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November 6, 2008

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**Via Federal Express**

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

Re: In the Matter of: Consideration of the Requirements of the  
Federal Energy Policy Act of 2005 Regarding Fuel Sources  
and Fossil Fuel Generation Efficiency, Administrative Case  
No. 2007-00300

Dear Ms. Stumbo:

Enclosed for filing on behalf of Big Rivers Electric Corporation are an original and ten copies of the testimony of David A. Spainhoward. I certify that a copy of the testimony has been served on the attached service list.

Sincerely,

*Tyson Kamuf*  
Tyson Kamuf

*By Allen  
W. Holbrook  
w/ permission*

TAK/ej  
Enclosures

cc: David Spainhoward  
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**COMMONWEALTH OF KENTUCKY  
BEFORE THE  
PUBLIC SERVICE COMMISSION OF KENTUCKY**

**RECEIVED**

NOV 07 2008

PUBLIC SERVICE  
COMMISSION

**Administrative Case No. 2007-00300**

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**TESTIMONY OF  
DAVID A. SPAINHOWARD**

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**ON BEHALF OF  
BIG RIVERS ELECTRIC CORPORATION**

**NOVEMBER 7, 2008**

1 **TESTIMONY OF DAVID A. SPAINHOWARD**

2  
3  
4 **Q. Please state you name, your address, your position with Big Rivers Electric**  
5 **Corporation (“Big Rivers”), and your qualifications.**  
6

7 **A.** My name is David A Spainhoward. My current business address is 201 Third Street,  
8 Henderson, Kentucky 42420. I have been an employee of Big Rivers since 1972. My current  
9 position is Vice President External Relations & Interim Chief Production Officer at Big Rivers.  
10 Before holding my current position, I held the position of Vice President Contract  
11 Administration and Regulatory Affairs. I have also held positions in the Big Rivers Corporate  
12 Planning, Real Estate, Accounting, and Purchasing departments. I am a graduate of Oakland  
13 City University in Oakland City, Indiana, with the degree of Bachelor of Science in  
14 Management. I also have a Master of Science in Management degree from Oakland City  
15 University. I am also a graduate of Lockyear College of Business in Evansville, Indiana, with an  
16 Associate Degree in Data Process Management. In addition, I have a certificate of proficiency  
17 from the United States Department of Agriculture School in Bookkeeping and Accounting. I am  
18 currently Chairman of the Board of Commissioners of the Henderson County Water District in  
19 Henderson, Kentucky.  
20

21 **Q. Have you previously testified before the Kentucky Public Service Commission**  
22 **(“Commission”)?**  
23

24 **A.** Yes. I have previously submitted testimony and personally appeared before the  
25 Commission in numerous other matters.

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**Q. What is the purpose of your testimony in this proceeding?**

A. My testimony addresses the federal Energy Policy of Act of 2005 (“EPAct”) fuel source diversity and fossil fuel generation efficiency standards as required by the Commission’s October 14, 2008, Order in this proceeding.

**Q. What is the EPAct fuel source diversity standard?**

A. The EPAct fuel source diversity standard requires the Commission to consider whether to require each electric utility to “develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.” EPAct § 1251(a)(12)

**Q. Should the Commission adopt the EPAct fuel source diversity standard?**

A. No. The Commission should reject the EPAct fuel source diversity standard. To begin, requiring all generation utilities in Kentucky to diversify their fuel portfolios is not consistent with a number of public policies applicable to utilities in Kentucky. One of those policies is that electric utilities should provide an adequate supply of power to Kentucky consumers at the lowest reasonable cost. In its Order in this matter dated August 2, 2007, the Commission references a report entitled *Reference Manual and Procedures for Implementation of the “PURPA Standards” in the Energy Policy Act of 2005* (March 22, 2006) (hereinafter, the

1 “*PURPA Manual*”). That report explains that while fuel source diversity may be the optimum  
2 method of supplying power in some regions of the country, it may not be so in others. *PURPA*  
3 *Manual* at 47. Fuel source diversity “will ultimately impact the price at which energy can be  
4 purchased,” and “can impact the rates paid by consumers.” *Id.*

5 Utilities in Kentucky primarily use coal to fuel their base-load generation plants. As the  
6 *PURPA Manual* explains, “[b]ase-load coal plants are reliable and generally cost effective.” *Id.*  
7 at 52. As such, diversifying its fuel portfolio may increase the fuel costs for a utility in  
8 Kentucky. *See id.* at 50, 54. Since generation in Kentucky is so heavily coal-based, if required  
9 to diversify, utilities in Kentucky may suffer “efficiency losses in terms of contracts or output  
10 from different fuel sources” resulting in increased rates to consumers. *See id.* at 50. Fuel source  
11 diversity may have benefits that justify higher rates, and may not lead to increased rates for a  
12 particular utility under specific circumstances. But a mandate requiring all generation utilities in  
13 Kentucky to diversify their fuel sources without any consideration of each utility’s circumstances  
14 carries a strong risk of increasing rates to consumers without those increased rates being tied to  
15 offsetting benefits.

