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July 17, 2019

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PUBLIC SERVICE  
COMMISSION

**VIA FedEx OVERNIGHT DELIVERY**

Ms. Gwen R. Pinson  
Executive Director  
Public Service Commission of Kentucky  
211 Sower Boulevard  
Frankfort, KY 40601

Re: *In the Matter of: Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order – Case No. 2013-00221*

Dear Ms. Pinson:

On June 18, 2019, the Public Service Commission issued an Order directing Big Rivers Electric Corporation (“Big Rivers”) to “file revised pages reflecting as unredacted” materials from Big Rivers’ responses to certain initial information requests from the Office of the Attorney General (“AG”) and the Kentucky Industrial Utility Customers, Inc. (“KIUC”) in the aforementioned docket. Attached hereto are an original and ten (10) copies of the relevant unredacted pages from attachments to Big Rivers’ responses to AG 1-1 and KIUC 1-11, respectively. The KIUC 1-11 attachment, originally provided on CD, is being provided in hardcopy.

Please confirm your receipt of this information by placing the Commission’s file stamp, with date received, on the enclosed additional copy of this letter and returning it to Big Rivers in the self-addressed, postage-paid envelop provided.

I certify that, on this date, a copy of this filing has been served on the persons listed on the attached service list by first class U.S. Postal Service.

Sincerely,

Tyson Kamuf  
Corporate Attorney,  
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[tyson.kamuf@bigrivers.com](mailto:tyson.kamuf@bigrivers.com)

cc: Service List  
Roger D. Hickman

**BIG RIVERS ELECTRIC CORPORATION**

**JOINT APPLICATION OF KENERGY CORP. AND BIG RIVERS ELECTRIC  
CORPORATION FOR APPROVAL OF CONTRACTS  
AND FOR A DECLARATORY ORDER  
CASE NO. 2013-00221**

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**BIG RIVERS ELECTRIC CORPORATION**

**JOINT APPLICATION OF KENERGY CORP. AND BIG RIVERS ELECTRIC  
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**ORIGINAL**



Your Touchstone Energy<sup>®</sup> Cooperative 

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

**In the Matter of:**

**JOINT APPLICATION OF KENERGY CORP.            )**  
**AND BIG RIVERS ELECTRIC CORPORATION        )**     **Case No.**  
**FOR APPROVAL OF CONTRACTS AND            )**     **2013-00221**  
**FOR A DECLARATORY ORDER                    )**

**Response to the Commission's Orders, dated June 18, 2019,  
withdrawing Confidential Treatment  
of previously filed Confidential Documents**

**Responses to  
Office of the Attorney General's  
Initial Request for Information, Item No. 1  
and  
Kentucky Industrial Utility Customers, Inc.'s  
First Request for Information, Item No. 11  
originally filed July 11, 2013**

**FILED:        July 18, 2019**

**ORIGINAL**



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**COLEMAN STATION**

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Generation (net)	3,175,856	3,102,103	3,157,306	3,218,074
Planned Outage Hours	672	1,224	600	600
Forced Outage Hours	1,880	1,829	1,885	1,890
EAF	90.3	88.3	90.6	90.6
EFOR	7.3	7.3	7.3	7.3
NCF	81.8	79.9	81.4	82.7
Non-Labor O&M (\$)	\$14,389,026	\$16,878,520	\$14,891,104	\$15,758,076
Non Labor O&M (\$/MWh)	\$4.53	\$5.44	\$4.72	\$4.90
Production Labor (\$)	\$12,059,190	\$12,070,314	\$12,275,661	\$12,582,832
Production Labor (\$/MWh)	\$3.80	\$3.89	\$3.89	\$3.91
Capital (\$)	\$10,579,000	\$17,235,459	\$17,946,000	\$10,609,000
Capital (\$/MWh)	\$3.33	\$5.56	\$5.68	\$3.30
Fuel Burn (tons)	1,544,728	1,509,244	1,531,974	1,561,790
Fuel Cost (\$)	\$81,509,801	\$82,241,289	\$87,576,737	\$90,796,380
Fuel Cost (\$/MWh)	\$25.67	\$26.51	\$27.74	\$28.21
Natural Gas (\$)	\$475,620	\$522,251	\$546,364	\$567,655
Natural Gas (\$/MWh)	\$0.15	\$0.17	\$0.17	\$0.18
VOM Cost (\$)	\$4,432,224	\$4,449,222	\$5,718,303	\$6,338,501
VOM Cost (\$/MWh)	\$1.40	\$1.43	\$1.81	\$1.97
<b>Total Station Cost (\$/MWh)</b>	<b>\$35.54</b>	<b>\$37.45</b>	<b>\$38.33</b>	<b>\$39.17</b>
<b>Total Station Cost (\$/MWh)</b> <b>(including Capital)</b>	<b>\$38.87</b>	<b>\$43.00</b>	<b>\$44.01</b>	<b>\$42.46</b>

**Must Run Analysis (Excluding Capital)**

Budgeted Market Prices	\$32.77	\$33.32	\$34.36
Total Must Run Cost (Excluding Capital)	\$14,505,680	\$15,806,733	\$15,470,421
Big Rivers Share of Must Run Cost	\$9,844,522	\$10,727,502	\$10,499,259
Centurys Share of Must Run Cost	\$4,661,159	\$5,079,230	\$4,971,162

**Must Run Analysis (Including Capital)**

Budgeted Market Prices	\$32.77	\$33.32	\$34.36
Total Must Run Cost (Including Capital)	\$31,741,139	\$33,752,733	\$26,079,421
Big Rivers Share of Must Run Cost	\$21,541,653	\$22,906,854	\$17,699,234
Centurys Share of Must Run Cost	\$10,199,486	\$10,845,878	\$8,380,187

	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13
Forecasted Market Prices	36.33	31.37	31.76	31.58	32.63
Century Load (MWh)	344,823	344,823	344,823	344,823	344,823
Coleman Generation (MWh)	264,655	264,655	264,655	264,655	264,655
Coleman Must Run Cost (Negative=Cost, Positive=Credit)	\$209,415.65	-\$1,103,271.60	-\$1,000,056.18	-\$1,047,694.02	-\$769,806.62
Century Transmission Revenue	\$644,818.64	\$644,818.64	\$644,818.64	\$644,818.64	\$644,818.64



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**Response to the Commission's Orders, dated June 18, 2019,  
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**Responses to the Kentucky Industrial Utility Customers, Inc.'s  
First Request for Information, Item No. 11  
originally July 11, 2013**

**FILED: July 18, 2019**

**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Tuesday, February 26, 2013 9:36 AM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Subject:** Annex room 182

We will meet you at Noon in Annex room 182



**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, May 09, 2013 12:05 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com)  
**Subject:** Attachment Y-2 for Coleman Station  
**Attachments:** BREC Coleman Y-2 Report FINAL CONFIDENTIAL CEII 2013-05-02 REPORT ONLY.PDF;  
BREC Coleman Y-2 Results for Report 2013-05-02\_REDACTEDforDistribution.pdf

Michael, Please find attached the Attachment Y-2 for Coleman Station. Please call if you have any questions.

Thanks  
Bob

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**Attachment Y-2 Study  
Coleman Units 1, 2 & 3: 443 MW Coal  
29 Month Suspension 8/20/2013 – 1/1/2015**

# **ATTACHMENT Y-2 STUDY REPORT**

May 2, 2013

**CONTAINS CONFIDENTIAL AND  
CRITICAL ENERGY INFRASTRUCTURE INFORMATION (CEII)  
DO NOT RELEASE**

**CONFIDENTIAL**

This document contains confidential information and should only be shared with direct recipients on a need to know basis. All contents of the following document are confidential and proprietary to MISO. Information cannot be shared with outsiders without explicit authorization.

**Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 3 of 399**

## **EXECUTIVE SUMMARY**

MISO received an Attachment Y-2 Request for Non-Binding Study Regarding Potential SSR Status (Attachment Y-2 Request) from Big Rivers Electric Corporation (BRPS) on December 18, 2012. The request was for MISO to determine the reliability impact of the potential Suspension of Coleman Units 1 & 2 & 3 from August 20, 2013 to January 1, 2015. Attachment Y-2 analysis is performed as a non-binding assessment of potential reliability issues due to the Suspension or Retirement of a Generation Resource. The results of the study are not definitive and the analysis is intended only to provide information to the Market Participant (MP) to assist them in evaluating their options. However, it does not commit the Market Participant to proceed with plans for Suspension or Retirement.

The study results indicate that potential reliability issues exist that would require the need for Coleman Units 1, 2 and 3 to enter into an System Support Resource (SSR) Agreement if a mitigation plan is not developed and implemented prior to the potential unit change of status, in accordance with Section 38.2.7 of the MISO Open Access Transmission, Energy & Operating Reserve Markets Tariff ("Tariff"). In addition to determining if reliability issues result from the suspension, further analysis was performed to identify the areas that are subject to allocation of the SSR costs. The areas identified for the cost allocation are Big Rivers Electric Corporation (BREC), Southern Illinois Gas & Electric (SIGE), Ameren Illinois (AMIL), and Duke Energy Indiana (DEI).

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## I. INTRODUCTION

Big Rivers Electric Corporation, submitted an Attachment Y-2 "Request for Non-Binding Study Regarding Potential SSR Status". Unlike the Attachment Y, an Attachment Y-2 Request is for an informational study to evaluate the potential for a unit to be designated as an SSR and does not commit the Market Participant to proceed with plans to Retire or Suspend. This study of the Coleman Generation Units 1, 2 and 3 determined the reliability impacts that would occur if these units were to be removed from service on August 20, 2013 and return to service on January 1, 2015. With Coleman generation unavailable during this period of time, the study will also address the reliability impacts of two scenarios: 1) Century Aluminum ceases operation on August 19, 2013 and 2) Century Aluminum continues normal operations.

**Location:** Hawesville, Kentucky

**Number and type of generating units:** (3) coal fired, steam turbine units

**Plant and unit numbers:** Coleman Unit #1 (150 MW), Unit #2 (138 MW), and Unit #3 (155 MW)

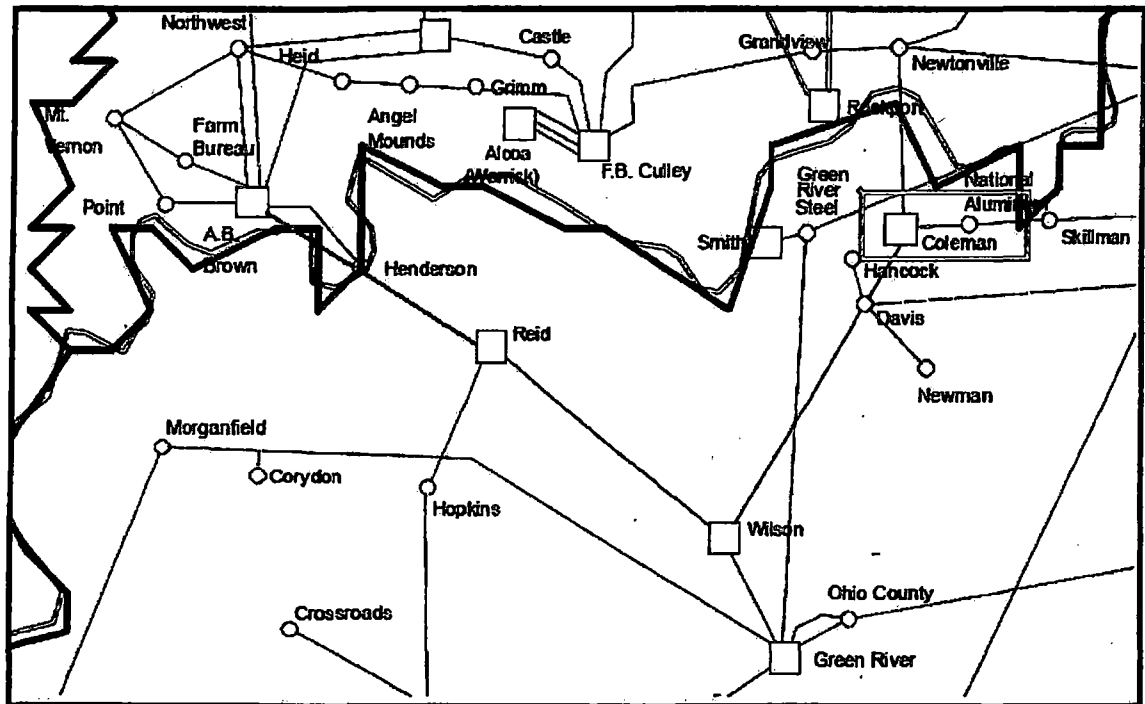


Figure 1: General Location of the Coleman Plant in Northern Kentucky

## II. STUDY OBJECTIVES

Under Section 38.2.7 of MISO's Tariff, SSR procedures maintain system reliability by providing a mechanism for MISO to enter into agreements with Market Participants that own or operate Generation Resources or Synchronous Condenser Units (SCUs) that have requested to either Retire or Suspend, but are required to maintain system reliability.

The principal objective of an Attachment Y-2 study is to determine if the units for which a change in status is requested are necessary for system reliability based on the criteria set forth in the MISO Business Practices Manuals. The study work included monitoring and identifying the steady state thermal/voltage violations on transmission facilities due to the unavailability of the Generation Resource. The relevant MISO Transmission Owner and/or regional reliability criteria were used for monitoring such violations.

## III. MODELS AND ASSUMPTIONS

Corresponding to the anticipated suspension of the Coleman Units 1, 2, & 3 the following power system analysis source models were used for the study:

- 2014 Summer Peak
- 2017 Summer Peak
- 2017 Shoulder

The Attachment Y study models were created following the MISO Transmission Planning Business Practice Manual (BPM-020-r8) Section 6.2.2. This includes creating a set of models from each source model in which the units being studied are at full generation or taken out of service.

### a. Model Assumptions

1. Load Sensitivity to Century Aluminum Plant (485 MW)

### b. Transmission Projects

1. LGEE / KU Matanzas 161 kV Substation The new Matanzas 161 kV Substation has an anticipated in-service date of December 1, 2012. This new substation will be included in the 2014 and 2017 models since the substation will be in-service during the time Coleman Generation is unavailable.

**c. Table of Models**

n	Model	Coleman 1,2,3	Century Aluminum	Contingency Categories
1	2014SP	off	off	B, C1, C2, C5
2	2014SP	off	on	B, C1, C2, C5
3	2014SP	on	off	B, C1, C2, C5
4	2014SP	on	on	B, C1, C2, C5
5	2017SH	off	off	B, C1, C2, C3, C5
6	2017SH	off	on	B, C1, C2, C3, C5
7	2017SH	on	off	B, C1, C2, C3, C5
8	2017SH	on	on	B, C1, C2, C3, C5
9	2017SP	off	off	B, C1, C2, C5
10	2017SP	off	on	B, C1, C2, C5
11	2017SP	on	off	B, C1, C2, C5
12	2017SP	on	on	B, C1, C2, C5

## IV. STUDY CRITERIA AND METHODOLOGY

Siemens PTI's Power System Simulator for Engineering (PSS/E) and Managing and Utilizing System Transmission (MUST) were used to perform AC contingency analysis. Contingency analysis is the study of transmission system facility outages. Outages of transmission facilities are applied to a mathematical model of the transmission system in order to calculate the effects on the remainder of the system. The models were solved with automatic control of Load Tap Changers (LTCs), phase shifters, DC taps, switched shunts enabled (regulating), and area interchange disabled. The results are compared to determine if there were any criteria violations due to the change in the status for the unit(s).

**a. Applicable Reliability Planning Criteria**

**MISO Transmission Owners**

AMIL Transmission Planning Criteria applied for the thermal analysis:

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for AMIL System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for AMIL System

AMIL Transmission Planning Criteria applied for the voltage analysis:

- For Category A contingencies, all substation voltages less than 95% or above 105%
- For Category B and C contingencies, all substation voltages less than 90% or above 110%

**BREC Transmission Planning Criteria applied for the thermal analysis:**

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for BREC System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for BREC System

**BREC Transmission Planning Criteria applied for the voltage analysis:**

- For Category A contingencies, all substation voltages less than 95% or above 105%
- For Category B and C contingencies, all substation voltages less than 90% or above 110%

**DEI Transmission Planning Criteria applied for the thermal analysis:**

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for DEI System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for BREC System

**DEI Transmission Planning Criteria applied for the voltage analysis:**

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 90% or above 105%

**HE Transmission Planning Criteria applied for the thermal analysis:**

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for HE System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for HE System

**HE Transmission Planning Criteria applied for the voltage analysis:**

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 90% or above 110%

**SIGE Transmission Planning Criteria applied for the thermal analysis:**

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for SIGE System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for SIGE System

**SIGE Transmission Planning Criteria applied for the voltage analysis:**

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 95% or above 105%

**SIPC Transmission Planning Criteria applied for the thermal analysis:**

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for SIGE System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for SIGE System



SIPC Transmission Planning Criteria applied for the voltage analysis:

- For Category A contingencies, >100 kV substation voltages less than 91% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 91% or above 105%

### **Non-MISO Transmission Owners**

LGEE Transmission Planning Criteria applied for the thermal analysis:

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for LGEE System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for LGEE System

LGEE Transmission Planning Criteria applied for the voltage analysis:

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 90% or above 110%

TVA Transmission Planning Criteria applied for the thermal analysis:

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for TVA System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for TVA System

TVA Transmission Planning Criteria applied for the voltage analysis:

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 90% or above 110%

AECI Transmission Planning Criteria applied for the thermal analysis:

- For Category A contingencies, all thermal loadings exceeding 100% of the normal rating for AECI System
- For Category B and C contingencies, all thermal loadings exceeding 100% of the emergency rating for AECI System

AECI Transmission Planning Criteria applied for the voltage analysis:

- For Category A contingencies, >100 kV substation voltages less than 95% or above 105%
- For Category B and C contingencies, >100 kV substation voltages less than 90% or above 110%

Under category C contingencies, for the valid thermal and voltage violations as specified above, generation re-dispatch, system reconfiguration, and/or load shedding will be considered if applicable.

