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AUG 27 2014

PUBLIC SERVICE  
COMMISSION

**Via Overnight Mail**

August 26, 2014

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

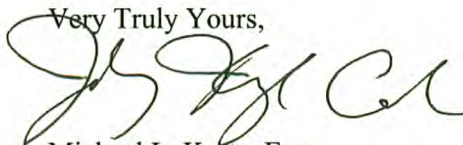
**Re: Case No. 2014-00230**

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies each of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC's REPLY TO BIG RIVERS ELECTRIC CORPORATION RESPONSE 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 this document of file.

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

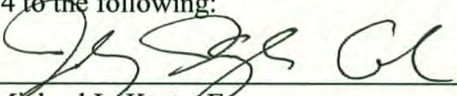
**BOEHM, KURTZ & LOWRY**

MLKkew  
Attachment

cc: Certificate of Service  
Quang Nyugen, Esq.  
Richard Raff, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by regular, U.S. mail, unless other noted, this 26<sup>th</sup> day of August, 2014 to the following:

  
\_\_\_\_\_  
Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
Jody Kyler Cohn, Esq.

Roger Hickman  
Regulatory Affairs Manager  
Big Rivers Electric Corporation  
201 Third Street  
P. O. Box 24  
Henderson, KY 42420

James M. Miller  
Tyson Kamuf  
Sullivan, Mountjoy, Stainback & Miller, P.S.C.  
100 St. Ann Street  
P. O. Box 727  
Owensboro, Kentucky 42302-0727

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 27 2014

PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

AN EXAMINATION OF THE APPLICATION )  
OF THE FUEL ADJUSTMENT CLAUSE OF )  
BIG RIVERS ELECTRIC CORPORATION FROM )  
NOVEMBER 1, 2013 THROUGH APRIL 30, 2014 )

CASE NO. 2014-00230

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REPLY TO BIG RIVERS ELECTRIC CORPORATION'S RESPONSE

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On August 22, 2014, Kentucky Industrial Utility Customers, Inc. ("KIUC") filed two pleadings in this case. The first was a Motion to Intervene setting out the members of KIUC who will be affected by the matters being decided and their interests in the case. The second was a Petition to Amend Procedural Schedule requesting an opportunity for intervenors to submit one round of discovery requests to Big Rivers Electric Corporation ("Big Rivers") in this case. On August 25, 2014 Big Rivers filed a Response opposing both KIUC's Motion to Intervene and its Petition to Amend Procedural Schedule. Big Rivers argues that "*KIUC proposes only to develop facts that will assist it in a different proceeding,*" that the Kentucky Public Service Commission ("Commission") Staff has already asked one data request about how "*no load costs*" are allocated to off-system sales, and that it would set a bad precedent to allow a party to intervene for the purpose of conducting discovery in a different case.<sup>1</sup>

KIUC's Motion to Intervene should be granted. The crux of Big Rivers' opposition, as reflected in its Response, is aimed at KIUC's request to conduct discovery set forth in its Petition to Amend Procedural Schedule. But the Motion to Intervene is separate from the Petition to Amend Procedural Schedule. And in that Motion, KIUC demonstrated how it satisfies the Commission's standards for intervention.

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<sup>1</sup> Big Rivers Response at 2.

807 KAR 5:001, Section 4(11)(b) provides:

*The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.*<sup>2</sup>

KIUC filed a timely Motion to Intervene. Further, the three participating members of KIUC pay millions of dollars annually in fuel costs to Big Rivers through Kenergy. As such, they clearly have a “special interest” in this six-month review case. And that interest is not adequately represented by any existing party. In fact, no other consumer representative has yet moved to intervene in this case.<sup>3</sup> Big Rivers does not dispute these facts. Under 807 KAR 5:001, Section 4(11)(b), the Commission could approve KIUC’s intervention on that basis alone. In addition, contrary to Big Rivers’ suggestions, KIUC’s participation in this case will help to develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings.