16 Additionally, the EPCRA fuel source diversity standard encourages the use of renewable  
17 fuel sources. Given the low cost of power in Kentucky and the cost-effectiveness of base-load  
18 coal plants, requiring utilities to invest in renewable energy may force utilities to increase rates  
19 without sufficient corresponding benefits. Adding renewable energy to their portfolios may be  
20 appropriate for some utilities. In fact, Big Rivers’ portfolio includes renewable energy.  
21 However, that may not be appropriate for other utilities. Whether a utility investment in  
22 renewable energy is reasonable, and whether a utility should be required to increase the diversity

1 of its fuel sources, depends on the specific circumstances of that utility, and can only be  
2 determined based on a case-by-case review.

3 Another relevant policy applicable to utilities in Kentucky is the General Assembly's  
4 policy encouraging the use of Kentucky coal. As the Commission has noted, "the preamble to  
5 the legislation enacting KRS 278.183, the environmental surcharge law, stated that it was the  
6 policy of the General Assembly to foster and encourage the use of Kentucky coal by electric  
7 utilities serving the Commonwealth." Order dated August 2, 2007. That policy is reiterated in  
8 KRS 278.020, which provides that the Commission, "when considering an application for a  
9 certificate to construct a base load electric generating facility, may consider the policy of the  
10 General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the  
11 Commonwealth." KRS 278.020(1). Clearly, the EAct fuel source diversity standard is  
12 inconsistent with this policy. Again, perhaps a utility should diversify its fuel portfolio under  
13 some circumstances. Given the General Assembly's unambiguous policy statements  
14 encouraging the use of Kentucky coal, a blanket administrative mandate requiring diversification  
15 away from Kentucky coal seems inappropriate.

16 Not only is a fuel source diversity mandate inconsistent with the above policies, it is also  
17 inconsistent with prudence and fairness. One goal of the EAct fuel source diversity standard is  
18 to mitigate against price fluctuations. *PURPA Manual* at 49. There is less fuel price risk with  
19 coal than with other fuel types, however; so, using coal minimizes that price risk. Where  
20 appropriate, some utilities may be able to mitigate against that risk by purchasing coal from a  
21 range of suppliers or perhaps other fuels. Other utilities may be able to mitigate against that risk  
22 by using different qualities of coal; for example, a utility that has installed a scrubber on a  
23 generator may be able to use high sulfur coal under the appropriate circumstances. Still other

1 utilities may find diversification too costly, and would benefit more (and be able to pass on those  
2 benefits to consumers) by taking advantage of the economies of scale that result from bulk fuel  
3 purchases. Some utilities are able to benefit from a tax incentive for burning Kentucky coal.  
4 The fact is that diversifying fuel sources will impact each utility uniquely. A requirement that all  
5 utilities diversify their fuel sources will have a significantly different economic impact on one  
6 utility over another just because of the status of each utility with regard to environmental  
7 controls or generator efficiency levels.

8

9 **Q. Should the Commission adopt a different fuel source diversity standard?**

10

11 **A.** The Commission should reject any across-the-board fuel source diversity standard for the  
12 same reasons it should reject the EAct's fuel source diversity standard. Rather than adopting a  
13 standard by which all utilities are required to increase fuel source diversity, a better framework  
14 would be for the Commission to consider a utility's need to diversify within a broader  
15 framework that takes into consideration the utility's obligation to provide a reliable supply of  
16 power at the lowest reasonable cost. And that broader framework already exists. The  
17 Commission's Integrated Resource Plan ("IRP") process involves a comprehensive review of a  
18 utility's existing and planned generation resources (including the use of fuel sources and  
19 renewable resources). *See* 807 KAR 5:058 Section 8(1)-(2)(b). If any problems associated with  
20 a utility's fuel portfolio are uncovered during the IRP process, the Commission has the authority  
21 to initiate a formal proceeding to address those problems. Moreover, while the EAct standard  
22 would require a utility to diversify even if doing so would adversely impact that utility's ability  
23 to meet its obligation to provide low cost energy, the existing IRP process allows an assessment



1 of a utility’s fuel practices within the context of considering the utility’s plan to provide “an  
2 adequate and reliable supply of electricity...at the lowest possible cost.” *Id.* Section 8(1). Thus,  
3 the existing IRP process does a better job of providing a review of fuel practices that is  
4 consistent with Kentucky’s policy favoring low cost power, and that is fair and reasonable  
5 because it is circumstance-dependent. As such, the Commission should reject the EAct fuel  
6 source diversity standard and any similar standard.