### **b. MISO Transmission Planning BPM - SSR Criteria**

As specified in MISO BPM-020-r8, the SSR criteria for determining if an identified facility is impacted by the generator change of status will be:

- Under system intact and contingent events, branch thermal violations are only valid if the flow increase on the element in the “after” retirement scenario is equal to or greater than:

- a) 5% of the “to-be-retired” unit(s) MW amount (i.e. 5% Power Transfer Distribution Factor (PTDF)) for a “base” violation compared with the “before” retirement scenario, or
- b) 3% of the “to-be-retired” unit(s) amount (i.e. 3% Outage Transfer Distribution Factor (OTDF)) for a “contingency” violation compared with the “before” retirement scenario.

- Under system intact and contingent events, high and low voltage violations are only valid if the change in voltage is greater than 1% as compared to the “before” retirement voltage calculation.

**c. Contingencies**

A subset of the MISO Transmission Expansion Plan (MTEP) contingencies in the central region was used for AC contingency analysis. Additional contingencies from TVA, LG&E, and AECI were included in this analysis to provide coverage for events on those adjacent transmission systems.

The following North American Electric Reliability Corporation (NERC) Categories of contingencies were evaluated:

1. Category A when the system is under normal conditions.
2. Category B contingencies resulting in the loss of a single element.
3. Category C contingencies resulting in the loss of two or more (multiple) elements.
4. Maintenance outage condition with forced outage during shoulder load conditions.

## **V. STUDY RESULTS**

**a. Branch Results (Appendix A Table 1a)**

Table 1a in Appendix A shows contingent conditions causing branch criteria violations without Coleman Units 1 & 2 & 3 and the improvements resulting from the operation of Coleman Units 1 & 2 & 3. Contingent events causing branch violations include NERC Categories B, C1, C2, and C3. While the study scenario with Century Aluminum off does indicate fewer constraints, there remain a few thermal loading issues resulting from Category C contingencies that exist in the MISO Transmission system even with the load removed.

**b. Voltage Results (Appendix A Table 1b)**

Significant voltage criteria violations associated with the suspension of Coleman Units 1, 2, & 3 and continued operation of Century Aluminum were identified when compared to the continued availability of the units. Table 1 in Appendix A shows contingent conditions causing criteria violations without Coleman Units 1, 2, & 3 and the improvements resulting from the operation of Coleman Units 1, 2, & 3. Contingent events causing voltage criteria violations include NERC Categories B, C1, C2, and C3. The acceptable post-contingency voltage range is between 0.92 per unit to 1.07 per unit. Therefore, voltages less than 0.92 or greater than 1.07 per unit are a

criteria violation. If Century Aluminum were to cease operations, with a load of 0 MVA, the voltage issues within the MISO would be eliminated.

## VI. POTENTIAL SSR AGREEMENT COST ALLOCATION

MISO utilizes a load shed methodology to determine the reliability benefits to each MISO Local Balancing Area (LBA) of operation, without the SSR unit(s). Although load shed is not permitted for NERC Category A or B events, this methodology determines the load shed amount needed to relieve all Category B reliability issues and the most severe Category C reliability issues identified, as a proxy for the reliability benefit of the SSR unit operation. The potential SSR Agreement LBA shares that were calculated for this Attachment Y-2 study are included below in Table 2.

**Table 2: Potential SSR Agreement LBA Shares**

LBA	Load Shed (MW)	LBA Share
BREC	1541.84	91.63%
SIGE	76.11	4.52%
AMIL	63.02	3.75%
DEI	1.72	.10%
Total	1682.69	100.00%

## VII. CONCLUSION

The study results indicate that potential reliability issues exist which would require the need for Coleman Units 1, 2 and 3 to enter into an SSR Agreement if a mitigation plan is not developed and implemented prior to the potential unit change of status, in accordance with Section 38.2.7 of the MISO Open Access Transmission, Energy & Operating Reserve Markets Tariff ("Tariff"). In addition to determining if reliability issues result from the suspension, further analysis was performed to identify the areas that are subject to allocation of the SSR costs. The areas identified for the cost allocation are Big Rivers Electric Corporation (BREC), Southern Illinois Gas & Electric (SIGE), Ameren Illinois (AMIL), and Duke Energy Indiana (DEI).

## **VIII. APPENDICES**

### **Appendix A: Steady-State AC Contingency Results**

Table 1a: Branch Results

Table 1b: Voltage Results





Table 1b: Voltage Results

MISO Coleman Units 1, 2, & 3 Attachment Y-2 Study - Compare Voltage Results  
 CONFIDENTIAL / CEII - DO NOT RELEASE

Model	Contingency Description	Limiting Element							Coleman 1, 2, & 3 OFF			Coleman 1, 2, & 3 ON			Unit Impact VOLT-VOL (>0.01)	MISO Comments
		Bus #	Bus Name	KV	Area	Zone	Low Limit	Upp Limit	Cont Volt	Base Volt	Viol	Cont Volt	Base Volt	Viol		
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8516	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.873	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	5COLEMAN	161	314	1314	0.92	1.05	0.8125	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340557	5SHANCO	161	314	1314	0.92	1.05	0.8214	0.9669	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340558	5SKILMAN	161	314	1314	0.92	1.05	0.8487	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9081	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340564	5NATAL	161	314	1314	0.92	1.05	0.8235	0.97	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8958	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340621	5COLEEHV	161	314	1314	0.92	1.05	0.8171	0.9676	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8516	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.873	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	5COLEMAN	161	314	1314	0.92	1.05	0.8125	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340557	5SHANCO	161	314	1314	0.92	1.05	0.8214	0.9669	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340558	5SKILMAN	161	314	1314	0.92	1.05	0.8487	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9081	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8171	0.9928	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340564	5NATAL	161	314	1314	0.92	1.05	0.8235	0.97	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8958	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340621	5COLEEHV	161	314	1314	0.92	1.05	0.8171	0.9676	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8516	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.873	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	5COLEMAN	161	314	1314	0.92	1.05	0.8125	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340557	5SHANCO	161	314	1314	0.92	1.05	0.8214	0.9669	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340558	5SKILMAN	161	314	1314	0.92	1.05	0.8487	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9081	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8171	0.9928	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340564	5NATAL	161	314	1314	0.92	1.05	0.8235	0.97	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8958	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340621	5COLEEHV	161	314	1314	0.92	1.05	0.8171	0.9676	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9029	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8905	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9028	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8905	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9028	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8905	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	5DAVIS	161	314	1314	0.92	1.05	0.9028	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	5SNEWMAN	161	314	1314	0.92	1.05	0.8905	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248431	07BRISTW	161	207	1207	0.9	1.1	0.846	1.0033	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.7325	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248885	07TRY161	161	207	1207	0.9	1.1	0.7926	0.9907	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.7805	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	5COLEMAN	161	314	1314	0.92	1.05	0.6378	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8516	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.873	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	5COLEMAN	161	314	1314	0.92	1.05	0.8125	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340557	5SHANCO	161	314	1314	0.92	1.05	0.8214	0.9669	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340558	5SKILMAN	161	314	1314	0.92	1.05	0.8487	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension

Table 1b: Voltage Results

MISO Coleman Units 1, 2, & 3 Attachment Y-2 Study - Compare Voltage Results  
 CONFIDENTIAL / CEII - DO NOT RELEASE

Model	Contingency Description	Limiting Element							Coleman 1, 2, & 3 OFF			Coleman 1, 2, & 3 ON			Unit Impact Vgr-Von (>0.01)	MISO Comments
		Bus #	Bus Name	KV	Area	Zone	Low Limit	Upp Limit	Cont Volt	Base Volt	Viol	Cont Volt	Base Volt	Viol		
2014SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9081	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8236	0.97	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8959	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340621	SCOLEEHV	161	314	1314	0.92	1.05	0.8172	0.9576	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340566	SMEADE	161	314	1314	0.92	1.05	0.8775	0.9851	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340616	SNLHARD	161	314	1314	0.92	1.05	0.8616	0.9957	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340566	SMEADE	161	314	1314	0.92	1.05	0.8775	0.9851	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340616	SNLHARD	161	314	1314	0.92	1.05	0.8616	0.9957	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9031	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8907	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8516	0.9693	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.873	0.9793	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8125	0.9607	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340557	SHANCO	161	314	1314	0.92	1.05	0.8214	0.9669	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340558	SSKILMAN	161	314	1314	0.92	1.05	0.8487	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9081	0.9855	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8171	0.9928	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8235	0.97	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8958	0.9743	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	340621	SCOLEEHV	161	314	1314	0.92	1.05	0.8171	0.9576	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	324139	5DORCHST	161	363	379	0.9	1.1	0.8832	1.0034	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	324149	5MBODEN	161	363	379	0.9	1.1	0.8724	1.0025	L	1.1048	1.003	H	-0.232	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	324157	5POCK N	161	363	379	0.9	1.1	0.8677	1.0048	L	1.111	1.0053	H	-0.243	Violation caused by suspension
2014SP	[REDACTED CONTINGENCY]	324158	5POCKET	161	363	379	0.9	1.1	0.8677	1.0047	L	1.111	1.0052	H	-0.243	Violation caused by suspension
2014SP	Centoff [REDACTED CONTINGENCY]	324310	4SPENC	138	363	380	0.9	1.1	0.8823	0.9599	L	0.8718	0.9699	L	0.011	Pre-existing
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8492	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.8697	0.979	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8085	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340557	SHANCO	161	314	1314	0.92	1.05	0.8173	0.9662	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340558	SSKILMAN	161	314	1314	0.92	1.05	0.8454	0.9791	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9049	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8197	0.9594	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8928	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340621	SCOLEEHV	161	314	1314	0.92	1.05	0.8132	0.967	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8482	0.9596	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.8697	0.979	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8085	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340557	SHANCO	161	314	1314	0.92	1.05	0.8173	0.9662	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340558	SSKILMAN	161	314	1314	0.92	1.05	0.8454	0.9791	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9049	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8132	0.9921	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8197	0.9594	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8928	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340621	SCOLEEHV	161	314	1314	0.92	1.05	0.8132	0.967	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8482	0.9596	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	253581	10NTVL13	138	210	1210	0.95	1.05	0.9354	0.9903	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8085	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340557	SHANCO	161	314	1314	0.92	1.05	0.8173	0.9662	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340558	SSKILMAN	161	314	1314	0.92	1.05	0.8454	0.9791	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension



Table 1b: Voltage Results

MISO Coleman Units 1, 2, & 3 Attachment Y-2 Study - Compare Voltage Results  
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Model	Contingency Description	Limiting Element							Coleman 1, 2, & 3 OFF			Coleman 1,2, & 3 ON			Unit Impact	MISO Comments
		Bus #	Bus Name	KV	Area	Zone	Low Limit	Upp Limit	Cont Volt	Base Volt	Viol	Cont Volt	Base Volt	Viol	Volt-Van (>0.01)	
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9049	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8132	0.9921	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8197	0.9694	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8928	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340821	SCOLEEHV	161	314	1314	0.92	1.05	0.8132	0.967	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8924	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.88	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8923	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.88	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	253580	10NTVL16	161	210	1210	0.95	1.05	0.9349	0.9697	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8923	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.88	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8923	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.88	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8923	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248431	07BRISTW	161	207	1207	0.9	1.1	0.8436	1.0012	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.7285	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248865	07TRY161	161	207	1207	0.9	1.1	0.7692	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.7568	0.979	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340352	SCOLEMAN	161	314	1314	0.92	1.05	0.6327	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8492	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.8697	0.979	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8085	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340567	SHANCO	161	314	1314	0.92	1.05	0.8174	0.9662	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SSKILMAN	161	314	1314	0.92	1.05	0.8455	0.9791	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9049	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8198	0.9694	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8928	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340821	SCOLEEHV	161	314	1314	0.92	1.05	0.8132	0.967	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340566	5MEADE	161	314	1314	0.92	1.05	0.8653	0.9846	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340616	5N.HARD	161	314	1314	0.92	1.05	0.8484	0.9956	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	253580	10NTVL16	161	210	1210	0.95	1.05	0.9367	0.9697	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	253580	10NTVL16	161	210	1210	0.95	1.05	0.9367	0.9697	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340566	5MEADE	161	314	1314	0.92	1.05	0.8654	0.9846	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340616	5N.HARD	161	314	1314	0.92	1.05	0.8484	0.9956	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.8952	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8829	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8482	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.8697	0.979	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8085	0.9602	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340567	SHANCO	161	314	1314	0.92	1.05	0.8173	0.9662	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SSKILMAN	161	314	1314	0.92	1.05	0.8454	0.9791	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340559	SDAVIS	161	314	1314	0.92	1.05	0.9049	0.984	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340563	7COLEMAN	345	314	1314	0.92	1.05	0.8132	0.9921	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8197	0.9694	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8928	0.973	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	340821	SCOLEEHV	161	314	1314	0.92	1.05	0.8132	0.967	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SP	[REDACTED CONTINGENCY]	369430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.7649	1.0426	L	0.7822	1.0427	L	-0.017	Pre-existing

Attachment for KIDC-1-11  
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Table 1b: Voltage Results

MISO Coleman Units 1, 2, & 3 Attachment Y-2 Study - Compare Voltage Results  
 CONFIDENTIAL / CEII - DO NOT RELEASE

Model	Contingency Description	Limiting Element							Coleman 1, 2, & 3 OFF			Coleman 1, 2, & 3 ON			Unit Impact	MISO Comments
		Bus #	Bus Name	KV	Area	Zone	Low Limit	Upp Limit	Cont Volt	Base Volt	Viol	Cont Volt	Base Volt	Viol	Vgr-Van (>0.01)	
2017SP	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7641	1.0477	L	0.7815	1.0477	L	-0.017	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7838	1.0474	L	0.7812	1.0474	L	-0.017	Pre-existing
2017SP	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.6888	1.0426	L	0.7309	1.0427	L	-0.042	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.6889	1.0477	L	0.7311	1.0477	L	-0.042	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.6885	1.0474	L	0.7307	1.0474	L	-0.042	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361383	SW OAK RIDGT	161	347	1368	0.9	1.1	0.689	1.0479	L	0.7312	1.0479	L	-0.042	Pre-existing
2017SP	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.6979	1.0426	L	0.7309	1.0427	L	-0.033	Pre-existing
2017SP	[REDACTED CONTINGENCY]	360692	SROANE BR2	161	347	1368	0.9	1.1	0.6981	1.0479	L	0.7312	1.0479	L	-0.033	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.6981	1.0477	L	0.7311	1.0477	L	-0.033	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.6976	1.0474	L	0.7307	1.0474	L	-0.033	Pre-existing
2017SP	[REDACTED CONTINGENCY]	361383	SW OAK RIDGT	161	347	1368	0.9	1.1	0.6981	1.0479	L	0.7312	1.0479	L	-0.033	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.7308	1.0426	L	0.6782	1.0426	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.731	1.0477	L	0.6784	1.0477	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7308	1.0474	L	0.6779	1.0474	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361383	SW OAK RIDGT	161	347	1368	0.9	1.1	0.731	1.0479	L	0.6784	1.0479	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.7556	1.0426	L	0.7821	1.0426	L	-0.027	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7548	1.0477	L	0.7814	1.0477	L	-0.027	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7544	1.0474	L	0.781	1.0474	L	-0.027	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.7308	1.0426	L	0.6782	1.0426	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.731	1.0477	L	0.6784	1.0477	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7306	1.0474	L	0.6779	1.0474	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361383	SW OAK RIDGT	161	347	1368	0.9	1.1	0.731	1.0479	L	0.6784	1.0479	L	0.053	Pre-existing
2017SPCentoff	[REDACTED CONTINGENCY]	361384	5WEAVER GA	161	347	1367	0.9	1.1	0.5784	1.0104	L	0.5537	1.0104	L	0.025	Pre-existing
2017SH	[REDACTED CONTINGENCY]	340566	SMEADE	161	314	1314	0.92	1.05	0.9011	0.9887	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340616	SN,HARD	161	314	1314	0.92	1.05	0.8889	0.998	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	248435	07NWTVL1	161	207	1207	0.9	1.1	0.8438	0.9768	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	248865	07TRY161	161	207	1207	0.9	1.1	0.8832	0.9902	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	248887	07NWTNVL	161	207	1207	0.9	1.1	0.8622	0.9831	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340552	SCOLEMAN	161	314	1314	0.92	1.05	0.8062	0.9699	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340557	SHANCO	161	314	1314	0.92	1.05	0.8109	0.9696	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340558	SSKILMAN	161	314	1314	0.92	1.05	0.8386	0.9824	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340559	SOAVIS	161	314	1314	0.92	1.05	0.8048	0.9802	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340563	TCOLEMAN	345	314	1314	0.92	1.05	0.8062	0.9931	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340564	SNATAL	161	314	1314	0.92	1.05	0.8128	0.9724	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	340565	SNEWMAN	161	314	1314	0.92	1.05	0.8933	0.9798	L	#N/A	#N/A	#N/A	#N/A	Violation caused by suspension
2017SH	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.757	1.0422	L	0.7804	1.0424	L	-0.023	Pre-existing
2017SH	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7562	1.0473	L	0.7797	1.0474	L	-0.024	Pre-existing
2017SH	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7558	1.047	L	0.7793	1.0472	L	-0.024	Pre-existing
2017SH	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.757	1.0422	L	0.7803	1.0424	L	-0.023	Pre-existing
2017SH	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7562	1.0473	L	0.7796	1.0474	L	-0.023	Pre-existing
2017SH	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7558	1.047	L	0.7793	1.0471	L	-0.024	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	324310	ASPENC	138	363	390	0.9	1.1	0.8782	0.9882	L	0.8846	0.9882	L	0.014	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.757	1.0422	L	0.7803	1.0423	L	-0.023	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7562	1.0473	L	0.7796	1.0474	L	-0.023	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7558	1.047	L	0.7793	1.0471	L	-0.024	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	360033	UNION MS	500	347	1356	0.9	1.1	0.8606	1.0475	L	0.8793	1.0476	L	-0.019	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	360430	SHARRIMAN TN	161	347	1368	0.9	1.1	0.757	1.0422	L	0.7803	1.0423	L	-0.023	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	361099	SBLAIR RD TP	161	347	1368	0.9	1.1	0.7562	1.0473	L	0.7796	1.0474	L	-0.023	Pre-existing
2017SHCentoff	[REDACTED CONTINGENCY]	361146	SBLAIR RD TN	161	347	1368	0.9	1.1	0.7558	1.047	L	0.7793	1.0471	L	-0.024	Pre-existing

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, October 29, 2012 5:13 PM  
**To:** Early, Michael (MEarly@centuryca.com)  
**Subject:** Availability

*Availability*

Good afternoon Michael,

Big Rivers would like to discuss the Reimbursement Agreement with you and John on Tue October 30 if  
your schedule will allow. Would the two of you be available around 4:00 p.m. Central time? Please contact me with  
your availability and I will set up the conference call.

