17 completeness of Big Rivers’ forecast or its proposed rates. Furthermore, nothing in Big
18 Rivers’ data responses, data response attachments, testimony, or public statements
19 constitutes an amendment to its Application in this proceeding. In its Application, Big
20 Rivers included the costs of (i) operating one of two active plants under consideration for
21 addressing Century’s contract termination, and (ii) maintaining one idled plant. That
22 assumption remains true. Furthermore, as Big Rivers has explained throughout this case,
23 it will continue to pursue various mitigating opportunities for the benefit of its Members.

1 The possible sale of generating assets, however, is not projected to occur at any certain
2 date in the future, if it happens at all. Therefore, they do not affect Big Rivers' forecast
3 or this rate proceeding. In the event that any such opportunity yields benefits, Big Rivers
4 will take all necessary action to ensure that the benefits inure to its Members and their
5 ratepayers.

6 8. For these reasons, as set forth more fully below, Big Rivers respectfully
7 requests that the Commission deny the Motion.

8 **B. Big Rivers' Plan to Potentially Idle Generation Assets.**

9 9. The Attorney General and Sierra Club claim that the possible idling of the
10 Coleman Station instead of the Wilson Station is "a major and material change"
11 introduced by Big Rivers' rebuttal testimony filed on June 24. This is contradicted by the
12 record.

13 10. As part of Big Rivers' January Application in this proceeding, Mr. Robert
14 W. Berry testified that Big Rivers expected to help mitigate the impact of Century's
15 contract termination by, in part, "curtailing production by temporarily idling one of its
16 power plants." (Direct Testimony of Robert W. Berry, p. 20:5-8 (emphasis added).) He
17 further testified that Big Rivers "assumed Wilson Station will be idled" because of
18 anticipated system reliability requirements, but that Big Rivers "continues to evaluate a
19 range of options to arrive at the most cost-effective alternative possible for Big Rivers'
20 members." (*Id.* at p. 22:10-18.) Other witnesses submitting testimony with Big Rivers'
21 Application similarly referred to the mitigation plan including "anticipated" idling,
22 usually without even specifying that the Wilson Station was the "anticipated" target.²

² See Direct Testimony of Mark A. Bailey, p. 6:20 (referring to "anticipated idling of a generating plant" (emphasis added)); Direct Testimony of James V. Haner, p. 10:6-8 (referring to jobs "anticipated to be

1 11. The Attorney General and Sierra Club incorrectly state that Big Rivers’
2 new plan in response to the Century termination is “to sell or idle *both* Coleman and
3 Wilson.” (Motion p. 2.) As Big Rivers has repeatedly made clear in this proceeding, it
4 anticipates laying up one plant in response to the Century termination. The possibility of
5 idling a second station would only arise as a response to the Alcan termination, which is
6 not the subject of this proceeding. Indeed, the Platts newspaper article cited as authority
7 in the Motion explains that the possible sale or idling of two plants would be in response
8 to “the impending loss of two of its largest customers” (Century and Alcan).³ Additional
9 details of any mitigation plan that includes potentially idling or selling a second plant will
10 be addressed by Big Rivers in the Alcan rate case, and the intervenors will be able to
11 request additional information about those plans at that time.

12 12. Throughout Big Rivers’ responses to data requests in this proceeding, it
13 has consistently provided updates on its plans to idle a generation asset, and has
14 consistently made it clear that those plans were not final. What follows is a non-
15 exhaustive list of such references in Big Rivers’ narrative responses and attachments:

- 16 • Response to AG 1-91 - “In Berry Direct Testimony at page 22, line 13, it
17 states that ‘Big Rivers assumed Wilson Station would be idled’ and that
18 Big Rivers would continue to evaluate the most cost-effective alternative
19 possible. Big Rivers continues its evaluation and the evaluation will be
20 made available when completed.”
- 21 • Attachment 3 to PSC 2-15, p. 3 – “[C]urrent outage plans depict the
22 Wilson unit temporarily idled until Big Rivers can secure replacement
23 load. Big Rivers is still evaluating this strategy and the current plan is
24 subject to change.” (emphases added)

eliminated with the idling of one of Big Rivers’ power plants” (emphasis added)); Direct Testimony of John Wolfram, p. 18:16-18 (referring to “the anticipated lay-up of that facility [Wilson Station] described in the Direct Testimony of Mr. Robert W. Berry” (emphasis added).)

