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June 27, 2014

HAND DELIVERY

Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RECEIVED

JUN 27 2014

PUBLIC SERVICE
COMMISSION

David C. Brown
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**Re: The 2014 Resource Plan of Big Rivers Electric Corporation
Case No. 2014-00166**

Dear Mr. Derouen:

Enclosed for filing in the above matter are an original and ten copies of the Reply of Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC ("Century") in support of their Motion for Full Intervention in the above docket.

Very truly yours,

David C. Brown
David C. Brown *by MMW*

DCB

Enclosures

cc: James M. Miller
Tyson Kamuf
Michael L. Kurtz
Kurt J. Boehm
Jennifer Black Hans

966836 21 LOUISVILLE

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

RECEIVED

JUN 27 2014

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE 2014 RESOURCE PLAN OF)
BIG RIVERS ELECTRIC) Case No. 2014-00166
CORPORATION)

**REPLY OF CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP
AND CENTURY ALUMINUM SEBREE LLC TO RESPONSE OF BIG RIVERS
ELECTRIC CORPORATION TO PETITION FOR FULL INTERVENTION**

Comes now Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC (collectively, "Century"), through counsel, and hereby submits its Reply to the Response of Big Rivers Electric Corporation ("Big Rivers") to Century's Petition for Full Intervention ("Response").¹ As set forth herein, Century requests that the Kentucky Public Service Commission ("Commission") reject Big Rivers' Response and grant Century full intervenor status in Big Rivers' 2104 Integrated Resource Plan ("IRP") proceeding. Pursuant to the obligations of its wholly unique contractual relationship with Big Rivers, Century possesses the requisite special interest in the Big Rivers IRP. As such, Century has satisfied the Commission's two-prong standard for full intervention.²

Big Rivers' Response mischaracterizes Century's wholly legitimate interest in participating in this proceeding, which is limited to providing input that may assist Commission staff in preparing its report on the IRP and its associated recommendations. Century's ongoing

¹ *In the Matter of the 2014 Resource Plan of Big Rivers Electric Corp.*, Case No. 2014-00166, Response of Big Rivers Electric Corporation to the Petition for Full Intervention by Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC (Ky. P.S.C. June 23, 2014) ("Response").

² *EnviroPower LLC v. Pub. Serv. Comm'n of Ky*, No. 2005- CA-01792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

relationship with Big Rivers justifies Century's participation in this IRP proceeding, and will assist Commission staff in its review of Big Rivers' IRP without complicating or disrupting the review. The Commission should, therefore, grant Century full intervenor status in this proceeding to assist Commission staff in developing its IRP report.

I. Century's Possesses the Requisite Special Interest for Full Intervention in the IRP Proceeding and Is Not Adequately Represented by Any Other Party.

Century requests that the Commission grant its Petition for Full Intervention to ensure Century is afforded the same opportunity as other interested parties to assist Commission staff in the IRP review and recommendation process. As discussed below, Century's wholly unique relationship with Big Rivers constitutes a special interest in the IRP for purposes of intervention. Moreover, the IRP addresses numerous issues that may affect Century's obligations pursuant to this unique relationship. Century's special interest in the IRP proceeding cannot be adequately represented by any other party. The Commission should therefore grant Century's Petition and permit Century to fully participate in this proceeding.

As set forth in the Commission's August 14, 2013 and January 30, 2014 Orders approving Century's current electric power purchasing arrangements ("Century Orders"), Century's relationship with Big Rivers is wholly unique.³ Both transactions were the "product of extensive good faith negotiations among Big Rivers, [Kenergy Corp. ("Kenergy")] and [Century] with the goal of keeping [each] smelter viable while not subjecting the remaining customers to any additional incremental costs"⁴ Most critically, both transactions required Commission approval of multiple contracts that impose on Century and Big Rivers direct, bilateral obligations

³ See *Joint Application of Kenergy Corp. and Big Rivers Electric Corp. for Approval of Contracts and for a Declaratory Order*, Case No. 2013-00221, Order (Ky. P.S.C. Aug. 14, 2013) ("Hawesville Order"); *Joint Application of Kenergy Corp. and Big Rivers Electric Corp. for Approval of Contracts and for a Declaratory Order*, Case No. 2013-00413, Order (Ky. P.S.C. Jan. 30, 2014) ("Sebree Order").

⁴ See Sebree Order at 18; Hawesville Order at 21.

to each other that are unlike any other in the Commonwealth.⁵ For example, the Direct Agreements obligate Century to reimburse Big Rivers' costs relating to reliability must-run operations resulting from the smelters' activity.⁶ Similarly, the Load Curtailment Agreements permit Big Rivers to curtail load to the smelters under certain circumstances.⁷ These agreements that were approved in the Century Orders establish Century's direct interest in the manner in which Big Rivers intends to provide reliable service in its territory going-forward, which is a key focus of the IRP process. These agreements also establish a relationship between Big Rivers and Century that is wholly unique from any other Kentucky utility-customer relationship.

