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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC )  
CORPORATION FOR A GENERAL ) Case No. 2013-00199  
ADJUSTMENT IN RATES )

**BIG RIVERS ELECTRIC CORPORATION'S FIRST REQUEST FOR INFORMATION  
TO THE ATTORNEY GENERAL**

Big Rivers Electric Corporation submits these first requests for information to the Attorney General, to be answered in accordance with the following Definitions and Instructions.

DEFINITIONS

1. Whenever it is necessary to bring within the scope of these information requests documents that otherwise might be construed to be outside their scope (1) the use of "and" as well as "or" shall be construed both disjunctively and conjunctively; (2) the use of a word in its singular form shall be construed to include within its meaning its plural form as well, and vice versa; (3) the use of "include" and "including" shall be construed to mean "without limitation"; and (4) the use of a verb in any tense or voice shall be construed as the use of that verb in all other tenses and voices.

2. "Big Rivers" means Big Rivers Electric Corporation.

3. "Attorney General," "you," or "your" means the Attorney General of the Commonwealth of Kentucky and his agents, officers, employees, and consultants.

4. "Century" means Century Aluminum of Kentucky General Partnership.

5. "Commission" means the Kentucky Public Service Commission.

1           6.     “Document” means any written, recorded, transcribed, printed or impressed  
2 matter of whatever kind, however produced, stored or reproduced, including, but not limited to,  
3 sound or pictorial recordings, computerized information, books, pamphlets, letters, memoranda,  
4 telegrams, electronic or mechanical transmissions, communications of all kinds, reports, notes,  
5 working papers, handwritings, charts, papers, writings, printings, transcriptions, tapes and  
6 records of all kinds. Document includes, without limitation, all workpapers produced by or  
7 relied upon by the witness.

8           7.     “Person” includes a natural person, a business organization of any type, an  
9 unincorporated association, a governmental subdivision, agency, or entity, and a business trust.

10          8.     Wherever in these information requests you are asked to “identify,” you are  
11 requested:

- 12           a.     when identifying a person, to give such person’s:
  - 13               (1)    full name,
  - 14               (2)    business address, residence address, and telephone number,
  - 15               (3)    his or her present or last known position and business affiliation at  
16                    the time in question, and
  - 17               (4)    the nature of such person’s participation in, and the scope of his  
18                    responsibility with regard to, the facts and events underlying the  
19                    present case;

- 20           b.     when identifying an oral communication, to:
  - 21               (1)    identify the author thereof and the parties thereto,
  - 22               (2)    state the date of the communication,
  - 23               (3)    state the place of the communication,

- 1 (4) state the substance of the communication, and  
2 (5) state whether such communication has been reduced to writing  
3 and, if so, identify each document and the present custodian  
4 thereof;
- 5 c. when identifying other information, to state:
- 6 (1) the source thereof,  
7 (2) any oral communications pertaining thereto,  
8 (3) any documents pertaining thereto, and  
9 (4) the substance of the information;
- 10 d. when identifying a document, to:
- 11 (1) identify the author thereof and the parties thereto,  
12 (2) state its title or other identifying data,  
13 (3) state the date of the document or if no date appears thereon, the  
14 approximate date,  
15 (4) state the exact nature and substance thereof;  
16 (5) identify each person having possession, care, custody or control of  
17 the original and any copies thereof; and  
18 (6) if such document was, but no longer is, in your possession or  
19 subject to your control, state what disposition was made of it.  
20  
21

1 INSTRUCTIONS

2 1. If any document called for by any of these data requests is withheld based upon a  
3 claim of privilege or work product, please produce so much of the document as to which you do  
4 not claim privilege or protection, and for each document or part of a document for which you  
5 claim privilege or protection, describe or identify:

- 6 a. The nature, subject matter and substance of the document or part of the  
7 document withheld;
- 8 b. The nature of the privilege or protection claimed;
- 9 c. The date, author or authors, addressee or addressees, and distribution of  
10 the document;
- 11 d. Each person in whose possession, custody or control any copy of the  
12 document is or has been; and
- 13 e. Paragraph number of the schedule of documents to which the document or  
14 part of the document is responsive.

15 2. If, for reasons other than a claim of privilege or work product, you refuse to  
16 answer any data request or to produce any document requested, state the grounds upon which the  
17 refusal is based with sufficient specificity to permit a determination of the propriety of such  
18 refusal.

19 3. If any copy of any document requested herein or any record which refers or  
20 relates to any document requested herein has been destroyed or lost, set forth to the extent  
21 possible the content of each such document, the date such document and its copies were  
22 destroyed or lost and, if destroyed, the identity of the person authorizing such destruction, and  
23 the identity of the last known custodian of such document prior to its destruction.