³ Bob Matyi, “Big Rivers looking to sell two Kentucky coal plants,” Platts McGraw Hill Financial (June 25, 2010).

- 1 • Response to KIUC 1-36(g) – “Big Rivers has requested that MISO
2 perform studies to assess the reliability impact of the Coleman station
3 closure versus the Wilson station closure. MISO has as yet provided no
4 information to Big Rivers regarding the study results.”
- 5 • Attachments to AG 1-89(c) – Spreadsheets containing calculations based
6 on various assumptions, including idling the Wilson Station only,⁴ idling
7 the Coleman Station only,⁵ and idling both the Wilson Station and the
8 Coleman Station simultaneously.⁶
- 9 • Response to SC 2-17(b) – Sierra Club questioned whether Big Rivers
10 expected to “file an Attachment Y application with MISO to idle the
11 Coleman Station?” Big Rivers’ response: “Yes.”
- 12 • Response to SC 2-23(a)(2) - “Big Rivers has filed Attachment Y-2s with
13 MISO on Wilson, Coleman, and Green Stations.”
- 14 • Response to AG 1-107 – Begins with phrase: “If Big Rivers decides to
15 idle the Wilson plant” (emphasis added).
- 16 • Response to AG 1-111(a) – “Big Rivers expects to idle either the Wilson
17 Plant or the Coleman Plant due to Century’s termination notice.”
18 (emphasis added).
- 19 • Attachment to AG 1-167 – Presentation to Big Rivers’ Board of Directors
20 explaining that various production cost models were “being run to feed the
21 Financial Model,” including runs showing the Wilson Station idled, the
22 Coleman Station idled, and both the Wilson Station and the Coleman
23 Station idled.⁷
- 24 • Response and Attachments to AG 1-236 – Explaining that ACES ran five
25 sensitivity runs on Big Rivers’ production cost model, including “Sens. 2”
26 which assumed the Coleman Station would be idled, and “Sens. 3” which
27 assumed the Wilson Station would be idled, and producing those runs that
28 had not yet been produced.
- 29 • Response and Attachments to PSC 2-21(a) – Explaining that Big Rivers
30 was exploring idling either the Coleman Station or the Wilson Station,

⁴ See confidential electronic attachment “AG 1-89 CONFIDENTIAL Big Rivers 2012-2026 (CSAPR-MATS by equip) no Alcan APM (4-5-12).xlsx” at tab “Dispatch Logic”.

⁵ See confidential electronic attachment “AG 1-89 CONFIDENTIAL Financial Forecast (2012-2026) Build Century Leave 04-18-2012.xlsx” at tab “Stmts RUS” and confidential electronic attachment “AG 1-89 CONFIDENTIAL Big Rivers 2012-2026 (CSAPR-MATS by equip) no CNTRY APM (4-4-12).xlsx” at tabs “Dispatch Logic” and “Annual Resource Report”.

⁶ See confidential electronic attachment “AG 1-89 CONFIDENTIAL Big Rivers 2012-2026 (CSAPR-MATS by gen) APM (4-14-12).xlsx” at tab “Dispatch Logic”.

⁷ See confidential electronic attachment “AG 1-167 CONFIDENTIAL - Smelter Mitigation Plan Update (3) ATTACHMENT.pptx” at p. 3.

1 depending on MISO’s position on the needs for each station for reliability
2 purposes. Big Rivers then attached the Y-2 Attachments for each plant
3 and clarified that it “anticipates receiving results from MISO in early to
4 mid-March.”