Century's special interest in the IRP proceeding fully satisfies the Commission's standard for intervention.⁸ The issues addressed in the IRP review process clearly include transmission issues that may affect the unique bilateral obligations between Century and Big Rivers approved in the Century Orders. As required by the Commission's regulations, Big Rivers' IRP must include, in relevant part, a summary of plans for transmission improvement;⁹ address improvements to and more efficient utilization of transmission facilities;¹⁰ and identify transmission cost savings as a result of demand-side management and energy efficiency programs.¹¹ These issues and other components of the IRP address Big Rivers' future generation and transmission plans and operations and may affect the carefully crafted bilateral obligations approved in the Century Orders. As such, Century's interest in the IRP proceeding is a "special" interest for purposes of intervention, and its Petition should therefore be granted.

⁵ See *id.*

⁶ See Sebree Order at 6; Hawesville Order at 6.

⁷ See Sebree Order at 7-8.

⁸ *EnviroPower LLC v. Pub. Serv. Comm'n of Ky*, No. 2005- CA-01792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁹ 807 KAR 5:058, Section 5(4).

¹⁰ 807 KAR 5:058, Section 8(2)(a).

¹¹ 807 KAR 5:058, Section 8(3)(12)(e)(5).

As discussed above, Century's contractual arrangements with Big Rivers are unique from any other electric utility customer in the Commonwealth. As such, Century' interest in assisting Commission staff in its IRP review process cannot be adequately represented by any other party. Contrary to BREC's assertions in its Response, Century is not a member of the Kentucky Industrial Utility Customers ("KIUC") for purposes of this proceeding, nor can KIUC fully represent Century's interests.¹² Century is not a traditional ratepaying industrial customer that will be similarly impacted by Commission staff's recommendations in its IRP report. Nor is Century a retail customer that is generally represented by the Attorney General.¹³ The power purchasing arrangements approved in the Century Orders render Century a unique customer and, as such, Century will bring a unique perspective to this IRP proceeding. The Commission should therefore grant Century's Petition for Full Intervention to ensure that Century's interests as a unique power purchaser are adequately represented and considered in Commission staff's review of Big Rivers' IRP.

II. Century's Interest in the IRP Proceeding Is Limited to Assisting Commission Staff in Preparing its Report and Recommendations.

Contrary to Big Rivers' assertions in the Response, Century's interest in participating in the IRP proceeding is limited to providing information to assist Commission staff in its review of the IRP. Century does not view the IRP proceeding as an opportunity to relitigate the Commission's findings in its Orders approving Century's electric power purchasing arrangements for the Hawesville and Sebree Smelters, nor does the scope of the IRP proceeding present such an opportunity.¹⁴ Rather, Century's participation as an intervenor is intended to aid Commission

¹² Response at 6.

¹³ *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Certificates of Public Convenience and Necessity for the Construction of a Combined Cycle Combustion Turbine at the Green River Generating Station and a Solar Photovoltaic Facility at the E.W. Brown Generating Station*, Case No. 2014-0002, Order (Ky. P.S.C. Mar. 18, 2014).

¹⁴ 807 KAR 5:058, Section 11(1).

staff in developing facts for assessment in its IRP report and to make associated recommendations.

Big Rivers' Response mischaracterizes Century's interest in the IRP proceeding as seeking an opportunity to relitigate issues previously decided by the Commission in the Century Orders.¹⁵ Big Rivers' Response is incorrect. Century's interest as an intervenor is rooted in providing and developing information regarding Century's historical and ongoing relationship with Big Rivers that should be helpful to Commission staff in developing facts to facilitate a complete review of the IRP. Pursuant to the Commission's regulations, the IRP must provide a summary of "significant changes" that have occurred since the previously filed IRP, including changes in load forecasts, resource plans, assumptions, or methodologies.¹⁶ Big Rivers' IRP includes many such "significant changes" that have resulted directly from its historical and ongoing relationship with Century. As set forth in the Century Orders, Century no longer purchases electric generation for its smelters from Big Rivers' generation assets, but instead purchases from Kenergy electric generation that has been purchased by Big Rivers in wholesale power markets.¹⁷ Correspondingly, Big Rivers' own generation capacity has been reduced, as evidenced by the idling of its Coleman Generation Station and the anticipated idling of the Wilson Generation Station.¹⁸ In light of the extensive negotiations associated with developing its power purchasing arrangements, Century possesses unique knowledge regarding these "significant changes" that will assist Commission staff in its review of the IRP and help to guide the recommendations set forth in its IRP report. The Commission should, therefore, grant

¹⁵ Response at 6.

