

RECEIVED
DEC 16 2016
PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION FOR) **CASE NO. 2016-00278**
A DECLARATORY ORDER)

REPLY OF CITY OF HENDERSON, KENTUCKY, AND
HENDERSON UTILITY COMMISSION,
d/b/a HENDERSON MUNICIPAL POWER & LIGHT,
TO BIG RIVERS ELECTRIC CORPORATION'S
RESPONSE TO MOTION FOR A BRIEFING SCHEDULE

The City of Henderson, Kentucky, and the Henderson Utility Commission, d/b/a Henderson Municipal Power & Light (jointly referenced hereinafter as "Henderson"), file this reply to the response of Big Rivers Electric Corporation (hereinafter "Big Rivers") to Henderson's motion for an order setting forth a briefing schedule for the submission of simultaneous briefs and simultaneous replies.

The threshold issue the Commission must address is whether the Commission has jurisdiction to preside over this dispute. Henderson maintains that it does not. Contrary to Big Rivers' assertion that a briefing schedule unaccompanied by a hearing "could multiply the steps required to conclude this case," Henderson's position is that a full briefing on the jurisdictional issue alone could lead to disposition of the case without expending Commission resources on an inquiry into the merits of the application.

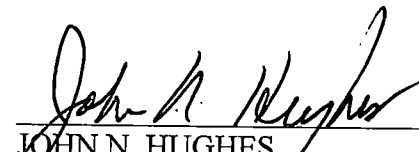
The hearing referenced in KRS 278.200 is required only where the Commission seeks to change a rate or service standard, or change or abrogate a contract affecting a rate or service standard. The requirement is inapplicable here, as Big Rivers' application implicates neither rates

nor services as defined in KRS Chapter 278. Rather, the matter is solely a matter of contractual interpretation that does not fall within the purview of Commission jurisdiction. A hearing thus is not required by the statute, nor is a hearing necessary for the protection of substantial rights, or in the public interest.

Henderson further maintains that equity demands a briefing schedule calling for the submission of simultaneous briefs and simultaneous replies. Big Rivers acknowledges that the Commission has adhered to such a practice in past cases, and offers insufficient reason for the Commission to depart from that practice here. Contrary to Big Rivers' assertion, this proceeding is not "like a civil proceeding," and the order in which briefs are submitted is not governed by CR 76.12(2)(a), or any other rule within the Kentucky Rules of Civil Procedure. Rather, the procedural rules for practice before the Commission are set forth in Title 807, Chapter 5, of the Kentucky Administrative Regulations, and contain no provision that would support Big Rivers' proposal.

For these reasons, the Commission should grant Henderson's motion for a briefing schedule calling for the submission of simultaneous briefs and simultaneous replies.

Respectfully submitted,



JOHN N. HUGHES
ATTORNEY AT LAW
Professional Service Corporation
124 West Todd Street
Frankfort, Kentucky 40601
Telephone: (502) 227-7270
jnhughes@johnnhughespsc.com

and

H. RANDALL REDDING

SHARON W. FARMER
KING, DEEP & BRANAMAN
127 North Main Street
P.O. Box 43
Henderson, Kentucky 42419-0043
Telephone: (270) 827-1852
rredding@kdblawn.com
sfarmer@kdblawn.com

*Attorneys for Henderson Utility Commission, d/b/a
Henderson Municipal Power & Light*

DAWN KELSEY
CITY ATTORNEY
CITY OF HENDERSON
222 First Street
Henderson, Kentucky 42420
Attorney for City of Henderson

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was forwarded this 16th day of December, 2016, via U.S. Mail, postage prepaid, or via facsimile, electronic mail, and/or hand delivery, to the following:

James M. Miller
R. Michael Sullivan
Tyler Kamuf
SULLIVAN, MOUNTJOY, STAINBACK & MILLER, P.S.C.
100 St. Ann Street
P.O. Box 727
Owensboro, Kentucky 42302-0727
Attorneys for Big Rivers Electric Corp.

Original and ten (10) copies to:

Dr. Talina R. Mathews
Executive Director

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