Regards  
Bob Berry  
V.P. of Production  
270-993-1561 cell  
270-844-6186 Office

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, May 28, 2013 9:29 AM  
**To:** Jim Miller; Bob Berry  
**Cc:** DeZee, John  
**Subject:** Big Rivers' Response to Supplemental Data Requests  
**Attachments:** Data Requests KIUC Supp v\_5-27-13 - RL 5.27.13 (A3387970).docx

Jim

Attached is a redlined mark-up of Big Rivers' draft responses to the KIUC DRs. As evident from my edits, Big Rivers should refrain from discussing the specifics of the agreements that are still under negotiation. The broad outlines of these agreements, as contained in the Term Sheet (which is being provided), should suffice.

Let me know if you have any questions.

Thanks

Michael

*Big Rivers'  
Response*



Your Touchstone Energy® Cooperative 

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

**In the Matter of:**

**APPLICATION OF BIG RIVERS            )**  
**ELECTRIC CORPORATION FOR A        ) Case No. 2012-00535**  
**GENERAL ADJUSTMENT IN RATES    )**

**Response of Big Rivers Electric Corporation  
to the Kentucky Industrial Utility Customers'  
Supplemental Request for Information  
dated May 3, 2013**

**FILED:     May 29, 2013**

**BIG RIVERS ELECTRIC CORPORATION**  
**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION**  
**FOR A GENERAL ADJUSTMENT IN RATES**  
**CASE NO. 2012-00535**

**Response to the Kentucky Industrial Commission Staff's**  
**Supplemental Request for Information**  
**dated May 3, 2013**

**May 29, 2013**

1 **Item 1) On April 29, 2013 Century Aluminum issued a press release**  
2 **stating the following:**

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*Century Aluminum of Kentucky, a wholly owned subsidiary of Century Aluminum Company (NASDAQ: CENX), Kenergy Corp. and Big Rivers Electric Corp. today announces that they have reached a tentative agreement on the framework for providing market priced power to the Hawesville smelter. Under the arrangement, the electric cooperatives would purchase power on the open market and pass it through to Century at the market price plus additional costs incurred by them. The arrangement is intended to have no impact on the current rate proposal of Big Rivers or the related flow-through rate proposal of Kenergy, each currently pending before the Kentucky Public Service Commission. The framework is subject to the negotiation of definitive agreements and approvals from various third parties, including the boards of directors of all parties, the KPSC, the Rural Utilities Service and others. The parties intend to move as expeditiously as possible to finalize the agreement in advance of the expiration of the current power contract on August 20, 2013.*

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- a. *Please provide a copy of the tentative agreement(s).*
- b. *Please indicate if the Company agrees with Century that the "arrangement is intended to have no impact on the current rate proposal of Big Rivers" pending before the Commission. Please explain what factors the Company considered in reaching this conclusion.*

Case No. 2012-00535  
Response to KIUC 3-1  
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**May 29, 2013**

1

2 Response)

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a. Please see the attached ~~confidential~~-non-binding term sheet, which forms the tentative framework for the market power and bilateral contract transaction referenced in the press release quoted above. Big Rivers, Kenergy and Century are currently working on translating the non-binding term sheet into definitive legal contracts for the arrangement; however, the documents are still in the development stage. Upon completion, the final definitive documents will be submitted for review, approvals and consents to the Commission, as well as the USDA-RUS and others.

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b. Big Rivers agrees that the arrangement is intended to have no material impact on the current rate proposal of Big Rivers. When negotiating the terms of the arrangement, Big Rivers strictly adhered to the principle that its Members would not pay any unreimbursed costs resulting from entry into the transaction with Century, subject to a credit for transmission revenues paid to Big Rivers if it has to run the Coleman Generating Station for reliability purposes. The term sheet is structured such that all costs incurred by Big Rivers and Kenergy resulting from entry into the transaction will be reimbursed by Century, subject to a credit for transmission revenues paid to Big Rivers if Big Rivers must run the Coleman Generation Station for reliability purposes.

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1  
2 **Witness) Robert W. Berry**  
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1 **Item 2) Please describe in detail the role and responsibilities that Big**  
2 **Rivers, Kenergy, and Century each will have pursuant to the**  
3 **"arrangement" and the functions and activities that Big Rivers**  
4 **specifically will perform pursuant to the "arrangement."**

5

6 **Response) The roles and responsibilities that Big Rivers, Kenergy and Century**  
7 **each will have under the "arrangement" is outlined in the term sheet, which was**  
8 **provided in response to KIUC 3-1, and speaks for itself. The term sheet identifies**  
9 **eight agreements that are contemplated for this transaction.**

10 ~~1) **Electric Service Agreement** - A retail electric service agreement between~~  
11 ~~**Kenergy and Century for the sale of electricity, electric capacity and**~~  
12 ~~**electricity-related ancillary services, including transmission services, by**~~  
13 ~~**Kenergy to Century. The agreement is intended to remain in place without**~~  
14 ~~**regard to who is acting as the "Market Participant," which purchases these**~~  
15 ~~**services from MISO or pursuant to bilateral contracts for resale to Kenergy**~~  
16 ~~**for delivery to Century.**~~

17 ~~2) **Arrangement Agreement** - The power arrangement and procurement~~  
18 ~~**agreement entered into between Big Rivers and Kenergy pursuant to which**~~  
19 ~~**Big Rivers arranges and procures electricity, electric capacity and**~~  
20 ~~**electricity-related ancillary services while it serves as the Market**~~  
21 ~~**Participant. Under the agreement, Big Rivers will procure these services**~~  
22 ~~**for Kenergy for resale to Century under the Electric Service Agreement.**~~

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- 1     ~~The agreement terminates if Big Rivers is no longer the Market~~  
2     ~~Participant. As a result, this could be a short term or long term agreement.~~  
3     ~~3) Direct Agreement—An agreement between Big Rivers and Century~~  
4     ~~relating to direct, bilateral obligations to each other in connection with the~~  
5     ~~Transaction, such as Century's obligations to reimburse Big Rivers' costs~~  
6     ~~relating to a must-run conditions at the Coleman Generation Station. This~~  
7     ~~agreement will remain in effect even if Big Rivers is no longer acting as the~~  
8     ~~Market Participant and the Arrangement Agreement is terminated.~~  
9     ~~4) Capacitor Agreement—An agreement entered into between and among~~  
10    ~~Big Rivers, Kenergy, and Century to protect Big Rivers and Kenergy from~~  
11    ~~risks and obligations relating to the design, development, purchase,~~  
12    ~~installation, operation and maintenance of the Capacitor Additions at~~  
13    ~~Century.~~  
14    ~~5) Protective Relay Agreement—An agreement entered into between and~~  
15    ~~among Big Rivers, Kenergy, and Century to protect Big Rivers and Kenergy~~  
16    ~~from risks and obligations relating to the design, development, purchase,~~  
17    ~~installation, operation and maintenance of the Protective Relay additions~~  
18    ~~at Century.~~  
19    ~~6) Tax Indemnity Agreement—Agreement between Kenergy, and Century~~  
20    ~~and Century Parent to indemnify Kenergy on an after-tax basis from any~~  
21    ~~tax liability or other tax costs incurred by it as a result of the transaction.~~

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1 ~~7) Guarantee of Century Parent—Agreement of Century Parent in favor of~~  
2 ~~Kenergy and Big Rivers. Under the agreement, Century Parent will~~  
3 ~~unconditionally and irrevocably guarantee the prompt payment and~~  
4 ~~performance obligations of Century under the Electric Service Agreement,~~  
5 ~~the Direct Agreement, the Tax Indemnity Agreement and any other~~  
6 ~~transaction document, including the obligations of Century relating the~~  
7 ~~payment of money to Kenergy or Big Rivers.~~

8 ~~8) Capacitor Additions and Protective Relays Guarantee of~~  
9 ~~Century Parent—Agreement made by Century Parent in favor of Kenergy~~  
10 ~~and Big Rivers. Under the agreement, Century Parent will unconditionally~~  
11 ~~and irrevocably guarantee the prompt payment and performance~~  
12 ~~obligations of Century under the Capacitor Agreement and the Protective~~  
13 ~~Relays Agreement. The reason for a separate guarantee for these two~~  
14 ~~agreements distinct from the general guarantee described above is the~~  
15 ~~desire of the parties for the Capacitor Agreement and the Protective Relays~~  
16 ~~Agreement to be entered into in advance of the other transaction documents~~  
17 ~~to facilitate the installation of equipment as soon as possible. Thus, this~~  
18 ~~guarantee would be entered into at the time those two agreements are~~  
19 ~~executed and delivered by the parties. The other guarantee will be~~  
20 ~~delivered at the time of execution and delivery of the Electric Service~~  
21 ~~Agreement, the Arrangement Agreement and the Direct Agreement which~~

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1 | ~~is expected to be later than the time of the execution and delivery of the~~  
2 | ~~Capacitor Agreement and the Protective Relays Agreement.~~

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6 Witness) Robert W. Berry

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1 Item 3) *Please describe and quantify the costs that Big Rivers and*  
2 *Kenergy each will incur to provide Century market access.*

3  
4 Response) ~~Big Rivers and Kenergy are not providing Century market access~~  
5 ~~under the arrangement described in the term sheet.~~ The proposal is that Big  
6 Rivers would arrange and procure power in ~~MISO-coordinated~~ the open  
7 markets or under bilateral contracts, resell it to Kenergy, which would deliver it to  
8 Century at the market price, plus additional costs incurred by Big Rivers and  
9 Kenergy. The term sheet, which was provided in response to KIUC 3-1, was  
10 structured so Big Rivers would not incur any unreimbursed costs to arrange and  
11 procure electricity, electric capacity and electricity-related ancillary services to  
12 Century under the term sheet arrangement. In general terms, Big Rivers will  
13 initially act as the Market Participant (MP) to arrange and procure the electricity  
14 and electricity-related services required by Kenergy for resale to Century under  
15 the Electric Service Agreement. The arrangements contemplated in the term  
16 sheet cover all exposures to costs, but what the actual costs will be cannot be  
17 quantified with any degree of certainty at this time. Century and Kenergy can  
18 replace Big Rivers as the MP ~~if they desire~~. In that case, Big Rivers will continue  
19 to be reimbursed for certain costs ~~agreed under the Direct Agreement and~~  
20 otherwise receive revenue from the sale of transmission services pursuant to the  
21 MISO Tariff.

22

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1 Under the ~~Arrangement Agreement~~, Big Rivers will charge Kenergy for the  
2 following:

3 • ~~On a pass-through basis, the market cost of all electricity, electric capacity~~  
4 ~~and electricity-related ancillary services, required to be purchased by Big Rivers to~~  
5 ~~serve Kenergy for the benefit of Century.~~

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6  
7 • ~~Charges for transmission service to the Hawesville Node.~~

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8  
9 • ~~Costs, if any, related to Century's operation incurred by Big Rivers to~~  
10 ~~comply with (i) state or federal renewable energy portfolio or similar standards, or~~  
11 ~~(ii) environmental laws or regulations. Those costs to comply with environmental~~  
12 ~~laws and regulation do not include compliance costs at Big River's generation~~  
13 ~~(other than applicable SSR costs associated with the must-run condition at~~  
14 ~~Coleman).~~

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15  
16 • ~~Charges by MISO to establish or maintain the Hawesville Node.~~

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17  
18 • ~~Charges to Big Rivers for MISO MTEP or MVP costs (i.e., transmission~~  
19 ~~capital costs) that relate solely and directly to Century's operation.~~

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20  
21 • ~~Costs related to Century's operation incurred by Big Rivers to comply with~~  
22 ~~the Dodd-Frank Wall Street Reform and Consumer Protection Act.~~

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- 1
- 2 ~~• Costs or charges of ACES, or similar service provider, related to Century's~~ Formatted: Line spacing: 1.5 lines, No
- 3 ~~operation, for scheduling, awards and settlements.~~ bullets or numbering
- 4
- 5 ~~• Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market~~ Formatted: Line spacing: 1.5 lines, No
- 6 ~~Participant.~~ bullets or numbering
- 7
- 8 ~~• An excess reactive demand charge equal to the product of \$0.1433 and the~~ Formatted: Line spacing: 1.5 lines, No
- 9 ~~amount, expressed in kilovars, of the difference, if positive, of (a) the maximum~~ bullets or numbering
- 10 ~~metered reactive demand of Century during any billing month, minus (b) the~~
- 11 ~~amount of kilovars equal to the product of 0.3287 times the maximum hourly~~
- 12 ~~demand during the billing month, expressed in kilowatts, plus 74,005 kilovars.~~
- 13
- 14 ~~• Any other amounts due and owing to Big Rivers under the transaction~~ Formatted: Normal, Line spacing: 1.5 lines
- 15 ~~documents, including applicable taxes or claims by counterparties to any bilateral~~ Formatted: Line spacing: 1.5 lines, No
- 16 ~~contracts.~~ bullets or numbering
- 17 Formatted: Normal, Line spacing: 1.5 lines
- 18 Formatted: Indent: Left: 0", Line spacing:
- 19 ~~Note that under the Electric Service Agreement, Kenergy will charge Century~~ 1.5 lines
- 20 ~~for the above, on a pass-through basis, together with other amounts payable to~~
- 21 ~~Kenergy to reimburse for its costs it may incur as a result of the transaction,~~
- 22 ~~including a contribution to Kenergy's margin.~~

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~~Under the Direct Agreement, Big Rivers will charge Century the following:~~

- ~~• All System Support Resource (SSR) (must run) costs of the Coleman generating station, less any transmission revenue received by Big Rivers from Century.~~
- ~~• All electrical transmission capital costs related to Century's operation allocated by MISO to the Century Node.~~
- ~~• Other third party out of pocket costs of Big Rivers incurred or committed to by Big Rivers related to Century's operation.~~
- ~~• All SSR (must run) costs, including capital if Coleman is forced to restart due to Century's increase in load.~~
- ~~• If a major failure occurs at Coleman during the SSR period, Century will pay Big Rivers' \$1 million insurance deductible, or if less than 3 units are required to operate, Century will pay the costs to restart the idled unit or reduce its load.~~
- ~~• If Big Rivers decides to exit MISO or to join an alternate RTO, then Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO.~~

~~Under the Capacitor Agreement and the Protective Relays Agreement, Big Rivers will charge Century for the following:~~

- ~~• Any costs incurred by Big Rivers associated with the construction, installation, ownership, operation and maintenance of the capacitor additions or the protective relays.~~

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1 | ~~• Any claims by others, such as a reliability authority, relating to the~~  
2 | ~~capacitor additions or the protective relays.~~  
3

4 **Witness) Robert W. Berry**  
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1 **Item 4) *Please provide a copy of all analyses prepared by or on behalf***  
2 ***of Big Rivers and/or Kenergy to identify and quantify the costs that it will***  
3 ***incur to provide Century market access.***

4

5 **Response) ~~Big Rivers and Kenergy are not providing Century market access~~**  
6 **~~under the arrangement described in the term sheet.~~ The proposal is that Big**  
7 **Rivers would arrange and procure power on the open market or under bilateral**  
8 **contracts, and resell it to Kenergy, which would deliver it to Century at the**  
9 **market price, plus additional costs incurred by Big Rivers and Kenergy. Neither**  
10 **Big Rivers nor Kenergy will incur unreimbursed costs under the arrangements.**

11 **Please see Big Rivers' responses to items 1, 2 and 3, above.**

12

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14 **Witness) Robert W. Berry**

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1 **Item 5) Please provide a quantification of the costs that Big Rivers**  
2 **and/or Kenergy each will incur to provide Century market access for the**  
3 **test year, including an allocation of each Company's present costs as well**  
4 **as any incremental costs to do so, and the amounts included in the**  
5 **Company's test year revenue requirement in this case. If Big Rivers does**  
6 **not agree that there should be an allocation of any of the Company's**  
7 **present costs, then please explain why it does not agree.**

8  
9 **Response) ~~Big Rivers and Kenergy are not providing Century market access~~**  
10 **~~under the arrangement described in the term sheet.~~ The proposal is that Big**  
11 **Rivers would arrange and procure power and related services on the open market**  
12 **or under bilateral contracts, resell it to Kenergy, which would deliver it to Century**  
13 **at the market price, plus additional costs incurred by Big Rivers and Kenergy.**  
14 **Please see Big Rivers' response to item 3, above. Big Rivers will not incur**  
15 **unreimbursed costs in the test year as a result of the transaction contemplated by**  
16 **the term sheet. Big Rivers believes that there will be no allocation of any of the**  
17 **Company's present costs because the rate case filed in this proceeding was filed**  
18 **assuming Century ceased operation after August 19, 2013. As such, there are no**  
19 **costs that would be attributable to Century's operations included in this filing.**

20  
21 **Witness) Robert W. Berry**  
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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 5:15 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com); Drefke, Kyle W.  
**Subject:** Big Rivers Revised Definition of Base Load and SSR Cost  
**Attachments:** Big Rivers Base Load and SSR Cost definitions 6-10-13.docx

Michael, Per our phone conversation please see the attached revised Base Load and SSR Cost definitions. I also propose that we add a provision 3.5 to the Direct Agreement and that language is also included in the attachment. If you are in agreement with this approach please respond and Kyle will provide the updated agreements. He will also modify Exhibit B to reflect that there will be no cost in exhibit B for rate case proceedings with the KPSC. If you are in agreement with these changes, this will complete all of the documents with the exception of the Tax Indemnity Agreement.