With regard to KIUC’s Petition to Amend Procedural Schedule, Big Rivers misconstrues KIUC’s request. Contrary to the assertions of Big Rivers, KIUC is not solely concerned with Kentucky Power Company’s (“Kentucky Power”) fuel cost allocation approach. To clarify, KIUC seeks an understanding of how multiple utilities in the state (East Kentucky Power Cooperative, Kentucky Utilities Company, Louisville Gas & Electric Company, Kentucky Power, and Big Rivers) are allocating their fuel costs between native load, FERC jurisdictional wholesale all-requirements customers, and off-system sales. And we have sought to intervene in each of their respective six-month fuel adjustment clause (“FAC”) review cases. This is necessary to give the Commission an informed recommendation, especially since there is not a uniform methodology for crediting native load customers with margins from off-system sales in base rate proceedings. While KIUC does intend to compare the methods adopted by each utility if its request to submit discovery is granted, KIUC also plans to independently assess the reasonableness of each utility’s FAC approach. And KIUC does not yet know what the results of its intended discovery would reflect. Should an issue present itself as a result of that discovery, KIUC

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<sup>2</sup> Emphasis added.

<sup>3</sup> 807 KAR 5:002, Section 4(11)(b) (“The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”)

would seek to address that issue in the present case. It is for this reason that KIUC's Petition stated that "*KIUC reserves the right to expand the scope of its inquiry*" and that "*KIUC reserves the right to petition for additional amendments to the procedural schedule.*"

Additionally, since the time that its Petition to Amend Procedural Schedule was filed, KIUC has identified another concern with respect to how Big Rivers allocates fuel costs to off-system sales. The Wilson power plant is one of the lowest fuel cost resources of Big Rivers. The debt and TIER associated with Wilson is currently being recovered in base rates. But the depreciation associated with Wilson is currently being deferred, which means that the utility could seek recovery at a later date.<sup>4</sup> The Commission's most recent rate case order accepted Big Rivers' future test year assumption that Wilson would be idled as of February 1, 2014.<sup>5</sup> But Wilson is still operating and it is making significant margins on off-system sales.

None of those off-system sales profits from Wilson were reflected in the Company's future test year as a reduction in the native load revenue requirement. This means that consumers are paying for Wilson, yet are receiving none of the benefits from its continued operation. Big Rivers' most recent monthly Financial and Operating report shows that for the first six months of 2014 it earned \$32.4 million in margins.<sup>6</sup> This is in comparison to the Commission's full-year authorized margin of approximately \$12 million. Big Rivers' excess profits stem largely from off-system sales made out of Wilson. Therefore, KIUC also has an independent interest in ensuring that native load customers are receiving the benefit of low-cost energy from Wilson in the FAC and that Big Rivers' allocation of fuel costs to those off-system sales was reasonable.

Additionally, the fact that Staff asked a single data request on how Big Rivers treats "*no-load*" fuel costs should not foreclose any additional inquiry into this complicated topic. The issue of whether native load customers are receiving the benefit of Big Rivers' lowest fuel cost resources can be more complicated than that single question.

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<sup>4</sup> See Order, Case No. 2013-00199 (April 25, 2014).

<sup>5</sup> Id.

<sup>6</sup> See Attachment.

In retrospect, KIUC's Petition to Amend should not have contained language which could be construed to indicate that our sole interest was with Kentucky Power's fuel cost allocation practices. Nevertheless, we do have an independent interest in understanding how Big Rivers allocates fuel costs to off-system sales since that allocation affects the FAC charge or credit of all consumers.

WHEREFORE, for the foregoing reasons, KIUC's Motion to Intervene and Petition to Amend Procedural Schedule should be granted.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

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

August 26, 2014

Attachment

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE  
**FINANCIAL AND OPERATING REPORT**  
**ELECTRIC POWER SUPPLY**  
**PART A - FINANCIAL**

BORROWER DESIGNATION  
KY0062

PERIOD ENDED  
Jun-14

INSTRUCTIONS - See help in the online application.

