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May 6, 2013

**Via Federal Express**

Mr. Jeff DeRouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard, P.O. Box 615  
Frankfort, Kentucky 40602-0615

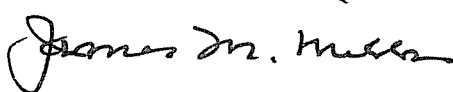
\*Also Licensed in Indiana

Re: *In the Matter of: The Application of Big Rivers Electric Corporation  
for a General Adjustment in Rates*

Dear Mr. DeRouen:

Enclosed are an original and ten copies of the response of Big Rivers Electric Corporation to Kentucky Industrial Utility Customers, Inc.'s Petition for Leave to Conduct Supplemental Discovery. I certify that a copy of this letter and attachment have been served upon each person on the attached service list on this date by U.S. Mail, postage prepaid. Please feel free to contact me with any questions.

Sincerely yours,



James M. Miller

JMM/ej  
Enclosures

cc: Ms. Billie Richert

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1 COMMONWEALTH OF KENTUCKY  
2 BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY  
3  
4

5 In the Matter of:

6  
7 APPLICATION OF BIG RIVERS ELECTRIC )  
8 CORPORATION FOR A GENERAL ) Case No. 2012-00535  
9 ADJUSTMENT IN RATES )  
10

11  
12 **RESPONSE OF BIG RIVERS ELECTRIC CORPORATION TO KENTUCKY**  
13 **INDUSTRIAL UTILITY CUSTOMERS, INC.'S PETITION FOR LEAVE TO**  
14 **CONDUCT SUPPLEMENTAL DISCOVERY**  
15

16 Comes Big Rivers Electric Corporation (“*Big Rivers*”), by counsel, and for its response in  
17 opposition to the Petition for Leave to Conduct Supplemental Discovery (the “*Petition*”) of  
18 Kentucky Industrial Utility Customers, Inc. (“*KIUC*”), states as follows:

19 1. KIUC filed its Petition on the strength of an April 29, 2013 press release issued by  
20 Century Aluminum Company (“*Century*”), in which KIUC represents that “*Century* announced  
21 that it has reached a deal with Big Rivers and Kenergy that would allow it to access the open  
22 market for electric power supply to its Hawesville facility.” KIUC says that it wants to inquire  
23 into the terms of the “announced agreement.”

24 2. The fatal deficiency in KIUC’s Petition is the fact that KIUC attempts to conceal  
25 by its mischaracterization of the Century press release. That fact is that there is no “deal” or  
26 “agreement,” and the press release on which KIUC relies clearly states that fact. The language  
27 of the press release provided by KIUC states that the parties “have reached a tentative agreement  
28 on the framework for” an agreement. So the only agreement reached is “tentative,” and that  
29 tentative agreement is only on a “framework” for the non-existent agreements about which  
30 KIUC wants to make inquiry.

1           3.       To avoid any misunderstanding, the parties have an unsigned, non-binding term  
2 sheet that will serve as the framework for definitive documents that are currently being drafted.  
3 Until those definitive documents are drafted, negotiated and agreed upon, there is no “deal” or  
4 “agreement” that can have any impact on the pending Big Rivers rate case. There is no  
5 assurance that an agreement will be reached, and none of the parties is bound to reach an  
6 agreement on any term in the term sheet.

7           4.       Big Rivers, Kenergy Corp. (“*Kenergy*”) and Century are highly motivated to  
8 complete the contracts as soon as possible and promptly seek all required approvals. If  
9 agreements are going to be reached between and among Century, Big Rivers and Kenergy for a  
10 power supply to Century’s Hawesville smelter on and after 12:01 a.m. on August 20, 2013, that  
11 must happen very quickly. Regulatory and creditor approvals are going to take time, and there is  
12 no contract, tariff or rate schedule in existence that would give Kenergy and Big Rivers the legal  
13 authority to otherwise provide electric service to the Century smelter on and after August 20,  
14 2013.

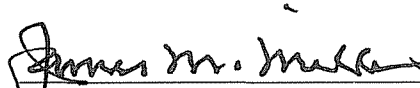
15           5.       KIUC’s Petition is premature, at best. Big Rivers is acutely aware of the interests  
16 of the parties in this matter and the Public Service Commission (“Commission”) in the terms of  
17 any definitive agreements that are reached between and among Big Rivers, Century and  
18 Kenergy. If and when agreements are reached, the definitive documents must and will be filed  
19 with the Commission for required regulatory approvals. And if such a filing is made, it will  
20 include a full and complete explanation of the transactions represented by the agreements, and  
21 the anticipated impact of the terms of the agreements on Big Rivers and Kenergy. Until that  
22 time, there are no agreements about which Big Rivers can answer questions. Speculating about  
23 the impact of terms on which there is no binding agreement would be a destructive waste of time

1 in the procedural schedule in this case, and would further delay the date when definitive  
2 documents can hopefully be agreed upon and available for review.

3 WHEREFORE, Big Rivers respectfully requests that the Commission deny KIUC's  
4 Petition.

5 On this the 6<sup>th</sup> day of May, 2013.

6 Respectfully submitted,

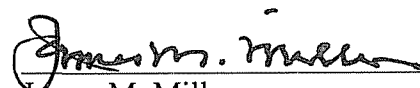
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30  
31 Counsel for Big Rivers Electric Corporation

32  
33 **Certificate of Notice**

34  
35 I certify that a true and accurate copy of the foregoing was served by first class mail,  
36 postage prepaid, upon the persons listed on the service list accompanying this response, on this  
37 the 6<sup>th</sup> day of May, 2013.

38  
39   
40 \_\_\_\_\_  
41 James M. Miller

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