- 5 • Attachment 2 to PSC 2-21(a), p. 1 – Big Rivers’ cover letter to MISO
6 requesting the following evaluation: “When evaluating the impact of
7 removing Wilson from service, please assume that Coleman remains in
8 operation. Likewise, when evaluating the impact of removing Coleman
9 from service, please assume that Wilson remains in operation.”
- 10 • Response and Attachment to PSC 2-21(b) – Providing an electronic
11 version of Big Rivers’ Wilson Station Lay-up Plan and clarifying that it
12 “is a living document and changes/updates will be made as new
13 information and details become available.”
- 14 • Attachment to Response to PSC 2-21(f)(1) – Power flow studies described
15 as “necessary to evaluate a temporary idling of either the entire Coleman
16 Generation Station or the Wilson Generating Station” (emphasis
17 added). Sierra Club referred to these power flow studies in its testimony,
18 and characterized them as “power flow studies performed by the Company
19 to evaluate the idling of either the Coleman station or the Wilson station.”
20 (Ackerman Testimony, p. 11:9-11.)
- 21 • Response to KIUC 2-3 – In response to KIUC’s request to “confirm that
22 the layup of Wilson by August 31, 2013 is not certain at this point in
23 time,” Big Rivers responded, in part: “Confirmed. It is not certain. As of
24 March 19, 2013, Big Rivers has not received confirmation from MISO
25 permitting the idling of Wilson Station.”

26 13. The record also demonstrates that the Attorney General and Sierra Club
27 both acknowledged that Big Rivers’ anticipated idling plans were not yet final. What
28 follows is a non-exhaustive list of such references:

- 29 • Testimony of David Brevitz – “BREC plans to address this excess
30 capacity by laying up the Wilson plant and/or other generating plant”
31 (p. 37:6-8.)
- 32 • Testimony of Larry W. Holloway – Responding to the question “Has Big
33 Rivers finalized the decision to idle Wilson?” Mr. Holloway testified:
34 “No. As stated Big Rivers must get approval from MISO before idling any
35 generation facility. Currently Big Rivers has indicated that it has not
36 received the necessary ‘Y-2 report’ from MISO. Additionally Big Rivers
37 is also not certain whether Century will be operating.” (pp. 31:21-32:4.)

- 1 • Testimony of Mr. Holloway – Responding to the question “To clarify, Big
2 Rivers does not know for sure if it will idle either Wilson or Coleman
3 Stations, but has made a far more expensive assumption that it will idle
4 Wilson in presenting its requested revenue increase for the fully forecasted
5 test period, is that correct?” Mr. Holloway testified: “Yes. Big Rivers has
6 assumed that Wilson will be idled because MISO would not allow
7 Coleman to be idled if Century load remains on Big Rivers’ transmission
8 system.” (p. 32:5-8.)
- 9 • AG 1-111 – Refers to Big Rivers’ “proposed plan to idle one or more
10 generation plants” (emphases added).
- 11 • AG 1-111(a) – Question begins with phrase “if Big Rivers does not yet
12 know which plant(s) will be idled”
- 13 • AG 1-238 – Requesting a spreadsheet “with the assumption that Wilson
14 generating unit will continue to operate throughout the forecast and
15 instead Coleman 1, Coleman 2 and Coleman 3 will be idled for the same
16 period of time that the model currently idles Wilson.” Big Rivers
17 produced the requested spreadsheet an attachment in response to AG 1-
18 236.
- 19 • SC 2-16(d) – Referring to the “bullet points under ‘Coleman Station
20 idled’” in Big Rivers’ response to PSC 2-21.
- 21 14. The record also demonstrates that there is no basis for the Attorney
22 General’s and Sierra Club’s complaint, months after Big Rivers has responded to the
23 intervenors’ data requests, that “the vast majority of the data [Big Rivers] provided both
24 in its application and in discovery responses focused solely on Wilson.” (Motion, p. 2.)
25 First, as established by the list of responses and attachments above, that assertion is
26 incorrect. Second, as established by the list of data requests above, the Attorney General
27 requested, and Big Rivers provided, significant amounts of information about the
28 possible idling of the Coleman Station, including detailed financial and production cost
29 spreadsheets. Given that the Attorney General’s requests above unequivocally
30 demonstrate that it knew that Big Rivers might idle the Coleman Station, it was free to

1 seek additional information on the subject. The Attorney General declined to do so. As a
2 result, there is no legitimate basis for rescheduling the hearing in this proceeding.