1 4. These data requests shall be deemed continuing and you should serve upon Big  
2 Rivers' counsel (1) supplemental responses to these data requests if additional information or  
3 information that changes your response to any data request is obtained during the course of this  
4 proceeding, and (2) any documents requested herein that become available or that are discovered  
5 after the date your responses to these data requests are due.

6  
7 DATA REQUESTS

8 1. With respect to each of your witnesses, identify the witness's specific experience  
9 (by proceeding caption and case number) testifying in rate cases in which the utility supported its  
10 application by a fully-forecasted test year. Identify the party on whose behalf each witness  
11 testified in those proceedings, and provide a copy of any written testimony of such witness in  
12 such case.

13 2. Does the Attorney General believe that its recommendations would likely lead  
14 to Big Rivers defaulting on its credit agreements and inability to pay its other obligations as they  
15 become due? If not, please explain why not. If so, please explain why the Attorney General  
16 believes it is reasonable to ask the Commission to set rates for a jurisdictional utility that produce  
17 insufficient revenue to allow the utility to avoid default on its credit agreements and to pay its  
18 other obligations as they become due.

19 3. Please state whether the Attorney General has evaluated the effects its  
20 recommendations will have on Big Rivers' financial integrity and provide all such studies,  
21 analyses, and related documents and calculations, including any in electronic format. In the  
22 event the Attorney General has evaluated such effects, please identify its conclusion(s) and  
23 describe in detail the basis for those conclusions.

1           4.     Please state whether the Attorney General has evaluated the effects its  
2 recommendations will have on Big Rivers' credit ratings and provide all such studies, analyses,  
3 and related documents and calculations, including any in electronic format. In the event the  
4 Attorney General has evaluated such effects, please identify its conclusion(s) and describe in  
5 detail the basis for those conclusions.

6           5.     Please state whether the Attorney General has evaluated the effects its  
7 recommendations will have on Big Rivers' ability to borrow funds in the marketplace or the  
8 interest rates Big Rivers would pay if the Attorney General's recommendations are accepted by  
9 the Commission, and provide all such studies, analyses, and related documents and calculations,  
10 including any in electronic format. In the event the Attorney General has evaluated such effects,  
11 please identify its conclusion(s) and describe in detail the basis for those conclusions.

12          6.     Refer to the Direct Testimony of Bion C. Ostrander at page 11. Provide all  
13 studies and other documents that support Mr. Ostrander's claim that "a higher TIER is a  
14 relatively small contributor to improving BREC's financial health."

15          7.     Refer to the Direct Testimony of Bion C. Ostrander at page 16, where Mr.  
16 Ostrander claims that "in many instances in this rate case I have not been provided the  
17 underlying assumptions and calculations for BREC's projected amounts." Please identify each  
18 information request in which Mr. Ostrander has requested and was not provided the referenced  
19 information.

20          8.     Refer to the Direct Testimony of Bion C. Ostrander at page 17, please provide the  
21 referenced research paper by the National Regulatory Research Institute.

22           a.     If the Attorney General refuses to provide the requested research paper on the  
23 grounds that the paper is copyrighted, please explain in detail how copyright law

1 prohibits the Attorney General from producing the paper in this proceeding, and  
2 explain in detail why the Attorney General believes providing the document in  
3 this proceeding is not fair use.

4 b. If the Attorney General refuses to provide the requested research paper, please  
5 explain in detail why Mr. Ostrander's testimony based upon that research paper  
6 should not be stricken from the record.

7 9. Refer to the Direct Testimony of Bion C. Ostrander at pages 18-19, where Mr.  
8 Ostrander states, "I believe that BREC has used the forecasted test period to its advantage in this  
9 regard as it relates to its estimated cost impact of the loss of smelters which it even admits are  
10 not known and measurable and which lack substantive underlying documentation." Is it Mr.  
11 Ostrander's position that Big Rivers' revenue requirement and its proposed rates are based on the  
12 estimated cost impact of the loss of the smelters rather than Big Rivers' forecasted revenues and  
13 expenses in the test period? Please explain your response.

14 10. Refer to the Direct Testimony of Bion C. Ostrander at page 23. Please explain in  
15 detail how assuming Big Rivers will receive \$70.4 million in revenues from Century in the test  
16 period that Big Rivers will not actually receive is what Mr. Ostrander would consider a known  
17 and measurable adjustment to the test period.

18 11. Please provide all calculations, workpapers, and other documents used to derive  
19 each adjustment shown in Exhibit BCO-2 to the Direct Testimony of Bion C. Ostrander. Provide  
20 these documents in electronic format with all formulas intact. For each input and for each  
21 amount listed in the exhibit, provide the source of the input or amount and a citation to where  
22 such information was provided in the record.