Bob

Base Load: The “Base Load” shall be determined by the following, as applicable: (a) The maximum amount of Load (not to exceed 482 MW), that may be reliably delivered to the Hawesville Node, as confirmed or approved by MISO, in circumstances where Big Rivers has idled the Coleman Generation Station. (b) The “Base Load” may be increased (not to exceed 482 MW) by notice from Century to Kenergy and Big Rivers if such increase does not create a reliability issue, as determined by any Governmental Authority with jurisdiction over electric reliability. As of the date of this Agreement, the Parties are unaware of any Governmental Authority with jurisdiction over electric reliability with respect to an increase in the Base Load other than FERC and MISO. (c) If a SSR Agreement is in effect, the “Base Load” shall be ~~the~~ the maximum amount of Load as confirmed or approved by the applicable RTO or ISO permitted under the SSR Agreement (not to exceed 482 MW); (d) The Base Load shall be 482 MW if Big Rivers is operating all three units at the Coleman Generating Station ~~for any for any~~ for any reason other than a requirement by MISO to MISO to operate for reliability. (e) The Base Load shall be determined by the applicable RTO or ISOMISO (up to 482 MW) if Big Rivers operates less than all three units of the Coleman Generation Station for any reason other than a requirement by the RTO or ISOMISO to operate for reliability even if the remaining units are operated under an SSR Agreement. (f) In all other circumstances, the “Base Load” shall be zero.

SSR Costs: If and only to the extent that Century operates above the Base Load as defined in section 1.1.10 ~~(a)~~ and, if applicable, the Curtailable Load, or if any Coleman unit is designated as an SSR by the applicable RTO or ISO then “SSR Costs” shall mean (a) any costs that are not reimbursed to Big Rivers relating to any unit of the Coleman Generation Station required by the applicable RTO or ISO to be operated for reliability purposes for that reason, and (b) the costs, as determined and allocated by the RTO or ISO in which Big Rivers is a member, to the Hawesville Node or any other Node (as defined in the MISO Tariff) of Big Rivers, if Big Rivers is required by the RTO or ISO of which Big Rivers is a member requires for that reason to operate any unit of the Coleman Generation Station ~~to be operated~~ for reliability, including, (i) in circumstances where the RTO or ISO of which Big Rivers is a member requires Big Rivers to take the Coleman Generation Station out of an idled status for reliability, all costs incurred in connection with any restart and the operation of any such unit after the date of restart, and (ii) the net Cost of purchasing any replacement Electric Services following an unscheduled outage or real time de-rate of a unit of the Coleman Generation Station required to be operated for reliability purposes.

3.5 If Big Rivers restarts one or more of the Coleman units for its own purpose while an SSR is in effect, Big Rivers will request MISO to modify the SSR agreement to eliminate the SSR status of the equivalent number of units. (Example: if two Coleman units are designated as SSR units and Big Rivers

starts one Coleman unit for its own purpose, Big Rivers would request MISO to amend the SSR agreement to designate only one Coleman unit as an SSR unit).

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 5:15 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com); Drefk  
**Subject:** Big Rivers Revised Definition of Base Load and SSR Cost  
**Attachments:** Big Rivers Base Load and SSR Cost definitions 6-10-13.doc

*BREC Kenergy  
Conference Call*

Michael, Per our phone conversation please see the attached revised Base Load and SSR that we add a provision 3.5 to the Direct Agreement and that language is also included agreement with this approach please respond and Kyle will provide the updated agreements. He will use Exhibit B to reflect that there will be no cost in exhibit B for rate case proceedings with the KPSC. If you are in agreement with these changes, this will complete all of the documents with the exception of the Tax Indemnity Agreement.

Bob

**Base Load:** The "Base Load" shall be determined by the following, as applicable: (a) The maximum amount of Load (not to exceed 482 MW), that may be reliably delivered to the Hawesville Node, as confirmed or approved by MISO, in circumstances where Big Rivers has idled the Coleman Generation Station. (b) The "Base Load" may be increased (not to exceed 482 MW) by notice from Century to Kenergy and Big Rivers if such increase does not create a reliability issue, as determined by any Governmental Authority with jurisdiction over electric reliability. As of the date of this Agreement, the Parties are unaware of any Governmental Authority with jurisdiction over electric reliability with respect to an increase in the Base Load other than FERC and MISO. (c) If a SSR Agreement is in effect, the "Base Load" shall be ~~the~~ the maximum amount of Load as confirmed or approved by the applicable RTO or ISO permitted under the SSR Agreement (not to exceed 482 MW); (d) The Base Load shall be 482 MW if Big Rivers is operating all three units at the Coleman Generating Station ~~for any for any~~ for any reason other than an requirement by MISO to MISO to operate for reliability. (e) The Base Load shall be determined by the applicable RTO or ISOMISO (up to 482 MW) if Big Rivers operates less than all three units of the Coleman Generation Station for any reason other than a requirement by the RTO or ISOMISO to operate for reliability even if the remaining units are operated under an SSR Agreement. (f) In all other circumstances, the "Base Load" shall be zero.

**SSR Costs:** If and only to the extent that Century operates above the Base Load as defined in section 1.1.10 ~~(a)~~ and, if applicable, the Curtailable Load, or if any Coleman unit is designated as an SSR by the applicable RTO or ISO then "SSR Costs" shall mean (a) any costs that are not reimbursed to Big Rivers relating to any unit of the Coleman Generation Station required by the applicable RTO or ISO to be operated for reliability purposes for that reason, and (b) the costs, as determined and allocated by the RTO or ISO in which Big Rivers is a member, to the Hawesville Node or any other Node (as defined in the MISO Tariff) of Big Rivers, if Big Rivers is required by the RTO or ISO of which Big Rivers is a member requires for that reason to operate any unit of the Coleman Generation Station to be operated for reliability, including, (i) in circumstances where the RTO or ISO of which Big Rivers is a member requires Big Rivers to take the Coleman Generation Station out of an idled status for reliability, all costs incurred in connection with any restart and the operation of any such unit after the date of restart, and (ii) the net Cost of purchasing any replacement Electric Services following an unscheduled outage or real time de-rate of a unit of the Coleman Generation Station required to be operated for reliability purposes.

3.5 If Big Rivers restarts one or more of the Coleman units for its own purpose while an SSR is in effect, Big Rivers will request MISO to modify the SSR agreement to eliminate the SSR status of the equivalent number of units. (Example: if two Coleman units are designated as SSR units and Big Rivers



starts one Coleman unit for its own purpose, Big Rivers would request MISO to amend the SSR agreement to designate only one Coleman unit as an SSR unit).

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** BREC/Kenergy Conference call

Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, March 12, 2013 12:21 PM  
**To:** Bob Berry  
**Subject:** Century

*Century (21)*

Bob

This will confirm our two conversations yesterday that (1) Big Rivers agreed to request 15<sup>th</sup> a node for power deliveries at the Hawesville smelter; (2) Big Rivers currently exp for MISO by mid-March and the Y2 on Wilson shortly thereafter and will provide copies of the reports to us upon receipt by Big Rivers and; (3) I requested again that you promptly provide all the necessary information to evaluate the potential must run costs at Coleman, and potentially other Big Rivers' generation, including historical and forecast full income and cash flow statements and historical and forecast fuel costs, heat rates, availability factor, O&M costs, capital costs and the dates these costs would be incurred which would be produced under the existing non-disclosure agreement. You informed me that you would discuss my request internally and get back to me.

Thanks

Michael

**Barbara Harwood**

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**From:** Whitmore, Dave <DWhitmore@centuryKY.com>  
**Sent:** Tuesday, May 15, 2012 9:33 AM  
**To:** Bob Berry; Snovick@kenergycorp.com  
**Cc:** David Hamilton (DHamilton@kenergycorp.com); Jim Miller; Early, Michael; DeZee, John  
**Subject:** Century Aluminum  
**Attachments:** Century Aluminum Response May 15 2012.pdf

Gentlemen,

Please find attached Century Aluminum's response to the proposal for renegotiation of the current power supply contract as delivered verbally by Jim Miller and Bob Berry on Wednesday, May 9.

Regards,

**Dave Whitmore**  
**Plant Manager - Hawesville Operations**

**Century Aluminum**

Office: (270) 852-2810

Cell: (270) 231-5853

e-mail: [DWhitmore@centuryky.com](mailto:DWhitmore@centuryky.com)

May 15, 2012

Bob Berry  
VP Power Production  
Big Rivers Electric Corporation  
201 Third Street  
Henderson KY 42419

Sandy Novick  
President & CEO  
Kenergy Corporation  
6402 Old Canyon Rd.  
Henderson KY 42419

Re: Century Aluminum of Kentucky Power Contract Modification

Gentlemen:

Century appreciates the offer that was presented by Big Rivers and Kenergy on May 9<sup>th</sup>. Before responding to the offer I want to emphasize the urgency of our situation: At current LME prices and power costs, the Hawesville smelter is losing millions of dollars each month. As we have discussed, this is not sustainable and Century Hawesville must have a plan in place shortly to address this issue so that Century management can recommend a course of action to the Century Board by late June.

The offer you proposed has five major points:

1. Access to market power. Hawesville's entire load would be allowed to access market power. We understand this to mean that BREC/Kenergy would terminate the existing contracts; Kenergy would remain our retail supplier but purchase from the market for resale to Hawesville; and BREC would provide transmission services to Kenergy under its FERC tariff. Assuming this description is accurate, this is acceptable.
2. The offer is contingent on both Hawesville and RTA participating. Big Rivers did not offer any explanation for this restriction. Century does not believe that this condition is required either by the contracts or by regulation. Century understands that BREC/Kenergy may choose to make the same offer to RTA, but Century will not tie its energy options to RTA, nor should Century be required to do so. Therefore, we cannot agree to this condition, but believe the parties can proceed without this requirement.

Century Aluminum of Kentucky, General Partnership  
Post Office Box 500  
Hawesville, KY 42348

(270) 685-2493 Phone  
(270) 852-2888 Fax

3. BREC cautioned that it may take 18-24 months to obtain necessary approvals. BREC's timeframe was based on its estimate of the time for:

- a) Negotiating with Hawesville;
- b) Obtaining approval from the BREC Board;
- c) Development of new BREC rates for sale for its member cooperatives and PSC approval of contract termination and such new rates; and
- d) Obtaining RUS's approval of contract termination and potentially other lenders' approval.

In addition Kenergy will need time to:

- a) Negotiate a new contract with Hawesville;
- b) Negotiate contracts with wholesale suppliers;
- c) Obtain PSC approval of the new contract and rate for sale to Hawesville; and
- d) Obtain a transmission contract with BREC.

As we have discussed, Century cannot wait 18-24 months (i.e., until 2014 at best) for the new power arrangement to become effective. As stated before, Hawesville's operations at current power rates are not sustainable and Mr. Hite's latest power forecast estimates the BREC power rate to Hawesville increasing by \$1.58/MWh in 2013. Hawesville cannot afford to miss the 2012-13 wholesale power market which has competitive power prices that would allow Hawesville in the short term to sustain operations at current aluminum prices.

I am requesting BREC/Kenergy to prepare a complete list of necessary approvals and then, working with Century, regulators, and lenders, prepare a timeline to complete this process in no more than six months. Century believes this can be done. The new contracts should not be unduly complex and the approval processes, with the support of Kentucky elected officials, can be expedited and run in parallel. In addition, as you raised in our meeting, BREC requires that the transition be sufficiently certain before the end of 2012 so it may be included in an order approving BREC's Environmental Compliance Plan. Therefore, we believe the parties should proceed with an agreed deadline of no more than six months.

4. Big Rivers requests that Century pay its costs. BREC identified transaction costs such as the costs to negotiate with Century, costs to develop and prosecute the rate case, and also potentially costs associated with early termination of coal contracts.

Again, Hawesville is not profitable given the current LME price and power cost. We simply cannot fund Big Rivers' costs. If Hawesville closes, Big Rivers will still incur many of these costs – e.g., the costs to develop new rates to its member-cooperatives and to obtain PSC approval of those rates. Therefore, we cannot agree to this condition, but believe the parties can proceed without this requirement.

5. Century must acknowledge that, absent the contract, BREC has no current legal obligation to sell power to Kenergy for resale to Century. Century can accept this condition. Century believes that BREC's offer acknowledges two basic facts – to maintain its operations, Hawesville needs a power rate that is competitive with the power rates provided to its competitors in the global aluminum industry and BREC's current cost-of-service rate is not competitive while current market prices are competitive. While under the offer Hawesville would take its load off BREC's system, Century intends to continue to work with BREC as well as other utilities to develop market and regulatory structures that support energy intensive industries in Kentucky.
6. Transmission costs. There is another point discussed at our meeting that needs clarification. What would be the charges for transmission service? In particular, would BREC's transmission charges be affected by whether BREC continued to operate the Coleman generator adjacent to Hawesville?

In view of our urgent timeframe, please confirm your availability for a meeting anytime on May 17<sup>th</sup> or the morning of the 18<sup>th</sup>.

Regards,



Dave Whitmore

cc: Jim Miller  
Dave Hamilton

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Sunday, February 24, 2013 1:36 PM  
**To:** Bob Berry; Greg Starheim; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** Century Mark-up of Term Sheet  
**Attachments:** Term Sheet Century redline 2 24.docx

Gentlemen:

Attached is Century's mark-up of your February 23<sup>rd</sup> draft. On several of Century's key points we have gone back and forth over several drafts and your February 23<sup>rd</sup> draft again rejects these outright, including:

1. Century requested that all new capital costs at Coleman should be allocated over the remaining life of Coleman not prepaid by Century and that Century would pay its share of these allocated costs until Coleman was no longer required to operate to assure reliable transmission of market power to Century —BREC rejected.
2. Century requested that the only costs for which it would be responsible after termination of the new contract would be any costs under bilateral contracts with third party power suppliers that extended beyond the termination date --BREC's rejected and demanded that Century be responsible for an unquantified amount of costs post termination.
3. Century requested that it be allowed to choose the Market Participant subject to Kenergy's approval that there were financial security arrangements in place to protect Kenergy—Kenergy rejected and demanded that Kenergy must have the right to become the Market Participant without Century's consent while also demanding that Century be responsible for Kenergy's potential tax liability due to such change.
4. Century offered to pay Kenergy's actual administrative costs under the Agreements—Kenergy rejected and demanded a "margin" payment above its actual costs.
5. Century requested that BREC reimburse Century for any additional costs if BREC chose to leave MISO and join another RTO—BREC rejected and instead demanded that Century pay any additional costs due to BREC joining another RTO.
6. Century requested that all disputes be arbitrated under AAA rules--BREC and Kenergy's demanded that the KPSC act as the decision maker in any arbitration under the Agreements.
7. Century requested that BREC and Kenergy agree to a schedule that would assure power would be available to Century under the Agreements on August 21, 2013, and to agree to a fall-back



legislative solution if third party approvals needed for the Agreements are not timely obtained—They refused.

Century is prepared to meet with the BREC/Kenergy on Monday at 11 am in Frankfort and to continue meeting on Monday as long as is necessary. However, given that as to the most important remaining issues we have been unable to reach an agreement after numerous attempts and multiple exchanges of proposals, we appear to have reached an impasse. Unless you are prepared to make a material change in your position on all the remaining key issues referenced above, further meetings will lead only to simply repeating our positions yet again.