3 **C. Big Rivers' Anticipated Idling of the Coleman Station Instead of the Wilson**
4 **Station Does Not Affect Its Forecast.**

5 15. Although the Attorney General and Sierra Club profess their concern that
6 the anticipated idling of the Coleman Station instead of the Wilson Station is a "material"
7 change, Big Rivers has already provided testimony and documentation addressing that
8 concern.

9 16. In the Rebuttal Testimony of Robert W. Berry, Mr. Berry testified that Big
10 Rivers decided to operate the Wilson Station and idle the Coleman Station (or operate it
11 under SSR status only) as a result of MISO's reliability reports. (Berry Rebuttal
12 Testimony, pp. 4:4-5:11.) As discussed above, Big Rivers had repeatedly told the
13 intervenors in this proceeding that it was awaiting those reports and that it expected those
14 reports to inform its decision on what assets to idle.

15 17. Mr. Berry further testified that despite the operational change in which
16 plant is expected to be idled, the financial impact of this change was minimal and does
17 not undermine Big Rivers' forecast. (Berry Rebuttal Testimony, pp. 18:19-19:9.) Mr.
18 Berry included as an exhibit to his testimony an exhibit comparing the relative "lay-up
19 savings" of each plant and quantifying the financial difference between the two scenarios,
20 thus providing documentary support for his testimony. (See Berry Rebuttal Testimony,
21 Exhibit Berry Rebuttal-2 ("Comparison of Wilson Lay-Up Savings (2014-2015 Annual
22 Average) to Coleman Lay-Up Savings (2014-2015 Annual Average)".) The information
23 contained in that rebuttal exhibit was previously produced in response to PSC 3-16 and
24 KIUC 2-56, except for information about emission fees and one small update to the labor

1 costs for the Coleman Station. The intervenors are, of course, free to address this exhibit
2 at the hearing.

3 18. Thus, Big Rivers has already provided sworn testimony and documentary
4 evidence that shows a decision to idle the Coleman Plant would not constitute a “material
5 change” in Big Rivers’ Application. There is consequently no reason to reschedule the
6 hearing.

7 **D. Big Rivers’ Plan to Potentially Sell Generation Assets.**

8 19. The Attorney General and Sierra Club claim that the possible sale of
9 generation assets is a “material change” announced for the first time in a newspaper
10 article earlier this week. (Motion, p. 3.) This is incorrect.

11 20. Just as Big Rivers transparently disclosed and documented its lay-up plans
12 throughout this proceeding, as explained above, Big Rivers consistently explained that it
13 had explored and continues to explore the possibility of selling generation assets. What
14 follows is a non-exhaustive list of such references in Big Rivers’ narrative responses and
15 produced attachments:

- 16 • Response and Attachments to PSC 2-18 – Big Rivers provided multiple
17 pages of narrative response and numerous attachments detailing its
18 exploration of the possible sale of generation assets.
- 19 • Petition for Confidential Treatment filed Feb. 28, 2013 – Explaining that
20 Big Rivers was filing two confidential attachments only with the
21 Commission. (*See* Petition at ¶ 5.) In this petition, Big Rivers explained
22 that the confidential information in the response and attachments to PSC
23 2-18 included “communications related to proposals and negotiations for
24 sale of excess capacity or other assets that are subject to one or more
25 confidentiality agreements, documents relating to those proposals and
26 negotiations, and financial valuation analyses prepared on behalf of Big
27 Rivers.” (*Id.* at ¶ 83.)
- 28 • Response to AG 1-4 – Referring to the detailed response to PSC 2-18 in
29 response to the Attorney General’s request for documents analyzing “the
30 potential disposition of . . . any of Big Rivers’ generating units.”