1           12.     Refer to the Direct Testimony of Bion C. Ostrander at page 34, where Mr.  
2 Ostrander claims that “BREC has previously admitted that some of the current rate case  
3 witnesses are performing duties of unfilled and vacated Officer positions.” Please identify all  
4 instances where Mr. Ostrander alleges Big Rivers made such an admission, and provide all  
5 documents evidencing such an admission.

6           13.     Refer to the Direct Testimony of Bion C. Ostrander at page 36, line 1. Please  
7 identify the source of the amount on this line, and provide all workpapers, calculations, and other  
8 documents supporting this amount or used in the derivation of this amount. Provide these  
9 documents in electronic format with all formulas intact.

10          14.     Refer to the Direct Testimony of Bion C. Ostrander at page 37. Please explain  
11 what Mr. Ostrander means when he claims, “BREC is apparently unable or perhaps unwilling to  
12 determine the expense impact of the revenue requirements.” Please identify all information  
13 requests upon which this statement is based. Also, please explain what is meant by “an expense  
14 impact of the revenue requirements.”

15          15.     Refer to the Direct Testimony of Bion C. Ostrander at page 37. Please explain in  
16 detail why Mr. Ostrander believes pay increases for bargaining unit employees based on an  
17 existing collective bargaining agreement are not what Mr. Ostrander considers known and  
18 measurable.

19          16.     Please provide all schedules of Exhibit BCO-2 in electronic format with formulas  
20 intact.

21          17.     Refer to schedule A-7 of Exhibit BCO-2. Please explain how the adjustment  
22 reflected on this schedule was determined. Provide all calculations, workpapers, and other



1 supporting documents used in the development of this adjustment. Provide these documents in  
2 electronic format with formulas intact.

3 18. Refer to the Direct Testimony of David Brevitz at page 12. Please provide the  
4 basis for Mr. Brevitz' conclusion that Big Rivers' debt is "significant" compared to equity.

5 a. Has Mr. Brevitz compared Big Rivers' debt to equity ratio to that of other  
6 generation and transmission cooperatives? If so, please provide all such  
7 comparisons. If not, please explain why Mr. Brevitz did not perform such a  
8 comparison.

9 b. Provide all studies and other documents that Mr. Brevitz relied upon in reaching  
10 his conclusion.

11 19. Refer to the Direct Testimony of David Brevitz at page 13, where Mr. Brevitz  
12 states, "BREC faces the risk of higher interest expense where variable interest rates apply..."  
13 Please confirm that none of Big Rivers' debt obligations contains a variable interest rate.

14 20. Refer to the Direct Testimony of David Brevitz at page 30, where Mr. Brevitz  
15 claims that "this estimate of price elasticity is most likely significantly understated...." Please  
16 provide all studies and other documents supporting this claim.

17 21. Please reconcile the statement on page 38 of the Direct Testimony of David  
18 Brevitz that "[i]f the Net Present Value is not positive..., the proposed project or decision should  
19 not be approved," with the statement on page 39 of the Direct Testimony of David Brevitz that  
20 "[i]f the net present value of those discounted cash flows is less than 1.0, the decision should not  
21 be approved."

22 22. Refer to the Direct Testimony of David Brevitz at page 24, footnote 37. Please  
23 provide the cited articles.

1           23.    Refer to the Direct Testimony of David Brevitz at page 26, footnote 39. Please  
2 provide the cited article.

3           24.    Refer to the Direct Testimony of David Brevitz at page 26, footnote 40. Please  
4 provide the cited article.

5           25.    Refer to the Direct Testimony of David Brevitz at page 26, footnote 41. Please  
6 provide the cited article.

7           26.    Refer to the Direct Testimony of Larry W. Holloway at page 11. Provide all  
8 studies and other documents supporting the assumption that Big Rivers will achieve only 50% of  
9 its forecasted replacement load.

10          27.    Refer to the Direct Testimony of Larry W. Holloway at page 11. Please explain  
11 in detail whether Mr. Holloway's analysis incorporates any increased revenues from off-system  
12 sales that would result from returning Wilson and Coleman to service as Big Rivers forecasted  
13 but delaying when replacement load occurs. If Mr. Holloway's analysis incorporates such  
14 revenues, identify where in Mr. Holloway's analysis these revenues can be found.

15          28.    Please explain whether Mr. Holloway's analysis incorporates any revenues from  
16 Big Rivers participating in future MISO capacity auctions. If Mr. Holloway's analysis  
17 incorporates such revenues, identify where in Mr. Holloway's analysis these revenues can be  
18 found.

19          29.    Refer to the Direct Testimony of Larry W. Holloway at page 14. Provide all  
20 studies and other documents supporting the use of 10% as a reasonable discount rate.

21          30.    Please identify and provide all net present value studies completed within the last  
22 three years and of which Mr. Holloway is aware that use a discount rate of 10%.

23          31.    Refer to the Direct Testimony of Larry W. Holloway at page 15.