Please advise how you would like to proceed.

Michael Early

**SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION**

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- D. Cost incurred solely due to Century's operation: In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy to the extent that ~~they are~~ such costs are solely and directly related to ~~or arise out of~~ the operations of Century. ~~For the avoidance of doubt, this definition includes costs Big Rivers and/or Kenergy commits to during the term of the~~

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		<del>Definitive Documents or in preparation therefor.</del>
E.	Day Ahead Market:	The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
F.	Definitive Documents:	Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.
G.	Delivery Point:	The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
H.	Direct Agreement:	An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
I.	Effective Date:	The date on which the conditions set forth in paragraph X below are satisfied.
J.	Electric Service Agreement:	A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
K.	FTR:	Financial Transmission Rights as defined in the MISO Tariff.
L.	Hawesville Node:	A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
M.	KPSC:	Kentucky Public Service Commission
N.	kWh:	Kilowatt-hour
O.	Maximum Load:	482 megawatts per hour.
P.	MW	Megawatts
Q.	MISO:	The Midwest Independent Transmission System Operator, Inc.
R.	MISO Tariff:	The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in

effect from time to time.

- S. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- T. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
- U. RTO: Regional transmission organization
- V. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
- W. Transaction: The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General: During the Service Period, Kenergy will use reasonable commercial efforts to acquire an aggregate of no more than the Maximum Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions, if any. Imbalance requirements, including up to 10 MW above the Maximum Load, will be obtained in the Real Time Market.
- B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may, ~~at its election without the necessity of elect, subject to the consent or and approval of Big Rivers or Century, in its sole discretion, to select an alternate Market Participant or become the Market Participant itself at the Hawesville Node~~ with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant which Kenergy shall accept, provided Kenergy is satisfied, in its sole discretion, with the financial security

arrangements with the entity.

C. Definitive Documents:

The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, ~~(iv) a Tax Indemnity Agreement between Kenergy and Century, and~~ (iv) a Parent Guarantee of Century Parent, ~~and (v) a Security and Lockbox Agreement among Kenergy, Big Rivers and Century.~~

D. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO. ~~If such change results in additional costs to Century then Big Rivers or Kenergy, as applicable, shall reimburse Century for such costs; provided, provided,~~ that the Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTOs, ~~(iii) Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO, and (iv) the request does not result in any material adverse effect on Big Rivers or Kenergy, as applicable, or the ability of Big Rivers or Kenergy, as applicable, to join or become a member of the RTO.~~ In such case, any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's

satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to Kenergy associated with such bilateral contracts.

B. Scheduling, Load and Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than 24-two hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed through the Market Participant.

C. Charges to Century:

Charges to Century shall include, without duplication:

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1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. An adder amount (per kWh) equal to the actual costs incurred by Kenergy in connection with the performance of its obligations under the Electric Service Agreement, plus a margin equal to but not to exceed the Retail Fee in § 4.12 of the current contract for the period prior to January 1, 2023 and thereafter as approved by the KPSC. Century shall have the right to audit such costs;
3. To the extent not covered under clause (1) above, charges to Kenergy from Big Rivers under the Arrangement Agreement or from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract entry into which was agreed to by Century has approved;
4. Monthly charges, whether positive or negative, with

respect to the items set forth in paragraph V. hereof; and charged to Kenergy under the Arrangement Agreement; provided if the Arrangement Agreement is terminated, then any cost allocated to Kenergy at the Hawesville Node under the SSR Agreement (if such changes are not otherwise recovered for transmission services) less revenues and offsets in Section V.4 of V.10; and

5. Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D. below.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph IV.C. above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

E. Performance by Kenergy:

To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.

F. Term:

The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.

G. Billing; Payment:

Kenergy shall invoice Century each [ ] on or before the [ ] business day of [ ]. Century shall pay Kenergy all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph



~~VIII~~IX [Note: Big Rivers and Kenergy confirming mechanics of Century's request given that MISO bills weekly.]

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in Section X herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on twelve months prior written notice to Kenergy.
4. ~~Termination of the Electric Service Agreement will also terminate all other Definitive Documents.~~

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I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services;
2. Failure to maintain the security arrangements described in paragraph ~~VIII~~IX for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or ~~the Tax Indemnity Agreement or other Definitive Document;~~
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

- J. FTR/ARR Rights: Century shall have the rights to all FTRs or ARR results from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARRs and shall retain all revenues from such FTRs or ARRs.
- K. Power Factor: Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.
- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, ~~in its sole discretion~~; that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in ~~its sole discretion~~ not be unreasonable withheld.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph VIII hereof.
- O. Other Matters:
1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. ~~Any other service arrangements required from Kenergy or Big Rivers must be set forth in other contractual arrangements among the parties.~~
  2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its

generating resources or, except as provided herein, under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter, provided this exclusion does not include the Rio Tinto Alcan smelter if it is acquired by Century or Century's Parent.

3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this exclusion does not include the Rio Tinto Alcan smelter if it is acquired by Century or Century's Parent.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof so long as to the extent necessary to enforce obligations owed to Big Rivers under the Definitive Documents is the Market Participant.

V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General: The following items shall be an adjustment, positive or negative, to the amounts payable under the ~~Electric Service Agreement or, if applicable, the Arrangement Agreement~~ (provided such charges are not included in the charges for transmission service to Kenergy or otherwise charged to Kenergy)

1. Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville Node or any other Big Rivers' Node

associated with the must-run condition of the which are solely and directly related to the requirement to operate Coleman Generating Station, including operations and maintenance expenses and capital costs, including capital expenditures relating to compliance with applicable environmental laws for reliability of transmission of electricity to Century under the Electric Service Agreement; plus

2. All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to ~~Kenergy or Big Rivers~~ to the extent such costs are costs incurred solely due to Century's operation, including all costs relating to the Midwest ISO Transmission Expansion Plan ("MTEP"), or Multi-Value Projects ("MVP") under the MISO Tariff, or similar programs of any applicable RTO ~~the Hawesville Node~~; *plus*
3. Charges by MISO to establish or maintain the Hawesville Node; *plusless*
4. Any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J.; *plus*
5. Additional costs or charges of ACES or similar service provider, incurred solely due to Century's operation, for scheduling, awards and settlements; *plus*
6. The proportionate share by load (MWh) of costs incurred by Kenergy or Big Rivers to comply with state or federal renewable energy portfolio or similar standards ~~or environmental laws or regulations~~ to the extent such costs are incurred solely due to Century's operation; provided, to the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy. Parties acknowledge that there are not aware of any such costs as of the effective date; *plus*
7. Any costs associated with any entity or person other than Big Rivers serving as Market Participant; *plus*
8. Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act

to the extent such costs are costs incurred solely due to Century's operation; *plus*

9. Costs of a ~~0.50,25~~ FTE employee of Big Rivers if it is serving as the Market Participant; *plus/less*
- ~~10. Other direct costs of Kenergy or Big Rivers to the extent incurred or committed to by Kenergy or Big Rivers solely due to Century's operations; *less*~~
- ~~11.10. Net charges received and retained by Big Rivers or costs paid by Century, directly or indirectly, for transmission services to Century under the MISO tariff or the Big Rivers tariff and any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff.~~

~~With respect to any of the foregoing amounts constituting capital expenditures, Kenergy or Big Rivers, as applicable may require Century to prepay any such capital expenditures reasonably expected to be incurred in the following 30 days. [Note: We believe our proposal regarding capital costs is more generous to Century than how MISO will treat these costs.]~~

B. Dispute Resolution: Proportionate Cost Sharing:

~~If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge's distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm. [We remain open to discussing an alternative dispute mechanism. Century will not accept the KPSC. We are open to considering options other than AAA.] The parties will establish a procedure to permit Century to recover capital expenditures paid by it under this paragraph V, in proportion to the use of the related facilities by Kenergy or~~

Big Rivers, as applicable.

C. **Dispute Resolution:**

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter to the KPSC for binding resolution, subject to appeal or requests for rehearing. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm. ~~[We remain open to discussing an alternative dispute mechanism. Century does not prefer the KPSC; Big Rivers has had bad experience with AAA. We are open to considering other options but can't conceive of other feasible options.]~~

VI. **ARRANGEMENT AGREEMENT**

A. **General:**

The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, including up to 10 MW above the Maximum Load, obtained in the Real Time Market for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements ~~and elimination of risk~~ to Big Rivers of such bilateral contracts.

B. **Scheduling, Load and Load Factor:**

Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than ~~24~~two hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not

exceed the Maximum Load without the prior consent of Big Rivers.

- C. Delivery Point: Before March 15 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents if Big Rivers can cancel such application on or before June 1, 2013 and Century pays the costs of such application.
- D. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- E. Charges to Kenergy: Charges to Kenergy shall include, without duplication:
1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
  2. Charges for transmission service to the Hawesville Node; and
  3. ~~Any other amounts due and owing to Big Rivers under the Definitive Documents or bilateral contract entry into which was agreed to by Century.~~ The charges, revenues, and offsets under section V.
- F. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.
- G. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

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H. Billing; Payment:

Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph VIII. [Note: See above comment.]

I. Termination:

The Arrangement Agreement may be, ~~or shall be, as provided herein,~~ terminated in the following circumstances:

1. By either party if the conditions precedent in section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default, ~~provided that Big Rivers will not terminate the Arrangements Agreement for non-material Events of Default if an alternate Market Participant is not available;~~
4. By either party upon termination of the Electric Service Agreement; ~~provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement;~~
5. ~~By either party~~ The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant; or
6. ~~If Century terminates the Electric Service Agreement with Kenergy. Neither Kenergy nor Big Rivers may terminate the Arrangement Agreement until an alternate Market Participant is determined;~~

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J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force

The Arrangement Agreement will contain mutual



Majeure:

indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph VIII-IX for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

## VII. DIRECT AGREEMENT

A. Responsibility for Certain Costs:

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction; and
2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century.

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**VII.VIII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS**

**A. Acknowledgments:**

Century will acknowledge and agree that:

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1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 19, 2013 other than pursuant to a new rate or contract approved by the KPSC;
- ~~2. Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;~~
- ~~3.2. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter.~~

**B. Assignment of Definitive Documents:**

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers ~~in its sole discretion~~ that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent ~~will be granted in its sole discretion not to be unreasonably withheld.~~

**C. MISO Processes:**

In any MISO process or negotiation to determine the SSR Status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Big Rivers and, if applicable, Kenergy shall provide Century with ~~an a~~ reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes ~~but Big Rivers may respond within the time required.~~ Big Rivers acknowledges that any capital costs shall be allocated and recovered over the remaining life of Coleman ~~if these~~

~~capital costs are initially funded by Century with only the carrying costs on such capital allocated during any SSR period before such capital investments are required, become operational, and are used and useful, which recognizes that Big Rivers is free to operate or lay-up Coleman after the SSR period. Big Rivers and Kenergy also acknowledge that nothing in the Definitive Documents shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the Definitive Documents and will actively support with MISO Century's direct participation in all such negotiations and processes. Big Rivers will not agree to a SSR agreement on Coleman without Century's consent.~~

D. KPSC Proceedings:

Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

~~VIII. TAX INDEMNITY AGREEMENT~~

A. General:

~~Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for all direct or indirect costs, expenses, liabilities, claims, etc. relating to or arising out of the Transaction, including failure of Kenergy to maintain its status as an entity exempt from federal income taxation in consequence of the Transaction, the costs of any ruling request desired by Kenergy and costs related to any reapplication for tax-exempt status by Kenergy.~~

IX. CREDIT

A. Security Arrangements:

Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. C., in the form of the following at Big Rivers's and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount ~~not to exceed~~ at least equal to the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement

and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than the payment terms required by each supplier to Kenergy of two months;

2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months;

3. ~~The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement, and~~

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4. ~~Other amounts reasonably projected by Kenergy or Big Rivers to become payable to either of them by Century.~~

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.

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- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- D. Bilateral Power Supply Arrangements Credit Support: Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

**X. CONDITIONS TO THE EFFECTIVE DATE**

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to

the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:

1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
2. All representations and warranties of the parties are true and correct in all material respects;
3. All Definitive Documents become effective;
4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
5. An signed SSR agreement regarding Coleman with MISO, ~~shall be in effect;~~
6. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
7. All Transaction documents have been executed and delivered by the parties thereto.

## XI. OTHER

### A. Preparation of Definitive Documents:

The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.

### B. Survival of Obligations:

Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination, ~~and any other costs incurred or otherwise committed to prior the date of such termination, including any costs under bilateral contracts that extend beyond the effective date of termination;~~ provided Big Rivers and/or Kenergy shall use reasonable efforts to mitigate those costs. In addition Century shall pay for any costs under bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those

costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.

C. Schedule

The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Specifically, the parties agree to use best faith efforts to meet the following schedule: Term sheet will be signed on or before March 1, 2013; Definitive Documents will be signed not later than 10 days thereafter; all board approvals obtained no later than 10 days after Definitive Documents signed; Definitive Documents filed with the Commission for approval no later than 20 days after all board approvals obtained; all creditor approvals obtained no later than 60 days after the Definitive Documents signed; and all parties will request the Commission to issue an order approving the Definitive Documents no later than 45 days after filing.

The parties agree to publicly endorse the agreements reached among the parties in this summary Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.

D. Governing Law

Commonwealth of Kentucky

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Monday, July 16, 2012 9:33 AM  
**To:** Bob Berry  
**Subject:** Century- MISO information

Bob

I would like to set up a call on Tuesday or Wednesday with your transmission folks and Siemens to discuss the information Siemens needs from MISO. What's your availability?

Thanks

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**From:** Bacalao, Nelson J [mailto:Nelson.Bacalao@siemens.com]  
**Sent:** Monday, July 16, 2012 7:01 AM  
**To:** Early, Michael  
**Cc:** Brown, Douglas; Henry, Jack L; Hanson, John (IC SG)  
**Subject:** RE: Century- MISO information

Michael

Siemens PTI requires the cases below to conduct a study for Century Aluminum:

- Seasonal Assessment Cases
  - 2012 Summer Peak and Winter Peak (power flow and stability)
- MTEP12 Cases
  - 2014 Summer Peak
  - 2017 Summer Peak (power flow only), Shoulder Peak (power flow and stability), Light Load (power flow and stability)

We have currently access to the MTEP 12 Cases and the 2012 Seasonal Assessments are required.

The individuals that will work on this project; Nelson J Bacalao, John Hanson, Satish Natti, Linh Dinh, Carlos Grande and Jack Henry have on file CEII with MISO, so if thy are added to BREC's in BREC's MISO Universal NDA, we can use the information currently available to us an can work with MISO to obtain the 2012 Seasonal Assessment.

Alternatively; if BREC provides all the cases above (Seasonal Assessment and MTEP12), then we can conduct the study without the need of BREC adding us to their Universal NDA.

Note that in this last case, we will also need BREC to provide us the updated MTEP12 cases, which we understand will be available by the end of the month.

Regards,

*Nelson*

NOTE CHANGE IN OFFICE PHONE  
Ph: +1-713-360-4464  
Cell: +1-713-598-3856

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 72 of 399

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Wednesday, March 20, 2013 10:23 AM  
**To:** Bob Berry  
**Subject:** Century

Bob

We had a Board meeting yesterday and DeZee and others haven't had a chance to review the Transaction cost report—can we put off a call until later?

Separate question—are the Coleman cost numbers that you provided in real dollars or in nominal (2013) dollars?

Thanks

Michael



**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Friday, June 07, 2013 11:21 AM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com); DeZee, John (John.DeZee@centuryaluminum.com)  
**Cc:** Jim Miller; Drefke, Kyle W.; Chris Hopgood (chopgood@dkgnlaw.com); Greg Starheim (gstarheim@kenenergycorp.com)  
**Subject:** Conference Call

Michael and John, we are still going through the definitive agreements and we need to postpone our 11:30 central time call. We expect to be completed by 1:00 pm central time. We will call you when we are ready for the call.

Thanks  
Bob

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, January 17, 2013 11:46 AM  
**To:** Bob Berry; Greg Starheim; DeZee, John  
**Subject:** Correction BREC/Kenergy Conference call

Sorry-- if TUESDAY, then Century needs the call to start at 8am PACIFIC (not Eastern). ANYTIME Monday is fine

**From:** Early, Michael  
**Sent:** Thursday, January 17, 2013 9:27 AM  
**To:** Greg Starheim; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

Thanks

Anytime Monday is fine with Century. If Tuesday, we need the call at 8am Eastern/10am Central

**From:** Greg Starheim [<mailto:GStarheim@kenergycorp.com>]  
**Sent:** Thursday, January 17, 2013 9:14 AM  
**To:** Early, Michael; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

I'm available Mon for a call any time before 2:30pm CT. Also available Tues before noon.

Greg

**From:** Early, Michael [<mailto:MEarly@centuryca.com>]  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** BREC/Kenergy Conference call

Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

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Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, copy, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Saturday, June 08, 2013 1:48 PM  
**To:** Bob Berry; Jim Miller; Drefke, Kyle W.; Greg Starheim; Chris Hoppood; David Hamilton  
**Subject:** delay call until 1 pm Pacific

We need to delay the call for an hour

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Sunday, June 09, 2013 2:09 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com)  
**Subject:** Document4  
**Attachments:** Document4.docx

Michael, Attached is my proposed definitions of Base Load and SSR cost. Please let me know if you agree.