¹⁶ 807 KAR 5:058, Section 6.

¹⁷ See, e.g., Hawesville Order at 16.

¹⁸ Response at 2.

Century full intervenor status to provide Commission staff with all available information and to ensure a more complete IRP review.

Moreover, relitigation of the issues decided in the Commission's Century Orders is legally beyond the scope of an IRP proceeding. In an IRP proceeding, the Commission's "procedural" role is limited to review of the report prepared by staff rather than an Order on the merits of substantive issues.¹⁹ Intervenors' participation in an IRP proceeding is restricted to written interrogatories and comments; there is no opportunity for an evidentiary hearing.²⁰ As such, neither the procedural posture of the IRP proceeding nor Century's status as a full intervenor will present an opportunity to relitigate any of the issues decided in the Century Orders. Big Rivers' assertions to the contrary should be rejected because they fail to appreciate the unique purpose or nature of an IRP proceeding.

Permitting Century to intervene in this proceeding is consistent with Commission precedent regarding intervention by parties with unique knowledge in IRP proceedings. Given Century's unique historical and ongoing relationship with Big Rivers, Century can assist Commission staff as an intervening party in this proceeding by providing information relevant to developing facts and formulating recommendations.²¹ The Commission has previously granted intervenor status in IRP proceedings to parties possessing similarly unique knowledge that will aid Commission staff in the review process.²² By way of example, the Commission permitted various environmental groups to intervene in East Kentucky Power Cooperative's 2009 IRP proceeding, despite finding that their interests were indistinguishable from other ratepayers, because they "possess sufficient expertise in issues that are within . . . the parameters of an IRP

¹⁹ *In re 2009 Integrated Resource Plan of East Ky. Power Cooperative, Inc.*, Case No. 2009-00106, 2009 WL 9048196 at 7 (Ky. P.S.C. July 13, 2009); *see also* 807 KAR 5:058, Section 11(1), (3).

²⁰ 807 KAR 5:058, Section 11(1).

²¹ 807 KAR 5:058, Section 11(3).

²² *In re 2009 Integrated Resource Plan of East Ky. Power Cooperative, Inc.*, Case No. 2009-00106, 2009 WL 9048196 (Ky. P.S.C. 2009).

case, and therefore, their intervention is likely to present issues or develop facts that will assist the staff in its review of [the] IRP without complicating or disrupting the review."²³ Century's unique relationship with Big Rivers provides ample bases for offering similar expertise on issues addressed in Big Rivers' IRP that will assist Commission staff with its review. The Commission should, therefore, grant Century full intervenor status consistent with precedent to permit Commission staff to utilize Century's unique knowledge and expertise regarding relevant issues in the IRP.

Finally, Century's interest in participating as an intervenor in the IRP is similar to its interest in participating in Big Rivers' management audit process in Case No. 2013-00199.²⁴ In its June 6, 2014 Order granting Century intervenor status in the management audit process, the Commission recognized that Century has a "substantial interest in both past actions regarding the smelters leaving the system . . . as well as any actions Big Rivers may take going forward that may impact Century as an energy or transmission customer and as a potential purchaser of the Coleman Generating Station."²⁵ Century has a similar interest in the IRP proceeding and should be "afforded the same opportunity as other interested parties to be interviewed and submit written comments."²⁶ Century therefore requests that the Commission reject Big Rivers' Response and grant Century full intervenor status in this proceeding.

²³ *See id.*

²⁴ *Application of Big Rivers Electric Corp. For a General Adjustment of Rates Supported By Fully Forecasted Test Period*, Case No. 2013-00199, Order (Ky. P.S.C. June 6, 2014).

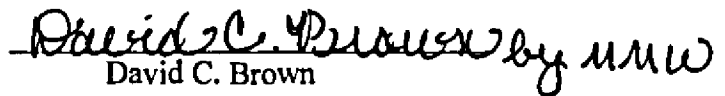
²⁵ *Id.* at 5-6.

²⁶ *Id.* at 6.

WHEREFORE, Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC request that the Kentucky Public Service Commission:

- (1) Reject Big Rivers Electric Corporation's Response; and
- (2) Grant Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC full intervention in this proceeding.

Respectfully submitted,



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Counsel for Century Aluminum of Kentucky
General Partnership and Century Aluminum Sebree
LLC

June 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via United States Postal Service, First Class Mail, postage prepaid, upon:

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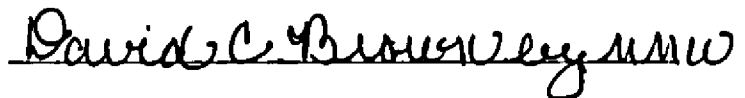
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on this the 27th day of June, 2014.



David C. Brown

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Century Aluminum of Kentucky General
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and
Century Aluminum Sebree LLC