- 1 • Response to AG 1-58(a) – Explaining that if Big Rivers were able to “sell
2 the Wilson facility at an economically feasible sale price, a significant
3 portion of the loss could be mitigated as soon as the transaction is
4 executed.”
- 5 • Response to AG 1-108 – Discussing whether “idling the Wilson Station is
6 better or more cost-effective than selling the unit” and referring the
7 Attorney General again to the detailed response to PSC 2-18.

8 21. The record demonstrates that the Attorney General knew about Big
9 Rivers’ consideration of the possible sale of generation assets. Indeed, the Attorney
10 General, Sierra Club, and the KIUC each explicitly asked about the possible sale of
11 generation assets and received the responses referenced above. The Attorney General’s
12 witness Mr. Brevitz also testified about the possible sale of generation assets.

13 22. Mr. Brevitz testified as to his opinion that “[o]ffering the Wilson plant for
14 sale also demonstrates that it is not ‘used or useful’ in the provision of utility service.”
15 (Brevitz Testimony, p. 36:3-5.) Mr. Brevitz later testified as to his belief that “BREC
16 plans to address this excess capacity by laying up the Wilson plant and/or other
17 generating plant . . . or by selling Wilson” (*Id.* at p. 37:6-8.) This testimony
18 unequivocally shows that the Attorney General knew of the possible sale of generating
19 assets, contrary to the assertions in its Motion.

20 23. As discussed above, in response to PSC 2-18 Big Rivers provided a
21 detailed narrative response and produced attachments describing its exploration of the
22 possible sale of generation assets. No party sought additional information on this
23 response or challenged any of the related confidentiality designations.

24 24. In AG 1-114, the Attorney General asked “has Big Rivers explored the
25 possibility of selling the Wilson plant, or other generation / transmission facilities to

1 KU?” Big Rivers responded and referred the Attorney General to its detailed response to
2 PSC 2-18.

3 25. Similarly, in SC 2-7, Sierra Club referred in its question to “the sale price
4 for the Wilson Station that was approved by the BREC Board for submittal to LGE/KU.”

5 26. In KIUC 1-36(i), the KIUC asked Big Rivers to “[d]escribe the
6 circumstances under which Big Rivers would attempt to sell all or any part of its
7 generating capacity that has been idled and that would remain idle for an extended period
8 of time.” Big Rivers responded and referred the KIUC to its detailed response to PSC 2-
9 18 as well as its discussion in response to AG 1-108 about the relative benefits of idling
10 the Wilson Station and selling it.

11 27. Big Rivers repeatedly disclosed to the intervenors, in detail, how it was
12 exploring the possible sale of generation assets as part of its Load Concentration and
13 Mitigation Plan. Both the Attorney General and Sierra Club were free to request
14 additional information on the subject, but declined to do so. Their decision to not request
15 additional information should not be wielded as an excuse to reschedule the hearing in
16 this proceeding.

17 **E. Big Rivers’ Exploration of the Possible Sale of Generating Assets Does Not**
18 **Affect Its Forecast.**

19 28. Although the Attorney General and Sierra Club profess their concern that
20 the possible sale of Big Rivers’ generating assets at some indeterminate point in the
21 future is a “material” change to Big Rivers’ Application, the Commission should
22 disregard that concern.

23 29. Big Rivers has built its forecast in this case to account for its reasonably
24 anticipated budget and revenues during the forecasted test year. It did not, should not

1 have, and would not have been permitted to include every possible scenario that could
2 alter those reasonable projections. As discussed above, the possible sale of generating
3 assets remains uncertain. Big Rivers does not project any such sale to occur within the
4 forecasted test year, and therefore it has properly excluded any such sale in its forecast.