Bob

**Base Load:** The "Base Load" shall be determined by the following, as applicable: (a) The maximum amount of Load (not to exceed 482 MW), that may be reliably delivered to the Hawesville Node, as confirmed or approved by MISO, in circumstances where Big Rivers has idled the Coleman Generation Station. (b) The "Base Load" may be increased (not to exceed 482 MW) by notice from Century to Kenergy and Big Rivers if such increase does not create a reliability issue, as determined by any Governmental Authority with jurisdiction over electric reliability. As of the date of this Agreement, the Parties are unaware of any Governmental Authority with jurisdiction over electric reliability with respect to an increase in the Base Load other than FERC and MISO. (c) If a SSR Agreement is in effect, the "Base Load" shall be the maximum amount of Load permitted under the SSR Agreement (not to exceed 482 MW); (d) The Base Load shall be 482 MW if Big Rivers is operating all three units at the Coleman Generating Station for any reason other than an requirement by MISO to operate for reliability. (e) The Base Load shall be determined by MISO if Big Rivers operates less than all three units of the Coleman Generation Station. (f) In all other circumstances, the "Base Load" shall be zero.

**SSR Costs:** If and only to the extent that Century operates above the Base Load as defined in section 1.1.10 (a) and, if applicable, the Curtailable Load, "SSR Costs" shall mean (a) any costs that are not reimbursed to Big Rivers relating to any unit of the Coleman Generation Station required by the applicable RTO or ISO to be operated for reliability purposes, and (b) the costs, as determined and allocated by the RTO or ISO in which Big Rivers is a member, to the Hawesville Node or any other Node (as defined in the MISO Tariff) of Big Rivers, if Big Rivers is required by the RTO or ISO of which Big Rivers is a member requires for that reason any unit of the Coleman Generation Station to be operated for reliability, including, (i) in circumstances where the RTO or ISO of which Big Rivers is a member requires Big Rivers to take the Coleman Generation Station out of an idled status for reliability, all costs incurred in connection with any restart and the operation of any such unit after the date of restart, and (ii) the net Cost of purchasing any replacement Electric Services following an unscheduled outage or real time de-rate of a unit of the Coleman Generation Station required to be operated for reliability purposes.

**Barbara Harwood**

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**From:** Whitmore, Dave <DWhitmore@centuryKY.com>  
**Sent:** Thursday, May 17, 2012 12:36 PM  
**To:** Bob Berry  
**Subject:** Follow up

Bob,

Have talked with Michael Early with and he will be in town for the coordinating committee meeting next. Is it possible to meet on Tuesday morning to discuss the BREC response to the contract modifications?  
John DeZee could also be here on Monday or Tuesday morning.

Thanks,

**Dave Whitmore**  
**Plant Manager - Hawesville Operations**

**Century Aluminum**

Office: (270) 852-2810

Cell: (270) 231-5853

e-mail: [DWhitmore@centuryky.com](mailto:DWhitmore@centuryky.com)

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Wednesday, May 22, 2013 3:51 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com)  
**Subject:** FW: 2012-00535 Order  
**Attachments:** 20130522\_PSC\_ORDER KIUC Leave.pdf

Michael, FYI, the KPSC has granted KIUC's request for the additional information regarding the term sheet.

Bob

**From:** DeAnna McCormick Speed  
**Sent:** Wednesday, May 22, 2013 2:33 PM  
**To:** Billie Richert; Tyson Kamuf; Jim Miller  
**Subject:** 2012-00535 Order

The Commission granted KIUC's request for additional information. We have to respond to KIUC-3 within 7 days.

***DeAnna Speed, CPA***  
Director Rates and Budgets  
Big Rivers Electric Corporation | 201 Third Street, Henderson, KY 42420  
Office: (270) 844-6042 | [deanna.speed@bigrivers.com](mailto:deanna.speed@bigrivers.com)

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC ) CASE NO.  
CORPORATION FOR AN ADJUSTMENT OF ) 2012-00535  
RATES )

ORDER

On May 6, 2013, Kentucky Industrial Utility Customers ("KIUC") filed a petition for leave to conduct supplemental discovery consisting of additional data requests propounded to Big Rivers Electric Corporation ("Big Rivers"). A copy of KIUC's additional data requests, consisting of five questions, was attached to its petition. The additional questions relate to the recent announcement that Big Rivers has reached a tentative agreement on a framework for providing market-priced power to Century Aluminum of Kentucky ("Century"), an existing customer that is currently served at a Commission regulated rate.

On May 7, 2013, Big Rivers filed a response in opposition to the KIUC petition, characterizing the data request as premature because at this time there is neither a "deal" nor an "agreement" with Century, only a "tentative" agreement on a "framework" for providing market priced power. Big Rivers states that it now has only an unsigned, non-binding term sheet, and that it is currently negotiating the terms of an agreement with Century, but there is no assurance that an agreement will actually be reached. Big Rivers acknowledges that if a definitive agreement is reached with Century, it will need to be filed with the Commission for approval, and that absent such an agreement, Big



Rivers has no legal authority to supply electricity to Century on and after August 20, 2013. Further, Big Rivers asserts that until a definitive agreement is reached, it is unable to respond to the questions propounded by KIUC.

Based on the petition, the response in opposition, and being otherwise sufficiently advised, the Commission finds that this case involves an investigation of Big Rivers' application to increase its rates by approximately \$74.5 million annually, an increase of 21.4 percent. Almost 85 percent of the requested rate increase is a result of Century's termination of its existing power contract effective on August 20, 2013. The rate application is based on a forecasted test year, the 12 months of September 1, 2013 through August 31, 2014, which is intended to reflect Big Rivers' operations immediately after the termination of Century's power contract. To properly analyze Big Rivers' application, it is essential that the Commission and the intervenors have all relevant information relating to the forecasted test year.

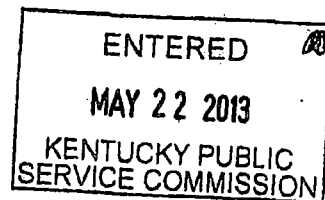
Big Rivers has requested that its increased rates be effective on and after August 18, 2013, a date that is less than three months from now, and a hearing on its rate application is scheduled to commence on July 1, 2013. While the Commission recognizes that Big Rivers may not yet have a definitive agreement with Century, the questions set forth in KIUC's data requests are highly relevant to the pending rate application. For that reason, we will grant KIUC's petition and require Big Rivers to file responses to those questions within seven days of the date of this Order. The Commission recognizes that Big Rivers' responses will be based on the information and documents that exist at this point in time. In the event that these responses need to be

subsequently revised and updated to reflect new information or documents, Big Rivers should do so on a timely basis as needed and as appropriate.

IT IS THEREFORE ORDERED that;

1. KIUC's petition for leave to conduct additional discovery is granted.
2. Big Rivers shall file responses to KIUC's additional discovery within seven days of the date of this order.

By the Commission



ATTEST:

  
Executive Director

Case No. 2012-00535

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 83 of 399

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President CEO  
Big Rivers Electric Corporation  
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Manager  
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Suite 1510  
Cincinnati, OHIO 45202

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, March 18, 2013 8:11 PM  
**To:** Early, Michael  
**Subject:** FW: Big Rivers Attachment Y-2

Michael, Please see the email below for an update of the Y-2 process for Coleman and Wilson. Joe Reddoch is with MISO.

Thanks  
Bob

**From:** Joe Reddoch  
**Sent:** 3/18/2013 10:51 AM  
**To:** Michael Mattox  
**Cc:** David K. Duebner  
**Subject:** RE: Big Rivers Attachment Y-2

Mr. Mattox,

I am now overseeing the SSR analysis for Big Rivers, and David Duebner forwarded me your email asking me to respond with an update of the Attachment Y-2 effort. Our engineer has completed the analysis work, and we will be reviewing the study results this week. Once we have completed our review with the Transmission owner we should have a response to your Att Y-2 request later this week or early next week.

Thank you.  
Joe Reddoch  
MISO  
317.249.5889

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, January 17, 2013 11:42 AM  
**To:** Bob Berry; Greg Starheim; DeZee, John  
**Subject:** FW: BREC/Kenergy Conference call

*FW BREC  
Kenergy Conference  
Call*

Sorry—Monday 8am PACIFIC (not Eastern)

**From:** Early, Michael  
**Sent:** Thursday, January 17, 2013 9:27 AM  
**To:** Greg Starheim; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

Thanks

Anytime Monday is fine with Century. If Tuesday, we need the call at 8am Eastern/10am Central

---

**From:** Greg Starheim [<mailto:GStarheim@kenergycorp.com>]  
**Sent:** Thursday, January 17, 2013 9:14 AM  
**To:** Early, Michael; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

I'm available Mon for a call any time before 2:30pm CT. Also available Tues before noon.

Greg

---

**From:** Early, Michael [<mailto:MEarly@centuryca.com>]  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** BREC/Kenergy Conference call

Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, March 14, 2013 7:27 AM  
**To:** Early, Michael  
**Subject:** FW: BRPS Att B, Commerical Mode Update, AO/CPNode for Century

Michael, FYI, Please see the emails below, we have confirmation from MISO to establish the Century load node effective August 20, 2013. Also per our discussion regarding the capital budget at Coleman, the information I provided does not include the MATS environmental equipment. The Budget for the MATS equipment for Coleman is \$15.6M in 2013 and \$12.84M in 2014. Please contact me if you have any additional questions.

Bob

**From:** Lindsay Barron  
**Sent:** Thursday, March 14, 2013 7:12 AM  
**To:** Bob Berry  
**Subject:** FW: BRPS Att B, Commerical Mode Update, AO/CPNode for Century

FYI...we've received confirmation from MISO on getting the Century node established effective August 20. Thanks!

---

**From:** Michael Mattox  
**Sent:** Thursday, March 14, 2013 7:11 AM  
**To:** Lindsay Barron; Mike Thompson  
**Subject:** FW: BRPS Att B, Commerical Mode Update, AO/CPNode for Century

Fyi

Sent from my Windows Phone

---

**From:** Brenda Jenkins  
**Sent:** 3/14/2013 8:10 AM  
**To:** Michael Mattox  
**Cc:** Barbara Farrow  
**Subject:** RE: BRPS Att B, Commerical Mode Update, AO/CPNode for Century

Mike,

This is notification that your Attachment B has been received and will be processed for the June 1, 2013 MISO Commercial Model update with the effective date of August 20, 2013.

**Brenda Jenkins**  
Sr. Customer Service Analyst  
MISO  
701 City Center Drive  
Carmel, IN 46032  
Phone: 317-249-5235  
Fax: 317-249-5361  
Regular mail to: PO Box 4202, Carmel, IN 46082-4202  
Overnight packages to: 720 City Center Drive, Carmel, IN 46032  
[bjenkins@misoenergy.org](mailto:bjenkins@misoenergy.org)

**From:** Michael Mattox [<mailto:Michael.Mattox@bigrivers.com>]  
**Sent:** Wednesday, March 13, 2013 11:32 PM  
**To:** \*Register

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 87 of 399

**Cc:** Brenda Jenkins; Mike Thompson; Lindsay Barron  
**Subject:** BRPS Att B, Commerical Mode Update, AO/CPNode for Century

Att B Notice attached with associated files.

Michael J. Mattox  
Director, Resources & Forecasting  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42420  
(270) 826-5669 (direct recorded)  
(270) 844-6155 (direct)  
(270) 827-2561 (BREC switchboard)  
(270) 577-1617 (cell)  
(270) 827-2101 (fax)  
AOL IM: MikeMattoxBREC

---

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**Barbara Harwood**

---

**From:** Whitmore, Dave <DWhitmore@centuryKY.com>  
**Sent:** Tuesday, May 15, 2012 9:39 AM  
**To:** Bob Berry  
**Subject:** FW: Century Aluminum

Bob,

Apparently Jim Miller did not receive the e:mail from me this morning with the attached letter regarding our discussions. Can you forward that message on to him?

Thanks,  
Dave

**Dave Whitmore**  
**Plant Manager - Hawesville Operations**

**Century Aluminum**

Office: (270) 852-2810

Cell: (270) 231-5853

e-mail: [DWhitmore@centuryky.com](mailto:DWhitmore@centuryky.com)

---

**From:** postmaster@bigrivers.com [<mailto:postmaster@bigrivers.com>]  
**Sent:** Tuesday, May 15, 2012 9:35 AM  
**To:** Whitmore, Dave  
**Subject:** Undeliverable: Century Aluminum

**Delivery has failed to these recipients or groups:**

[jim.miller@bigrivers.com](mailto:jim.miller@bigrivers.com)

Your message wasn't delivered due to a permission or security issue. It may have been rejected by a moderator, the address may only accept e-mail from certain senders, or another restriction may be preventing delivery.

**Diagnostic information for administrators:**

Generating server: bigrivers.com

[jim.miller@bigrivers.com](mailto:jim.miller@bigrivers.com)

# < #5.7.1 smtp;550 5.7.1 Delivery to this user is not authorized. Message refused.> #SMTP#

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 89 of 399



Original message headers:

Received: from ahmler9.mail.eds.com (192.85.154.83) by BRMAIL.bigrivers.com (192.168.2.33) with Microsoft SMTP Server (TLS) id 8.3.213.0; Tue, 15 May 2012 09:34:25 -0500  
Received: from ahmler9.mail.eds.com (ahmler9.mail.eds.com [192.85.154.83]) by ahmler9.mail.eds.com (8.14.4/8.13.8) with ESMTP id q4FEXUnZ028948; Tue, 15 May 2012 10:33:30 -0400  
Received: from mail108.messagegabelabs.com (mail108.messagegabelabs.com [216.82.250.51]) by ahmler9.mail.eds.com (8.14.4/8.13.8) with ESMTP id q4FEXQEj028311 (version=TLSv1/SSLv3 cipher=DHE-RSA-AES256-SHA bits=256 verify=NO); Tue, 15 May 2012 10:33:27 -0400  
X-EDS-Source-Ip: 216.82.250.51  
X-EDS-Source-Name: mail108.messagegabelabs.com  
X-EDS-Reported-Name: mail108.messagegabelabs.com  
X-EDS-TLS-Version: TLSv1/SSLv3  
X-EDS-TLS-cipher: DHE-RSA-AES256-SHA  
X-EDS-TLS-bits: 256  
X-Env-Sender: [DWhitmore@centuryKY.com](mailto:DWhitmore@centuryKY.com)  
X-Msg-Ref: server-2.tower-108.messagegabelabs.com!1337092403!9674803!1  
X-Originating-IP: [12.169.233.7]  
X-SpamReason: No, hits=0.8 required=7.0 tests=HTML\_90\_100, HTML\_ATTR\_UNIQUE,HTML\_MESSAGE  
X-StarScan-Version: 6.5.10; banners=-,-,-  
X-VirusChecked: Checked  
Received: (qmail 21573 invoked from network); 15 May 2012 14:33:25 -0000  
Received: from mail.centuryky.com (HELO mail.centuryky.com) (12.169.233.7) by server-2.tower-108.messagegabelabs.com with RC4-SHA encrypted SMTP; 15 May 2012 14:33:25 -0000  
Received: from cky-ex-chsrv-1.Century.com (172.18.10.66) by cky-ets-1.century.com (172.18.100.3) with Microsoft SMTP Server (TLS) id 8.3.83.0; Tue, 15 May 2012 09:24:17 -0500  
Received: from CKY-EX-MSRV-1.Century.com (:::1) by cky-ex-chsrv-1.Century.com (:::1) with mapi id 14.01.0355.002; Tue, 15 May 2012 09:33:22 -0500  
From: "Whitmore, Dave" <[DWhitmore@centuryKY.com](mailto:DWhitmore@centuryKY.com)>  
To: "[bob.berry@bigrivers.com](mailto:bob.berry@bigrivers.com)" <[bob.berry@bigrivers.com](mailto:bob.berry@bigrivers.com)>, "[Snovick@kenergycorp.com](mailto:Snovick@kenergycorp.com)" <[Snovick@kenergycorp.com](mailto:Snovick@kenergycorp.com)>  
CC: "David Hamilton ([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com))" <[DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com)>, "[jim.miller@bigrivers.com](mailto:jim.miller@bigrivers.com)" <[jim.miller@bigrivers.com](mailto:jim.miller@bigrivers.com)>, "Early, Michael" <[MEarly@centuryca.com](mailto:MEarly@centuryca.com)>, "DeZee, John" <[JDeZee@centuryca.com](mailto:JDeZee@centuryca.com)>  
Subject: Century Aluminum  
Thread-Topic: Century Aluminum  
Thread-Index: Ac0yqDoI2ifXRZvwTgmVefM7ITcteQ==  
Date: Tue, 15 May 2012 14:33:21 +0000  
Message-ID: <[F2361E011B9A5C43B862C753E2F74C630E86FD54@cky-ex-msrv-1.Century.com](mailto:F2361E011B9A5C43B862C753E2F74C630E86FD54@cky-ex-msrv-1.Century.com)>  
Accept-Language: en-US  
Content-Language: en-US  
X-MS-Has-Attach: yes  
X-MS-TNEF-Correlator:  
x-originating-ip: [172.18.19.39]  
Content-Type: multipart/mixed;  
boundary="\_004\_F2361E011B9A5C43B862C753E2F74C630E86FD54ckyexmsrv1Centu\_"  
MIME-Version: 1.0  
Return-Path: [DWhitmore@centuryKY.com](mailto:DWhitmore@centuryKY.com)

**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Monday, July 16, 2012 12:20 PM  
**To:** Bob Berry  
**Cc:** Bacalao, Nelson J  
**Subject:** FW: Century- MISO information

Bob –yes that works

Nelson—can you set up and circulate a call in number for 2:30 Eastern/1:30 Central

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, July 16, 2012 7:57 AM  
**To:** Early, Michael  
**Subject:** RE: Century- MISO information

Michael, I have talked to my transmission folks and we are available at 1:30 central time on Tuesday July 17. Will that work for you and your folks?