7

8 **Q. What is the EAct fossil fuel generation efficiency standard?**

9

10 **A.** The EAct fossil fuel generation efficiency standard requires the Commission to consider  
11 whether to require each electric utility to “develop and implement a 10-year plan to increase the  
12 efficiency of its fossil fuel generation.” EAct § 1251(a)(13).

13

14 **Q. Should the Commission adopt the EAct fossil fuel generation efficiency standard?**

15

16 **A.** No. The Commission should reject the EAct fossil fuel generation efficiency standard.  
17 Similar to the fuel source diversity standard, the generation efficiency standard requires an  
18 increase in efficiency without any consideration being given to each utility’s individual  
19 circumstances. Imposition of a broad, arbitrary efficiency standard will impact each utility  
20 differently, depending on the current efficiency levels for the utility, the design of the utility’s  
21 plants, and the environmental controls that the utility has or will install. Improvements to  
22 increase efficiency may require a New Source Review permit for one utility but not for another.  
23 Utilities run their plants at different capacity rates (*i.e.*, some plants are cycled on and off more

1 than others) for a variety of reasons, including simply the size or load factor of the load that is  
2 being served. Each utility is different (Big Rivers does not currently operate its generating  
3 plants), but the EAct standard would require utilities to increase efficiency without taking into  
4 consideration the economic impact on each utility of doing so. Where capital expenditures  
5 necessary to increase generator efficiency may be reasonable for one utility, they may not be so  
6 for another. Requiring all utilities to increase generator efficiency is not consistent with the goal  
7 of providing power at the lowest reasonable cost because that requirement would not be based on  
8 a case-by-case review of each utility's circumstances and because it does not allow for a  
9 consideration of the cost-effectiveness of measures to increase efficiency.

10

11 **Q. Should the Commission adopt an alternative generation efficiency standard?**

12

13 **A.** The Commission should reject any across-the-board generation efficiency standard for  
14 the same reasons it should reject the EAct generation efficiency standard, and instead, should  
15 continue to review generation efficiency through the existing IRP process. The IRP process  
16 allows the Commission to review a utility's generation efficiency within a broader context. It  
17 involves a comprehensive review of the existing and planned generation resources of each utility  
18 subject to the IRP process. *See* 807 KAR 5:058 Section 8. And it already allows for an ongoing  
19 review of generation efficiency. *See* 807 KAR 5:058 Section 8(2)(a) ("The utility shall describe  
20 and discuss all options considered for inclusion in the plan including: (a) Improvements to and  
21 more efficient utilization of existing utility generation, transmission, and distribution facilities").  
22 If any problems relating to generation efficiency are uncovered in the IRP process, the  
23 Commission has the authority to initiate a formal proceeding to address those problems. *See*

1 KRS 278.250; KRS 278.260. Moreover, the review of generation resources and generation  
2 efficiency through the IRP process is done within the context of considering the utility's plan to  
3 provide "an adequate and reliable supply of electricity...at the lowest possible cost." 807 KAR  
4 5:058 Section 8(1). The existing IRP process is adequate, and as such, the Commission should  
5 reject the EPAAct fossil fuel generation efficiency standard and any similar standard.

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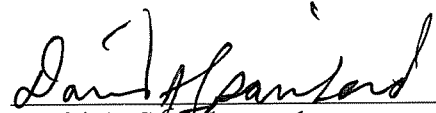
7 **Q. Does this conclude your testimony?**

8

9 **A. Yes.**

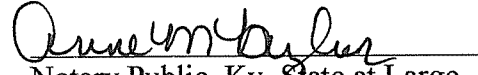
**VERIFICATION**

I verify, state, and affirm that my testimony is true and correct to the best of my knowledge and belief.

  
David A. Spainhoward

COMMONWEALTH OF KENTUCKY     )  
COUNTY OF HENDERSON         )

SUBSCRIBED AND SWORN TO before me by David A. Spainhoward on this the 6<sup>th</sup> day of November, 2008.

  
Notary Public, Ky. State at Large  
My Commission Expires 5/24/2009