**SECTION A. STATEMENT OF OPERATIONS**

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Electric Energy Revenues	297,358,423.16	249,347,238.16	182,215,551.00	31,063,591.28
2. Income From Leased Property (Net)	0.00	0.00	0.00	0.00
3. Other Operating Revenue and Income	1,958,086.20	5,603,036.07	4,952,950.00	1,194,672.61
<b>4. Total Operation Revenues &amp; Patronage Capital(1 thru 3)</b>	<b>299,316,509.36</b>	<b>254,950,274.23</b>	<b>187,168,501.00</b>	<b>32,258,263.89</b>
5. Operating Expense - Production - Excluding Fuel	25,476,825.59	20,876,939.66	18,743,502.00	3,375,315.10
6. Operating Expense - Production - Fuel	120,999,040.63	79,211,154.57	49,750,934.00	8,801,131.60
7. Operating Expense - Other Power Supply	56,924,573.31	55,019,112.11	40,941,425.00	7,919,617.94
8. Operating Expense - Transmission	5,682,627.89	4,430,463.69	4,595,826.00	690,649.49
9. Operating Expense - RTO/ISO	1,308,818.25	516,036.03	516,390.00	71,963.19
10. Operating Expense - Distribution	0.00	0.00	0.00	0.00
11. Operating Expense - Customer Accounts	131,684.74	137,522.41	0.00	76,814.84
12. Operating Expense - Customer Service & Information	356,465.30	427,114.95	506,861.00	105,341.83
13. Operating Expense - Sales	24,531.25	66,447.30	121,685.00	4,572.92
14. Operating Expense - Administrative & General	12,510,161.29	12,109,480.05	17,715,765.00	2,851,656.90
<b>15. Total Operation Expense (5 thru 14)</b>	<b>223,414,728.25</b>	<b>172,794,270.77</b>	<b>132,892,388.00</b>	<b>23,897,063.81</b>
16. Maintenance Expense - Production	18,411,024.67	19,320,260.63	16,076,908.00	4,602,044.00
17. Maintenance Expense - Transmission	2,023,539.89	2,044,676.55	2,410,098.00	434,302.89
18. Maintenance Expense - RTO/ISO	0.00	0.00	0.00	0.00
19. Maintenance Expense - Distribution	0.00	0.00	0.00	0.00
20. Maintenance Expense - General Plant	129,810.25	118,087.94	107,068.00	18,413.50
<b>21. Total Maintenance Expense (16 thru 20)</b>	<b>20,564,374.81</b>	<b>21,483,025.12</b>	<b>18,594,074.00</b>	<b>5,054,760.39</b>
22. Depreciation and Amortization Expense	20,573,995.95	10,492,245.36	19,172,206.00	1,526,614.19
23. Taxes	2,461.92	<3,654.00>	0.00	0.00
24. Interest on Long-Term Debt	22,085,835.86	20,680,209.07	21,023,573.00	3,423,427.68
25. Interest Charged to Construction - Credit	<182,534.00>	<301,262.00>	<229,717.00>	<78,955.00>
26. Other Interest Expense	80.06	1,138.80	0.00	0.00
27. Asset Retirement Obligations	0.00	0.00	0.00	0.00
28. Other Deductions	937,155.57	91,376.40	168,972.00	44,153.57
<b>29. Total Cost Of Electric Service (15 + 21 thru 28)</b>	<b>287,396,098.42</b>	<b>225,237,349.52</b>	<b>191,621,496.00</b>	<b>33,867,064.64</b>
<b>30. Operating Margins (4 less 29)</b>	<b>11,920,410.94</b>	<b>29,712,924.71</b>	<b>&lt;4,452,995.00&gt;</b>	<b>&lt;1,608,800.75&gt;</b>
31. Interest Income	988,135.47	912,018.21	923,373.00	150,156.57
32. Allowance For Funds Used During Construction	0.00	0.00	0.00	0.00
33. Income (Loss) from Equity Investments	0.00	0.00	0.00	0.00
34. Other Non-operating Income (Net)	0.00	0.00	0.00	0.00
35. Generation & Transmission Capital Credits	0.00	0.00	0.00	0.00
36. Other Capital Credits and Patronage Dividends	783,330.28	1,804,804.51	1,726,660.00	6,689.53
37. Extraordinary Items	0.00	0.00	0.00	0.00
<b>38. Net Patronage Capital Or Margins (30 thru 37)</b>	<b>13,691,876.69</b>	<b>32,429,747.43</b>	<b>&lt;1,802,962.00&gt;</b>	<b>&lt;1,451,954.65&gt;</b>