Bob

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Monday, July 16, 2012 9:33 AM  
**To:** Bob Berry  
**Subject:** Century- MISO information

Bob

I would like to set up a call on Tuesday or Wednesday with your transmission folks and Siemens to discuss the information Siemens needs from MISO. What's your availability?

Thanks

---

**From:** Bacalao, Nelson J [mailto:Nelson.Bacalao@siemens.com]  
**Sent:** Monday, July 16, 2012 7:01 AM  
**To:** Early, Michael  
**Cc:** Brown, Douglas; Henry, Jack L; Hanson, John (IC SG)  
**Subject:** RE: Century- MISO information

Michael

Siemens PTI requires the cases below to conduct a study for Century Aluminum:

- Seasonal Assessment Cases
  - 2012 Summer Peak and Winter Peak (power flow and stability)
- MTEP12 Cases
  - 2014 Summer Peak
  - 2017 Summer Peak (power flow only), Shoulder Peak (power flow and stability), Light Load (power flow and stability)

We have currently access to the MTEP 12 Cases and the 2012 Seasonal Assessments are required.

The individuals that will work on this project; Nelson J Bacalao, John Hanson, Satish Natti, Linh Dinh, Carlos Grande and Jack Henry have on file CEII with MISO, so if thy are added to BREC's in BREC's MISO Universal NDA, we can use the information currently available to us an can work with MISO to obtain the 2012 Seasonal Assessment.

Alternatively; if BREC provides all the cases above (Seasonal Assessment and MTEP12), then we can conduct the study without the need of BREC adding us to their Universal NDA.

Note that in this last case, we will also need BREC to provide us the updated MTEP12 cases, which we understand will be available by the end of the month.

Regards,

*Nelson*

NOTE CHANGE IN OFFICE PHONE

Ph: +1-713-360-4464

Cell: +1-713-598-3856

**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, May 28, 2013 3:30 PM  
**To:** Michael Mattox; Bob Berry  
**Subject:** FW: MISO question

Is the Hawesville load 100% of the load at each of these EP nodes?

---

**From:** Bob Berry [<mailto:Bob.Berry@bigrivers.com>]  
**Sent:** Tuesday, May 28, 2013 11:47 AM  
**To:** Early, Michael  
**Subject:** Fwd: MISO question

Michael. Please see the email below identifying the EP nodes for the Century Hawesville node.

Begin forwarded message:

**From:** Michael Mattox <[Michael.Mattox@bigrivers.com](mailto:Michael.Mattox@bigrivers.com)>  
**Date:** May 28, 2013, 1:41:26 PM CDT  
**To:** Bob Berry <[Bob.Berry@bigrivers.com](mailto:Bob.Berry@bigrivers.com)>  
**Cc:** Lindsay Barron <[Lindsay.Barron@bigrivers.com](mailto:Lindsay.Barron@bigrivers.com)>  
**Subject:** RE: MISO question

The Following EPNodes, which represent Century's load in the MISO network model, will make up the new BREC.CENTURY CPNode effective Aug 20;

L BREC COLEMABR NSA0  
L BREC COLEMABR NSA1  
L BREC COLEMABR NSA2  
L BREC COLEMABR NSA3  
L BREC COLEMABR NSA4

Mike M.

---

**From:** Bob Berry  
**Sent:** Tuesday, May 28, 2013 1:38 PM  
**To:** Michael Mattox  
**Cc:** Lindsay Barron  
**Subject:** FW: MISO question

Mike, Can you please provide me with the information requested below from Century?

Bob

---

**From:** Early, Michael [<mailto:Michael.Early@centuryaluminum.com>]  
**Sent:** Tuesday, May 28, 2013 1:36 PM  
**To:** Bob Berry  
**Subject:** MISO question

Bob

Do you have the list of EP nodes that make up the Century Hawesville node?

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Saturday, May 11, 2013 8:53 PM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com)  
**Subject:** FW: Relay Signal Cost and Schedule Estimate

Michael, Please see the emails below regarding the communication exchange about the protective relays. Please call if you have any questions.

Bob

---

**From:** David Crockett  
**Sent:** Friday, May 10, 2013 4:20 PM  
**To:** Bob Berry  
**Subject:** FW: Relay Signal Cost and Schedule Estimate

Bob,

Here is the email message to Tim Martin concerning the protective relay interface work for us to perform in order to make happen what Century envisions this load shedding control scheme to be. This is the additional information exchange directly with Century that I told you about in our phone conversation this afternoon.

Dave

---

**From:** David Crockett  
**Sent:** Monday, April 29, 2013 11:49 AM  
**To:** 'Martin, Tim'  
**Cc:** Bob Warren  
**Subject:** RE: Relay Signal Cost and Schedule Estimate

Tim,

We have completed a quick investigation into how to accomplish the transfer trip signal logic and communication to be input into the pilot wire interface at our Coleman switchyard control building. The rough cost is estimated to be \$115,000 and the timeframe for implementation is approximately five months after approval of the work scope and project cost reimbursement. We have assumed that the logic will include both breaker status and loss of voltage at our Coleman EHV station on the Daviess EHV line to trigger the transfer trip to you. Let me know if you need anything else from us at this time. Otherwise, we await your decision to go forward with this project.

Dave

---

**From:** Martin, Tim [<mailto:tmartin@Centuryky.com>]  
**Sent:** Thursday, April 25, 2013 7:42 AM  
**To:** David Crockett  
**Cc:** Bob Warren  
**Subject:** RE: Relay Signal Cost and Schedule Estimate

Dave,

Yes, the pilot wire is still used to transfer trip your breaker on a breaker failure of our 161 kV feeder breakers (5). There are spare wires in the two cables that are used for the pilot wire system.

Thank you,  
Tim

---

**From:** David Crockett [mailto:David.Crockett@bigrivers.com]

**Sent:** Thursday, April 25, 2013 7:36 AM

**To:** Martin, Tim

**Cc:** Bob Warren

**Subject:** Relay Signal Cost and Schedule Estimate

Tim,

We will get a rough cost and schedule estimate to you no later than Monday, April 29. In order to do this, we have to assume a conceptual design for communicating the signal from Coleman EHV station to Coleman switchyard. At this point, we also have to assume that additional capacity exists in your pilot wire communication system in order to get it from Coleman switchyard to your plant. Can you tell me whether the pilot wire system still is used to transfer trip our breakers at Coleman switchyard for a problem at your plant or not? If not, then the prospect would certainly seem to be improved that the capability to reverse that transfer trip logic for this case is available.

Dave

---

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**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Wednesday, February 27, 2013 7:51 AM  
**To:** Bob Berry  
**Subject:** Fwd: Century/ Big Rivers

Sent from my iPhone

Begin forwarded message:

**From:** "Joyce, Becky M (Finance OAS)" <Becky.Joyce@ky.gov>  
**Date:** February 27, 2013, 8:34:04 AM EST  
**To:** "Early, Michael" <MEarly@centuryca.com>  
**Subject:** RE: Century/ Big Rivers

The same conference room you used previously on the 3<sup>rd</sup> floor is available. I reserved it from 11-3 but it is available all day.

*Becky*

---

**From:** Early, Michael [<mailto:MEarly@centuryca.com>]  
**Sent:** Tuesday, February 26, 2013 10:12 PM  
**To:** Joyce, Becky M (Finance OAS)  
**Subject:** Century/ Big Rivers

Becky

Can we get a room tomorrow at 11am?

Thanks

Michael



**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, June 19, 2013 10:18 AM  
**To:** Early, Michael (Michael.Early@centuryaluminum.com); DeZee, John (John.DeZee@centuryaluminum.com)  
**Cc:** Jim Miller  
**Subject:** KIUC Proposal for Century Transaction

Michael, Big Rivers and Kenergy have performed a preliminary review of the Definitive Documents and the impact the KIUC proposal would have on these. We have identified several issues with the temporary approval process and we feel we need to discuss this with Century as soon as possible. Can you be available for a call at 11:30 central time?

Bob

**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Wednesday, April 10, 2013 7:39 PM  
**To:** Bob Berry  
**Cc:** DeZee, John; Bacalao, Nelson J (NAM RC-US IC-SG SE PTI NC 2)  
**Subject:** Letter to MISO

**Importance:** High

Bob

Siemens asks that the letter to MISO should authorize MISO to:

- Share with Siemens PTI the cases used to conduct the Y-2 studies (also-called the SSR cases)
- Share with Siemens PTI the contingency files used in the study (MON, CON and SUB files)

I will send you tomorrow the additional material you requested from Siemens.

Thanks

Michael

## Barbara Harwood

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Wednesday, February 06, 2013 7:26 PM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** Meeting to Discuss the Term Sheet

Bob and Greg

Thank you for your email. As you know, from our first discussions about market access, Century has made it clear that it cannot and would not agree to be responsible for any costs or conditions other than those costs and conditions that Century would incur under direct retail access and, in particular, would not be responsible for any costs that Big Rivers or Kenergy would still incur if the plant closed.

Unfortunately, your proposed Term Sheet contained numerous terms that are directly at odds with Century's fundamental needs by requiring that Century assume responsibility for costs and risks beyond this scope and Century simply cannot accept them. In addition, even if Century and the Big Rivers/Kenergy negotiating team did agree on mutually acceptable terms (which would require your team to revise what Century understood to be several "non-negotiable" terms), you have acknowledged that the effectiveness of the Transaction contracts by August 21 2013 would be contingent on approval by the PSC, the Big Rivers board, the Kenergy board, Big Rivers' lenders, and potentially other as yet unspecified third parties. None of such approvals are guaranteed and all of which are unlikely to be completed, if at all, until the eve of the plant shutting down. In addition, the Term Sheet provides that the effectiveness of the Transaction contracts is contingent upon other actions or non-actions by third parties which are beyond the control of either Century or Big Rivers/Kenergy.

Given your proposed terms, the timing, and the uncertainty of a successful and timely resolution, Century is now focused on retail access legislation which must be passed in this session if it is to be available on August 21 2013. Such legislation is the only alternative that will ensure that Century has access to market power on reasonable terms and that the plant will continue to operate after August 20 2013.

Of course, the proposed legislation would establish only the option for direct retail access. It would not bar the parties from agreeing to an alternative power supply arrangement even after the legislation has passed. After the legislative session ends in March, Century would be happy to meet again to discuss any new proposal from Big Rivers or Kenergy that would be mutually acceptable to all parties.

Michael

Begin forwarded message:

**From:** Bob Berry <Bob.Berry@bigrivers.com>  
**Date:** February 6, 2013, 8:47:45 AM EST  
**To:** "Early, Michael" <MEarly@centuryca.com>  
**Cc:** Jim Miller <jmiller@smsmlaw.com>, "JDeZee@centuryca.com" <JDeZee@centuryca.com>  
**Subject:** Meeting to Discuss the Term Sheet

Good Morning Michael,

Per my February 4, 2013 voice mail, Big Rivers and Kenergy has reviewed the markup of the proposed Term Sheet you provided on January 30. Big Rivers and Kenergy would like to schedule a meeting to further discuss the Term Sheet. We would like to suggest a face to face meeting as it may be more productive; however, we are agreeable to a conference call if you are not available to meet in person. We are available to meet at your convenience, please provide us with some dates and times that are convenient to you and I will set up the meeting. I look forward to hearing from you soon.

Regards  
Bob

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, February 06, 2013 7:48 AM  
**To:** Early, Michael  
**Cc:** Jim Miller; JDeZee@centuryca.com  
**Subject:** Meeting to Discuss the Term Sheet

Good Morning Michael,

Per my February 4, 2013 voice mail, Big Rivers and Kenergy has reviewed the markup of the proposed Term Sheet you provided on January 30. Big Rivers and Kenergy would like to schedule a meeting to further discuss the Term Sheet. We would like to suggest a face to face meeting as it may be more productive; however, we are agreeable to a conference call if you are not available to meet in person. We are available to meet at your convenience, please provide us with some dates and times that are convenient to you and I will set up the meeting. I look forward to hearing from you soon.

Regards  
Bob

**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Thursday, April 04, 2013 10:24 AM  
**To:** Bob Berry  
**Subject:** MISO call

Bob

As we discussed, please set up a joint call with MISO

Michael

**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Wednesday, April 10, 2013 7:14 AM  
**To:** Bob Berry  
**Subject:** MISO call

Bob

DeZee and I will participate in the MISO call from our hotel and will arrive at your office shortly thereafter. Representatives from Siemens and PACE will participate in the call on behalf of Century.

Michael

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Friday, January 25, 2013 12:03 PM  
**To:** Early, Michael  
**Cc:** Jim Miller; Greg Starheim (gstarheim@kenenergycorp.com); Chris Hopgood (chopgood@dkgnlaw.com); Drefke, Kyle W.; E020123  
**Subject:** MTEP and MVP Projections for Century

**Tracking:**

Recipient	Delivery
Early, Michael	
Jim Miller	
Greg Starheim (gstarheim@kenenergycorp.com)	
Chris Hopgood (chopgood@dkgnlaw.com)	
Drefke, Kyle W.	
E020123	Delivered: 1/25/2013 12:03 PM

Michael, per your request, please find below the MISO projected MTEP / MVP cost associated with the Century load. These costs are MISO's projections of what Century's obligation would be under the proposed terms. You can go to the MISO web page and it will give you in dollars per megawatt hour their projected MTEP / MVP cost for the next 30 years. I will have the projected FTR / ARR cost soon. Please call if you have any questions.

In 2012, Big Rivers paid approximate \$130,000 on Schedule 26 & 26-A for Century's load.

Based on MISO's estimates, the annual charges associated with Century's load will be:

	Schedule 26	Schedule 26-A
2013	\$2,800	\$ 720,372
2014	\$3,667	\$ 1,459,911
2015	\$5,448	\$ 2,482,650
2016	\$9,971	\$ 3,918,183

Regards,  
Bob



## Barbara Harwood

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Thursday, April 11, 2013 11:44 AM  
**To:** Bob Berry  
**Cc:** DeZee, John  
**Subject:** next meeting

OK with dates but let's start on Tuesday at 10am

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Thursday, April 11, 2013 9:40 AM  
**To:** Early, Michael  
**Subject:** Re: Coleman Capital Cost

Yes you are correct, I intended to say April 16 and 17th.

On Apr 11, 2013, at 11:34 AM, "Early, Michael" <Michael.Early@centuryaluminum.com> wrote:

Bob

Assume you mean April 16-17/ Tuesday -Wednesday

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Wednesday, April 10, 2013 4:34 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim (gstarheim@kenergycorp.com); Jim Miller; Drefke, Kyle W.; Chris Hopgood (chopgood@dkqnlaw.com); David Hamilton (DHamilton@kenergycorp.com) (DHamilton@kenergycorp.com)  
**Subject:** Coleman Capital Cost

Michael, Per our discussion today, attached please find the capital cost and depreciation for the Coleman units for the years 2013-2016. There are two tabs one representing the normal plant capital and the second is the MATS compliance capital. As I stated in our meeting, the cost of this capital to Century is approximately \$1 per MWh in 2016.

Big Rivers and Kenergy will send you a mark-up of the Term Sheet on Friday 4-12 and we are available to meet on Tuesday and Wednesday of next week (4-17 and 4-18). Please let me know if those dates will work for you and what time you would prefer to begin the meetings.

Thanks  
Bob

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**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, April 30, 2013 11:00 AM  
**To:** Bob Berry  
**Subject:** Next steps

*Next Steps*

Bob

I understand you are out at Coleman today

Please call me to discuss next steps

If you don't reach me at the office at 503 402-8710 then try my cell at 503 957-4442

Michael

**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Friday, January 11, 2013 5:05 PM  
**To:** Bob Berry  
**Subject:** Questions on Coleman  
**Attachments:** Question on Coleman 1.10.13.docx

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 23, 2013 8:00 AM  
**Flag Status:** Flagged

Let's discuss on Monday

1/11/13

### Questions on Coleman

1. Since BREC joined MISO, how many hours:
  - a) Were Coleman units operated/not operated?
  - b) Were Coleman units down for maintenance?
  - c) Were Coleman units not dispatched by MISO because out of market?
  - d) Were Coleman units dispatched by MISO as critical units i.e., directed to run?
  
2. Since BREC joined MISO, for each hour:
  - a) What was BREC's "offer price" at Coleman, i.e., offer curve?
  - b) What was the corresponding LMP price?
  - c) What was BREC's corresponding variable production costs?
  
3. For 2013 and future years:
  - a) What are projected fuel costs at Coleman?
  - b) What are projected labor costs at Coleman? What labor costs would be avoided (near and long term) if one or more units are laid-up?
  - c) What are projected variable O&M costs?
  - d) What are other projected costs that would be avoided if one or more units are laid-up?
  - e) What are the incremental costs of preparing the units for being laid-up?