5 30. Moreover, Big Rivers' exploration of the possibility of the sale of
6 generation assets can only benefit its Members; in fact, Big Rivers' failure to do so would
7 likely have been criticized. It defies understanding why the Attorney General and Sierra
8 Club seek to transform Big Rivers' diligence into an attack on Big Rivers' proposed
9 rates. As established throughout this proceeding, and as Big Rivers will further establish
10 at the hearing, Big Rivers' proposed rates are fair, just, and reasonable and should be
11 approved.

12 **F. The Hearing Cannot Reasonably Be Rescheduled.**

13 31. As Big Rivers has explained at several points in this proceeding, its
14 request for relief was carefully timed to allow the Commission to fully consider and rule
15 on Big Rivers' proposed rates before the effective date of Century's unilateral contract
16 termination on August 20. Any delay in the hearing would undermine that goal.

17 32. Furthermore, the Attorney General's and Sierra Club's proposed solution
18 to combine this proceeding and the Century Transaction application must be rejected. As
19 discussed more thoroughly in the Century Transaction application,⁸ the order in that
20 proceeding must issue by August 19 in order for Big Rivers and Kenergy to be in a
21 position to provide electric service to Century after that date. Having that case
22 intertwined with potentially extended proceedings and appeals in this case when the

⁸ See *In the Matter of: Joint Application of Kenergy Corp and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order*, Joint Application, Case No. 2013-00221 (June 12, 2013).

1 parties are trying to close a business transaction is reckless and insensitive to the effort
2 being made to protect Western Kentucky from the negative economic effects of cessation
3 of smelting operations at the Century Hawesville smelter. The Commission should be
4 especially cautious on this issue because any undermining of the Century Transaction
5 approval would endanger hundreds of jobs. In their attempt to push back the hearing in
6 this proceeding, the Attorney General and Sierra Club, appear to have either not thought
7 through the consequences of their request, or they are insensitive to those consequences.

8 33. The overlapping procedural schedules for this rate case, the Alcan rate
9 case (Case No. 2013-00199), and the Century Transaction approval petition (Case No.
10 2013-00221) leaves absolutely no room for delay. Each case deserves the full attention
11 of the Commission, Big Rivers, and the intervenors, and this cannot possibly happen if,
12 as the Attorney General and Sierra Club suggest, the hearings are merged or scheduled
13 back-to-back-to-back.

14 34. Simply put, the Attorney General's and Sierra Club's proposal to delay the
15 hearing in this matter is impractical. It appears to be nothing more than another attempt
16 by these intervenors to disrupt these proceedings. In fact, Big Rivers has grown
17 increasingly concerned that these disruptions may be deliberate procedural
18 gamesmanship by the Attorney General and Sierra Club to attempt to financially cripple
19 Big Rivers, as repeatedly advocated by the intervenors' witnesses. Accordingly, the
20 Commission should reject the Motion.

21 **G. Conclusion.**

22 35. In support of their motion to reschedule the final hearing in this
23 proceeding just days before it takes place, the Attorney General and Sierra Club cite no

1 specific harm they might suffer and no specific information that they require but do not
2 have. Instead, they incorrectly allege that Big Rivers did not provide information related
3 to differing layup scenarios and the possible sale of generation assets. As set forth above,
4 Big Rivers repeatedly explained in detail its layup and asset sale options. Furthermore,
5 Big Rivers has already established that neither the possible future sale of generating
6 assets nor the decision to potentially idle the Coleman Station impact Big Rivers' forecast
7 or the substance of this case. This further demonstrates that there is no harm alleged in
8 the Motion that can justify the last-minute postponement of a major hearing. Finally, the
9 timing of this proceeding, the Century Transaction application, and the Alcan rate case
10 make it impossible to delay the hearing in this matter if the Commission and the parties
11 are to fully and properly devote their attention to each of these separate matters, as they
12 must.

13

14 WHEREFORE, Big Rivers respectfully requests that the Commission deny the
15 Attorney General's and Sierra Club's Motion to Reschedule Hearing.

