

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

RECEIVED

JAN 29 2013

PUBLIC SERVICE
COMMISSION

Via Overnight Mail

January 28, 2013

Mr. Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

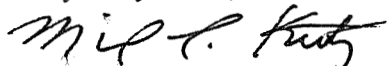
Re: Case No. 2012-00535

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies of the REPLY OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. TO RESPONSE OF BIG RIVERS REGARDING CORRECTED NOTICE for filing in the above-referenced matter.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place these documents of file.

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

BOEHM, KURTZ & LOWRY

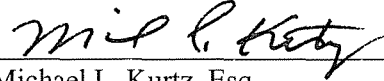
MLKkew

Attachment

cc: Certificate of Service
Quang Nyugen, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by mailing a true and correct copy by regular, U.S. Mail, unless other noted, this 28TH day of January 2013 to the following



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.

Mark A Bailey
President CEO
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024

Jennifer B Hans
Lawrence W. Cook
Dennis G. Howard, II
Assistant Attorney General's Office
1024 Capital Center Drive, Ste 200
Frankfort, KENTUCKY 40601-8204

J. Christopher Hopgood
Dorsey, King, Gray, Norment & Hopgood
318 Second Street
Henderson, KENTUCKY 42420

Gregory Starheim
President and CEO
Kenergy Corp.
Post Office Box 18
Henderson, Kentucky 42419-0018

Honorable James M Miller
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KENTUCKY 42302-0727

Albert Yockey
Vice President Government Relations
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024

Burns Mercer
Meade County RECC
P.O. Box 489
Brandenburg, Kentucky 40108

Thomas C. Brite
Brite and Hopkins PLLC
P.O. Box 309
Hardinsburg, Kentucky 40143

David C. Brown, Esq.
Stites & Harbison, PLLC
400 W. Market Street, Suite 1800
Louisville, KY 40202

Donald P. Seberger, Esq.
Special Counsel
Rio Tinto Alcan
8770 West Bryn Mawr Avenue
Chicago, Illinois 60631

Kelly Nuckols
President & CEO
Jackson Purchase Energy Corporation
2900 Irvin Cobb Drive
Paducah, Kentucky 4200 1

Melissa Yates
Counsel for Jackson Purchase Energy Corporation
555 Jefferson Street, Suite 301
Paducah, Kentucky 4200

Edward T. Depp
Dinsmore & Shohl LLP
101 South Fifth Street
Suite 2500
Louisville, KY 40202

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 29 2013

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF: THE APPLICATION OF BIG RIVERS
ELECTRIC CORPORATION FOR AN ADJUSTMENT OF
RATES

Case No. 2012-00535

**REPLY OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.
TO RESPONSE OF BIG RIVERS REGARDING CORRECTED NOTICE**

The January 25, 2013 Response of Big Rivers to KIUC's Motion for Corrected Notice is only well founded if it is not important to provide the public with an actual understanding of the true economic impact of this case on their electric rates.

The electric bills that the Rural and Large Industrial consumers actually pay include a credit from the Economic Reserve labeled the Member Rate Stability Mechanism (MRSM). When the proposed Rural increase of \$40,676,278 is added to the bills these customers actually pay, then the rate increase is far greater than the 29.4% these customers have been told by the Members and have read in the media. Likewise for the Large Industrial customers. When the proposed increase of \$8,247,929 is added to the bills these customers are actually paying, then the increase is far greater than the reported 17.9%.

Big Rivers concedes as much in its response. In its Response, the utility calculates the true rate increases proposed in this rate case as 35.8% for the Rural class and 22.1% for the Large Industrial class. (Response at Paragraph 5). Instead of disputing the substance of KIUC's Motion, Big Rivers' Response to KIUC's Corrected Notice relies on an obstinate interpretation of 807 KAR 5:011 Section 10(3)(b) that includes only Kenergy, Mead County, and JPEC, and not Big Rivers' Rural and Large Industrial customers, within the meaning of the term "affected customers." Big Rivers' states, "[t]he three (3) cooperatives responding herein are the members of BIG RIVERS ELECTRIC CORPORATION, and as such are the only entities required to be served customer notice... Kenergy, Mead County, and JPEC all understand the notice... [and] waive any such defect." (Response p. 1).

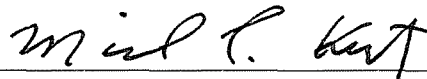
807 KAR 5:011 Section 10(3)(b) states:

“Form of notice to customers. Every utility filing an application pursuant to this section shall notify all affected customers in the manner prescribed herein. The notice shall include the following information:

(a) The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rate change will apply;” (Emphasis added).

Big Rivers’ Rural and Industrial customers, the individuals and businesses that ultimately pay for electric service, are “*affected customers*,” and Big Rivers has a duty to accurately calculate the affect of its proposed increase for the benefit of these customers. It is a form of public relations manipulation for the utility to unilaterally calculate the percentage rate increase by excluding certain credits while maintaining other charges. All current charges and credits must be included for the Notice to be accurate. The real rate impact includes the MRSM. This is what customers will experience and they have a right to know what that is. It is contrary to the spirit and intent of 807 KAR 5:001(3)(a) for the three Members to assert that it is enough if they are informed of the true rate impact, even if the ratepayer/owners are not.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: MKurtz@BKLawfirm.com

KBoehm@BKLawfirm.com

**COUNSEL FOR KENTUCKY INDUSTRIAL UTILITY
CUSTOMERS, INC.**

January 28, 2013