- 1 a. Please identify all software used in the development of the Member Benefit  
2 Analysis for Rate Treatment of Coleman and Wilson (the “Study”), identify the  
3 vendor of the software, and explain whether a license is required to use the  
4 software.
- 5 b. Provide all workpapers, inputs, outputs, input files, and output files used in the  
6 development of or resulting from the Study. Provide these items in electronic  
7 format with all formulas intact.
- 8 c. Provide a user’s manual for the Study.
- 9 d. Identify the source of each input to the Study.

10 32. How would the net present values associated with Wilson and Coleman from Mr.  
11 Holloway’s Study change if replacement load is assumed as Big Rivers had forecasted but a 5%  
12 discount rate is used instead of a 10% discount rate? Please provide all calculations, workpapers,  
13 and other supporting documents used in this analysis. Provide these documents in electronic  
14 format with formulas intact.

15 33. Refer to the Direct Testimony of Larry W. Holloway at page 16. What would the  
16 minimum price that could be asked for Wilson and Coleman be if, instead of assuming that the  
17 sale of the plants could be negotiated, approved by the Commission and all other necessary  
18 parties, and consummated immediately, it was assumed that the negotiation, approval process,  
19 and closing of the sale took one year? What would the minimum price that could be asked for  
20 Wilson and Coleman be if it was assumed that the negotiation, approval process, and closing of  
21 the sale took two years? What would the minimum price that could be asked for Wilson and  
22 Coleman be if it was assumed that the negotiation, approval process, and closing of the sale took  
23 five years? Include in these analyses the costs of Wilson and Coleman during the year(s) the sale

1 is being negotiated, approved, and consummated. Please provide all calculations, workpapers,  
2 and other supporting documents used in these analyses. Provide these documents in electronic  
3 format with formulas intact.

4 34. Refer to the Direct Testimony of Larry W. Holloway at page 23, where Mr.  
5 Holloway claims that not making an adjustment for transmission revenues “would create  
6 incremental costs for retail customers.” Please explain in detail all facts and assumptions upon  
7 which Mr. Holloway relies to support this claim.

8 35. Has the Attorney General or any of his witnesses analyzed whether the electric  
9 rates for Big Rivers’ members or their retail customers after a Big Rivers bankruptcy filing  
10 would be lower than the rates Big Rivers has proposed in this proceeding? If so, please provide  
11 all such analyses and all documents arising out of, related to, or concerning those analyses,  
12 including a list of all assumptions employed in the analysis. If no such analysis has been  
13 performed, please explain why.

14 36. Is it the policy of the Attorney General of Kentucky that seeking relief from the  
15 Public Service Commission that is likely to force a utility into bankruptcy is an appropriate tactic  
16 to oppose a rate increase by that utility?

17 a. If so, please describe in detail the process undertaken by the Attorney General to  
18 develop this policy, including a description in detail of the communications the  
19 Attorney General had with Big Rivers, other public officials, lending institutions,  
20 financial ratings agencies, other utilities, and any other person in the course of  
21 developing this policy. Please provide a copy of all studies, analyses, and  
22 documents relied upon by the Attorney General to develop this policy.

1           b. If this is not the policy of the Attorney General, please explain in detail how Big  
2           Rivers could avoid bankruptcy if the Commission adopts the positions advanced  
3           by the Attorney General's witnesses in this case.

4           37. Refer to the Direct Testimony of Bion C. Ostrander. Provide citations to all cases  
5           in which the Commission has applied the known and measurable standard to a fully-forecasted  
6           test period.

7           38. Please describe in detail Mr. Ostrander's experience in directly advising,  
8           managing, or placing debt in the capital markets.

9           39. Please describe in detail Mr. Ostrander's experience in appearing before the rating  
10          agencies.

11          40. Please provide a copy of all documents showing communications between the  
12          Attorney General (or his agents, employees, or witnesses) and any representative of another  
13          intervenor regarding, arising out of, or related to this case.

14          41. Please provide a copy of all documents showing communications between the  
15          Attorney General (or his agents, employees, or witnesses) and any person not a party to this case  
16          regarding, arising out of, or related to this case.

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1 On this the 11<sup>th</sup> day of November, 2013.

2 Respectfully submitted,

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6 \_\_\_\_\_  
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26  
27 Counsel for Big Rivers Electric Corporation  
28  
29

30 **Certificate of Notice**

31  
32 I certify that a true and accurate copy of the foregoing was served by electronic mail on  
33 each party to this proceeding on the 11<sup>th</sup> day of November, 2013, and will be served by either  
34 first class mail or by Federal Express upon the persons listed on the service list accompanying  
35 these requests, on the 12<sup>th</sup> day of November, 2013.  
36  
37

38  
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40 \_\_\_\_\_  
Tyson Kamuf