16 On this the 27th day of June, 2013.

17

18

19

20

21

22

23

24

25

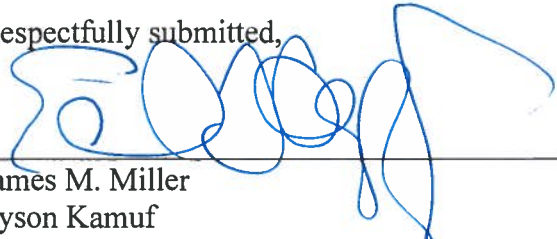
26

27

28

29

Respectfully submitted,



James M. Miller
Tyson Kamuf
SULLIVAN, MOUNTJOY, STAINBACK &
MILLER, P.S.C.
100 St. Ann Street
P. O. Box 727
Owensboro, Kentucky 42302-0727
Phone: (270) 926-4000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

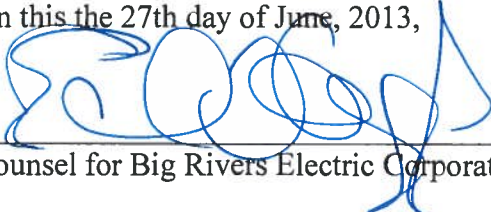
Facsimile: (270) 683-6694
jmiller@smsmlaw.com
tkamuf@smsmlaw.com

Edward T. Depp
Dinsmore & Shohl LLP
101 South Fifth Street
Suite 2500
Louisville, KY 40202
Phone: (502) 540-2347
Facsimile: (502) 585-2207
tip.depp@dinsmore.com

Counsel for Big Rivers Electric Corporation

Certificate of Service

I certify that a true and accurate copy of the foregoing was or will be served by Federal Express or by hand delivery upon the persons listed on the attached service list, on the date this petition is filed with the Kentucky Public Service Commission or the following day.

On this the 27th day of June, 2013,


Counsel for Big Rivers Electric Corporation

Service List
PSC Case No. 2012-00535

Jennifer Black Hans
Lawrence W. Cook
Dennis G. Howard, II
Assistant Attorneys General
1024 Capital Center Dr.
Suite 200
Frankfort, KY 40601

Mr. David Brevitz
3623 S.W. Woodvalley Terrace
Topeka, KS 66614

Mr. Bion C. Ostrander
1121 S.W. Chetopa Trail
Topeka, KS 66615

Mr. Larry Holloway
830 Romine Ridge
Osage City, KS 66523

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Boehn, Kurtz & Lowry
36 E. Seventh St., Suite 1510
Cincinnati, OH 45202

Lane Kollen
J. Kennedy and Associates, Inc.
570 Colonial Park Dr., Suite 305
Roswell, GA 30075

Russell L. Klepper
Energy Services Group, LLC
316 Maxwell Road, Suite 400
Alpharetta, GA 30009

Gregory Starheim
President & CEO
Kenergy Corp.
6402 Old Corydon Road
P.O. Box 18
Henderson, KY 42419-0018

J. Christopher Hopgood, Esq
318 Second Street
Henderson, KY 42420

Burns Mercer
Meade County RECC
1351 Hwy. 79
P.O. Box 489
Brandenburg, KY 40108

Thomas C. Brite, Esq.
Brite & Hopkins, PLLC
83 Ballpark Road
P.O. Box 309
Hardinsburg, KY 40143-0309

G. Kelly Nuckols
President and CEO
Jackson Purchase Energy Corporation
2900 Irvin Cobb Drive
P.O. Box 4030
Paducah, KY 42002-4030

Melissa D. Yates
Denton & Keuler, LLP
555 Jefferson Street
Suite 301
Paducah, KY 42001

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

Shannon Fisk
Senior Attorney
Earthjustice
1617 John F. Kennedy Blvd., Suite 1675
Philadelphia, PA 19103

Robb Kapla
Staff Attorney
Sierra Club
85 Second Street

San Francisco, CA 94105

Sarah Jackson
Frank Ackerman
Synapse Energy Economics
485 Massachusetts Avenue, Suite 2
Cambridge, MA 02139