

Law Offices of  
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William M. Deep (1920-1990)  
William M. Branaman (1925-1996)

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*Of Counsel:*  
Harry L. Mathison, Jr.

January 27, 2020

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JAN 27 2020

PUBLIC SERVICE  
COMMISSION

Ms. Gwen R. Pinson, Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40602

**Re: Case No. 2019-269**

Dear Ms. Pinson:

Please find enclosed the original and ten (10) copies of the response and objection of the City of Henderson, Kentucky and the Henderson Utility Commission d/b/a Henderson Municipal Power & Light to the motion of Big Rivers Electric Corporation to amend exhibits. Please see that this document is filed in the above-referenced matter.

Additionally, please note the undersigned counsel should be served with all pleadings and should receive all electronic notices and messages related to this proceeding in accordance with the attached filing.

Sincerely,

KING, DEEP AND BRANAMAN



Sharon W. Farmer

SWF:ddw  
Enclosure

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

**IN THE MATTER OF:**

<b>APPLICATION OF BIG RIVERS</b>	)	
<b>ELECTRIC CORPORATION FOR</b>	)	<b>CASE NO. 2019-00269</b>
<b>ENFORCEMENT OF RATE AND</b>	)	
<b>SERVICE STANDARDS</b>	)	

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**RESPONSE AND OBJECTION TO MOTION OF  
BIG RIVERS ELECTRIC CORPORATION  
TO AMEND EXHIBITS**

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Pursuant to 807 KAR 5:001(5)(2), the City of Henderson, Kentucky, and the Henderson Utility Commission, d/b/a Henderson Municipal Power & Light, (jointly referenced hereinafter as "Henderson"), state as follows in objection and response to the motion of Big Rivers Electric Corp. ("Big Rivers") to amend specified exhibits attached to the direct testimony of Paul G. Smith, filed in the above-referenced matter on July 31, 2019:

Big Rivers' motion is premature insofar as the Kentucky Public Service Commission ("Commission") has yet to issue a ruling on Henderson's motion to dismiss Big Rivers' Application for failure to state a claim or, in the alternative, to hold the matter in abeyance pending adjudication of duplicative issues pending before the Courts. Indeed, the Commission has entered neither a scheduling order nor any other order evidencing an intent to exercise jurisdiction over the matters or to grant the relief Big Rivers requests. To permit the filing of amended exhibits in a matter that is potentially not even justiciable before the Commission would be to disregard the good cause required by 807 KAR 5:001(4)(5), and frustrate the Commission's interest in efficiency. The nature of the exhibits Big Rivers wishes to amend involve purported documentation of damages, which the Commission is not empowered to award even where an exercise of jurisdiction is otherwise appropriate. Big Rivers will not be harmed if

the Commission enters an order denying its motion to amend exhibits until such time as the Commission determines whether it will exercise jurisdiction over the matters raised in Big Rivers' application.

THEREFORE, Henderson respectfully requests the Commission deny Big Rivers' Motion.

Respectfully submitted,

/s/John N. Hughes (w/permission)

Hon. John N. Hughes  
Attorney at Law  
Professional Service Corporation  
124 West Todd Street  
Frankfort, Kentucky 40601  
Telephone: (502) 227-7270  
[jnhughes@johnnhughespsc.com](mailto:jnhughes@johnnhughespsc.com)

and

/s/Sharon W. Farmer

Hon H. Randall Redding  
Hon. Sharon W. Farmer  
King, Deep & Branaman  
127 North Main Street, P.O. Box 43  
Henderson, Kentucky 42419-0043  
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*Attorneys for Henderson Utility Commission, d/b/a  
Henderson Municipal Power & Light*

/s/Dawn Kelsey (w/permission)

Hon. Dawn Kelsey  
City Attorney  
City of Henderson  
222 First Street  
Henderson, Kentucky 42420  
[dkelsey@cityofhendersonky.org](mailto:dkelsey@cityofhendersonky.org)  
*Attorney for City of Henderson*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing was forwarded this 28<sup>th</sup> day of January, 2020, via U.S. Mail, postage prepaid, or via facsimile, electronic mail, and/or hand delivery, to the following:

Tyson Kamuf  
Big Rivers Electric Corp.  
201 Third Street, P.O. Box 727  
Henderson, Kentucky 42419-0024  
[tyson.kamuf@bigrivers.com](mailto:tyson.kamuf@bigrivers.com)

Michael L. Kurtz  
Kurt J. Boehm  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
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[jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)

*Attorneys for Big Rivers Electric Corp.*

Original to:

Ms. Gwen R. Pinson  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard, P.O. Box 615  
Frankfort, Kentucky 40602-0615

/s/Sharon W. Farmer

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE  
COMMISSION

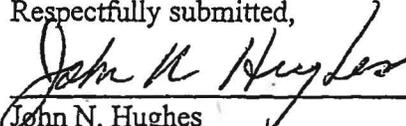
IN THE MATTER OF:

APPLICATION OF BIG RIVERS	)	
ELECTRIC CORPORATION FOR	)	CASE NO. 2019-00269
ENFORCEMENT OF RATE AND	)	
SERVICE STANDARDS	)	

CITY OF HENDERSON, KENTUCKY  
AND HENDERSON UTILITY COMMISSION, d/b/a  
HENDERSON MUNICIPAL POWER & LIGHT'S  
COMPLIANCE WITH 807 KAR 5:001(8)(9)

The City of Henderson, Kentucky, and the Henderson Utility Commission, d/b/a Henderson Municipal Power & Light (jointly referenced hereinafter as "Henderson"), by counsel, and pursuant to 807 KAR 5:001(8)(9) and Commission Order dated August 29, 2019, hereby certify that Henderson and its counsel possess the facilities to receive electronic transmissions. Electronic notices and messages related to this proceeding should be served at the following electronic mail addresses:

[inhughes@johnnhughespsc.com](mailto:inhughes@johnnhughespsc.com)  
[rredding@kdblaw.com](mailto:rredding@kdblaw.com)  
[sfarmer@kdblaw.com](mailto:sfarmer@kdblaw.com)  
[dskelsey@cityofhendersonky.org](mailto:dskelsey@cityofhendersonky.org)  
[clarkin@bgdlegal.com](mailto:clarkin@bgdlegal.com)

Respectfully submitted,  
  
\_\_\_\_\_  
John N. Hughes  
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Professional Service Corporation  
124 West Todd Street  
Frankfort, Kentucky 40601  
Telephone: (502) 227-7270  
[inhughes@johnnhughespsc.com](mailto:inhughes@johnnhughespsc.com)

and

/s/Sharon W. Farmer

Hon H. Randall Redding Hon.  
Sharon W. Farmer King,  
Deep & Branaman 127 North  
Main Street, P.O. Box 43  
Henderson, Kentucky 42419-0043  
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*Attorneys for Henderson Utility Commission, d/b/a  
Henderson Municipal Power & Light*

/s/Dawn Kelsey (w/permission

Hon. 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 4<sup>th</sup> day of September 2019, via U.S. Mail, postage prepaid, or via facsimile, electronic mail, and/or hand delivery, to the following:

Tyson Kamuf  
Laura Chambliss  
Big Rivers Electric Corp.  
201 Third Street, P.O. Box 727  
Henderson, Kentucky 42419-0024

Michael L. Kurtz  
Kurt J. Boehm  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202

*Attorneys for Big Rivers Electric Corp.*

Original to:

Ms. Gwen R. Pinson  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard, P.O. Box 615  
Frankfort, Kentucky 40602-0615

A handwritten signature in cursive script, reading "John M. Hughes", is written over a solid horizontal line.