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Tuesday, February 26, 2013 9:02 PM  
**To:** 'Early, Michael'; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** RE:

Michael,

Big Rivers and Kenergy can be available to meet at 11:00 a.m. eastern time on Wednesday February 27. Can you please secure a room and email us the room number? Look forward to seeing you tomorrow.

Regards  
Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Tuesday, February 26, 2013 6:28 PM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:**

Attached is Century's mark-up of the term sheet based on today's meeting.

As we agreed, I have "bracketed" the sections that address the remaining material disputes—including both BREC/Kenergy's proposed language and Century's proposed language. I believe other outstanding issues can be resolved.

As we are all aware, time is of the essence in this process. Century would like to meet tomorrow morning at 8 am. If not then, please advise us when is the earliest that BREC/Kenergy can meet?

Michael

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Saturday, April 27, 2013 9:34 PM  
**To:** Early, Michael  
**Subject:** Re: Any News

I have his cell number 270-577-5479.

On Apr 27, 2013, at 9:31 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

> Still working on tax issue and press release(have comments from Littrel)

>

> BTW--do you have Bailey's cell and home number?

>

> -----Original Message-----

> From: Bob Berry [mailto:[Bob.Berry@bigrivers.com](mailto:Bob.Berry@bigrivers.com)]

> Sent: Saturday, April 27, 2013 5:16 PM

> To: Early, Michael

> Subject: Any News

>

> Michael, Just Curious have you guys completed your evaluation?

>

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**Barbara Harwood**

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Saturday, April 27, 2013 9:31 PM  
**To:** Bob Berry  
**Subject:** RE: Any News

Still working on tax issue and press release(have comments from Littrel)

BTW--do you have Bailey's cell and home number?

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**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Saturday, April 27, 2013 5:16 PM  
**To:** Early, Michael  
**Subject:** Any News

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Sunday, April 28, 2013 4:14 PM  
**To:** Early, Michael  
**Subject:** Re: Any News

Michael have you resolved the tax issue? Do you have an update?

Bob

On Apr 27, 2013, at 9:31 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

> Still working on tax issue and press release(have comments from Littrel)

>

> BTW--do you have Bailey's cell and home number?

>

> -----Original Message-----

> From: Bob Berry [mailto:[Bob.Berry@bigrivers.com](mailto:Bob.Berry@bigrivers.com)]

> Sent: Saturday, April 27, 2013 5:16 PM

> To: Early, Michael

> Subject: Any News

>

> Michael, Just Curious have you guys completed your evaluation?

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Monday, October 29, 2012 5:49 PM  
**To:** 'Early, Michael'  
**Cc:** DeZee, John  
**Subject:** RE: Availability

Thanks Michael, I will have my administrative assistant (Joy Wright) send out the meeting notice with the call in numbers first thing in the morning.

Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Monday, October 29, 2012 5:35 PM  
**To:** Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: Availability

Bob

Yes this time works for John and me

Thanks

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, October 29, 2012 3:13 PM  
**To:** Early, Michael  
**Subject:** Availability

Good afternoon Michael,  
Big Rivers would like to discuss the Reimbursement Agreement with you and John on Tuesday afternoon October 30 if your schedule will allow. Would the two of you be available around 4:00 p.m. Central time? Please contact me with your availability and I will set up the conference call.

Regards  
Bob Berry  
V.P. of Production  
270-993-1561 cell  
270-844-6186 Office

---

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**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, March 19, 2013 8:52 AM  
**To:** Bob Berry  
**Subject:** RE: Big Rivers Attachment Y-2

Thanks

I am checking to see if we need a call on Wednesday to discuss the transaction costs report. Will try to let you know later today

Michael

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, March 18, 2013 6:11 PM  
**To:** Early, Michael  
**Subject:** FW: Big Rivers Attachment Y-2

Michael, Please see the email below for an update of the Y-2 process for Coleman and Wilson. Joe Reddoch is with MISO.

Thanks  
Bob

**From:** Joe Reddoch  
**Sent:** 3/18/2013 10:51 AM  
**To:** Michael Mattox  
**Cc:** David K. Duebner  
**Subject:** RE: Big Rivers Attachment Y-2

Mr. Mattox,

I am now overseeing the SSR analysis for Big Rivers, and David Duebner forwarded me your email asking me to respond with an update of the Attachment Y-2 effort. Our engineer has completed the analysis work, and we will be reviewing the study results this week. Once we have completed our review with the Transmission owner we should have a response to your Att Y-2 request later this week or early next week.

Thank you.  
Joe Reddoch  
MISO  
317.249.5889

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 5:46 PM  
**To:** 'Early, Michael'  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

Does that mean we are done and we can send out completed documents?

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 5:44 PM  
**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

ok

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, June 10, 2013 3:38 PM  
**To:** Early, Michael  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

Michael, I deleted that because the actual SSR Agreement will not state the actual base load. That is calculated outside of the actual SSR agreement. It's important to remember that the SSR Agreement is a MISO tariff which will not include their calculation for your base load.

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 5:28 PM  
**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
**Subject:** FW: Big Rivers Revised Definition of Base Load and SSR Cost

Ok except put back "permitted under the SSR Agreement" in subpart (c)

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, June 10, 2013 3:15 PM  
**To:** Early, Michael; Drefke, Kyle W.  
**Subject:** Big Rivers Revised Definition of Base Load and SSR Cost

Michael, Per our phone conversation please see the attached revised Base Load and SSR Cost definitions. I also propose that we add a provision 3.5 to the Direct Agreement and that language is also included in the attachment. If you are in agreement with this approach please respond and Kyle will provide the updated agreements. He will also modify Exhibit B to reflect that there will be no cost in exhibit B for rate case proceedings with the KPSC. If you are in agreement with these changes, this will complete all of the documents with the exception of the Tax Indemnity Agreement.

Bob

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 5:38 PM  
**To:** 'Early, Michael'  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

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**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
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**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
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**Subject:** Big Rivers Revised Definition of Base Load and SSR Cost

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Bob

---

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 5:56 PM  
**To:** 'Early, Michael'  
**Cc:** Drefke, Kyle W.; Jim Miller  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

Michael, Jim Miller responded to your comments on the post-termination contract for the non-smelting load yesterday. I have copied Jim on this email in case you have any questions for him.

Bob

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 5:51 PM  
**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

What about our comments on the post-termination contract for non-smelting load. Also the tax indemnity has one more turn to go I think. I need to take quick look at the lockbox

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, June 10, 2013 3:46 PM  
**To:** Early, Michael  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

Does that mean we are done and we can send out completed documents?

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 5:44 PM  
**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

ok

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, June 10, 2013 3:38 PM  
**To:** Early, Michael  
**Cc:** Drefke, Kyle W.  
**Subject:** RE: Big Rivers Revised Definition of Base Load and SSR Cost

Michael, I deleted that because the actual SSR Agreement will not state the actual base load. That is calculated outside of the actual SSR agreement. It's important to remember that the SSR Agreement is a MISO tariff which will not include their calculation for your base load.

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 5:28 PM  
**To:** Bob Berry  
**Cc:** Drefke, Kyle W.  
**Subject:** FW: Big Rivers Revised Definition of Base Load and SSR Cost

Ok except put back "permitted under the SSR Agreement" in subpart (c)

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Monday, June 10, 2013 3:15 PM  
**To:** Early, Michael; Drefke, Kyle W.  
**Subject:** Big Rivers Revised Definition of Base Load and SSR Cost

Michael, Per our phone conversation please see the attached revised Base Load and SSR Cost definitions. I also propose that we add a provision 3.5 to the Direct Agreement and that language is also included in the attachment. If you are in agreement with this approach please respond and Kyle will provide the updated agreements. He will also modify Exhibit B to reflect that there will be no cost in exhibit B for rate case proceedings with the KPSC. If you are in agreement with these changes, this will complete all of the documents with the exception of the Tax Indemnity Agreement.

Bob

---

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**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, January 17, 2013 2:11 PM  
**To:** Bob Berry  
**Subject:** RE: BREC/Kenergy Conference call

Thanks

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Thursday, January 17, 2013 10:29 AM  
**To:** Early, Michael; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

Michael, I can be available any time after 9:00 am central time on Monday. I will check with the rest of the team to determine if they are available.

Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** BREC/Kenergy Conference call

Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, January 17, 2013 11:27 AM  
**To:** Greg Starheim; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

Thanks

Anytime Monday is fine with Century. If Tuesday, we need the call at 8am Eastern/10am Central

---

**From:** Greg Starheim [mailto:GStarheim@kenergycorp.com]  
**Sent:** Thursday, January 17, 2013 9:14 AM  
**To:** Early, Michael; Bob Berry  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

I'm available Mon for a call any time before 2:30pm CT. Also available Tues before noon.

Greg

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** BREC/Kenergy Conference call

Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

---

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Thursday, January 17, 2013 12:29 PM  
**To:** 'Early, Michael'; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** RE: BREC/Kenergy Conference call

Michael, I can be available any time after 9:00 am central time on Monday. I will check with the rest of the team to determine if they are available.

Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Thursday, January 17, 2013 9:58 AM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
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Century needs a few days to review the Term Sheet. We would like to schedule a call to discuss the Term Sheet and the January Transaction Costs report on Monday the 21<sup>st</sup>. I know this is a holiday for some. If Monday doesn't work can we schedule for Tuesday?

Thanks

Michael

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Sunday, June 09, 2013 4:14 PM  
**To:** 'Early, Michael'  
**Subject:** RE: call

I am waiting on a return call from Kyle. Can I call you at 3:00 your time?

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Sunday, June 09, 2013 4:13 PM  
**To:** Bob Berry  
**Subject:** call

I will be tied up from 2:15 to 3:00 my time

**Barbara Harwood**

---

**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Friday, December 28, 2012 8:43 AM  
**To:** Davidson, Benjamin H.; DeZee, John  
**Cc:** Jim Miller; Bob Berry; Greg Starheim; Chris Hopgood; Lyon, Carl F.; Drefke, Kyle W.  
**Subject:** RE: Century Executed Common interest agreement

Thanks

Century plans to circulate its memo on potential third party claims today as well.

Michael

---

**From:** Davidson, Benjamin H. [mailto:bdavidson@Orrick.com]  
**Sent:** Thursday, December 27, 2012 8:29 PM  
**To:** Early, Michael; DeZee, John  
**Cc:** Jim Miller; Bob Berry; Greg Starheim; Chris Hopgood; Lyon, Carl F.; Drefke, Kyle W.  
**Subject:** RE: Century Executed Common interest agreement

All,

Attached is a fully executed common interest agreement.

We plan to circulate the legal issues memo tomorrow.

Best,  
Ben

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Thursday, December 27, 2012 3:58 PM  
**To:** Jim Miller; Bob Berry; Greg Starheim; Chris Hopgood; Davidson, Benjamin H.  
**Cc:** DeZee, John  
**Subject:** Century Executed Common interest agreement

Please see attached copy executed by Century

---

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Sunday, February 24, 2013 5:58 PM  
**To:** 'Early, Michael'; Greg Starheim; Drefke, Kyle W.; Chris Hopgood; David Hamilton; Jim Miller  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** RE: Century Mark-up of Term Sheet

Tracking:	Recipient	Delivery	Read
	'Early, Michael'		
	Greg Starheim		
	Drefke, Kyle W.		
	Chris Hopgood		
	David Hamilton		
	Jim Miller		
	Hoerner, John		
	DeZee, John		
	Mark Bailey	Delivered: 2/24/2013 5:58 PM	Read: 2/24/2013 6:00 PM

Michael,

Thanks for your e-mail. Our team is in the process of reviewing your comments but we believe that our negotiating teams should meet tomorrow. While you are correct that there are outstanding differences in our positions, we are clearly closer to an agreement that we were last weekend and believe that additional discussions can narrow the gap further.

I propose that we meet tomorrow from 12:30 p.m. – 2:00 p.m. in the capitol annex to talk about both the points raised in your e-mail and other comments in the term sheet. Our team can also meet after any time after 3:00 p.m. Please let me know if you will coordinate with Becky to secure a room or should I. Please call if you have any questions.

Regards

Bob

270-993-1561 Mobile

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Sunday, February 24, 2013 1:36 PM  
**To:** Bob Berry; Greg Starheim; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** Century Mark-up of Term Sheet

Gentlemen:

Attached is Century's mark-up of your February 23<sup>rd</sup> draft. On several of Century's key points we have gone back and forth over several drafts and your February 23<sup>rd</sup> draft again rejects these outright, including:

1. Century requested that all new capital costs at Coleman should be allocated over the remaining life of Coleman not prepaid by Century and that Century would pay its share of these allocated costs until Coleman was no longer required to operate to assure

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 126 of 399

- reliable transmission of market power to Century —BREC rejected.
2. Century requested that the only costs for which it would be responsible after termination of the new contract would be any costs under bilateral contracts with third party power suppliers that extended beyond the termination date --BREC's rejected and demanded that Century be responsible for an unquantified amount of costs post termination.
  3. Century requested that it be allowed to choose the Market Participant subject to Kenergy's approval that there were financial security arrangements in place to protect Kenergy—Kenergy rejected and demanded that Kenergy must have the right to become the Market Participant without Century's consent while also demanding that Century be responsible for Kenergy's potential tax liability due to such change.
  4. Century offered to pay Kenergy's actual administrative costs under the Agreements—Kenergy rejected and demanded a "margin" payment above its actual costs.
  5. Century requested that BREC reimburse Century for any additional costs if BREC chose to leave MISO and join another RTO—BREC rejected and instead demanded that Century pay any additional costs due to BREC joining another RTO.
  6. Century requested that all disputes be arbitrated under AAA rules--BREC and Kenergy's demanded that the KPSC act as the decision maker in any arbitration under the Agreements.
  7. Century requested that BREC and Kenergy agree to a schedule that would assure power would be available to Century under the Agreements on August 21, 2013, and to agree to a fall-back legislative solution if third party approvals needed for the Agreements are not timely obtained—They refused.

Century is prepared to meet with the BREC/Kenergy on Monday at 11 am in Frankfort and to continue meeting on Monday as long as is necessary. However, given that as to the most important remaining issues we have been unable to reach an agreement after numerous attempts and multiple exchanges of proposals, we appear to have reached an impasse. Unless you are prepared to make a material change in your position on all the remaining key issues referenced above, further meetings will lead only to simply repeating our positions yet again.

Please advise how you would like to proceed.

Michael Early

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, July 16, 2012 9:57 AM  
**To:** 'Early, Michael'  
**Subject:** RE: Century- MISO information

Michael, I have talked to my transmission folks and we are available at 1:30 central time on Tuesday July 17. Will that work for you and your folks?

Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Monday, July 16, 2012 9:33 AM  
**To:** Bob Berry  
**Subject:** Century- MISO information

Bob

I would like to set up a call on Tuesday or Wednesday with your transmission folks and Siemens to discuss the information Siemens needs from MISO. What's your availability?

Thanks

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**From:** Bacalao, Nelson J [mailto:Nelson.Bacalao@siemens.com]  
**Sent:** Monday, July 16, 2012 7:01 AM  
**To:** Early, Michael  
**Cc:** Brown, Douglas; Henry, Jack L; Hanson, John (IC SG)  
**Subject:** RE: Century- MISO information

Michael

Siemens PTI requires the cases below to conduct a study for Century Aluminum:

- Seasonal Assessment Cases
  - 2012 Summer Peak and Winter Peak (power flow and stability)
- MTEP12 Cases
  - 2014 Summer Peak
  - 2017 Summer Peak (power flow only), Shoulder Peak (power flow and stability), Light Load (power flow and stability)

We have currently access to the MTEP 12 Cases and the 2012 Seasonal Assessments are required.

The individuals that will work on this project; Nelson J Bacalao, John Hanson, Satish Natti, Linh Dinh, Carlos Grande and Jack Henry have on file CEII with MISO, so if thy are added to BREC's in BREC's MISO Universal NDA, we can use the information currently available to us an can work with MISO to obtain the 2012 Seasonal Assessment.

Alternatively; if BREC provides all the cases above (Seasonal Assessment and MTEP12), then we can conduct the study without the need of BREC adding us to their Universal NDA.

Note that in this last case, we will also need BREC to provide us the updated MTEP12 cases, which ~~Case No. 2012-0027~~ are available by the end of the month.

Regards,

*Nelson*

NOTE CHANGE IN OFFICE PHONE

Ph: +1-713-360-4464

Cell: +1-713-598-3856



**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Wednesday, March 20, 2013 11:50 AM  
**To:** 'Early, Michael'  
**Subject:** RE: Century

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	'Early, Michael'	
	Bob Berry	Delivered: 3/20/2013 11:50 AM

Michael, I will wait to hear from you before I set up a conference call regarding the Transaction Cost Report. The budgeted dollars for Coleman assumes the cost of goods and services in the year in which they are purchased. Please contact me if you have any further questions.

Thanks  
Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Wednesday, March 20, 2013 10:23 AM  
**To:** Bob Berry  
**Subject:** Century

Bob

We had a Board meeting yesterday and DeZee and others haven't had a chance to review the Transaction cost report—can we put off a call until later?

Separate question—are the Coleman cost numbers that you provided in real dollars or in nominal (2013) dollars?

Thanks

Michael

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Thursday, April 11, 2013 11:34 AM  
**To:** Bob Berry  
**Subject:** RE: Coleman Capital Cost

Bob

Assume you mean April 16-17/ Tuesday -Wednesday

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Wednesday, April 10, 2013 4:34 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim (gstarheim@kenergycorp.com); Jim Miller; Drefke, Kyle W.; Chris Hopgood (chopgood@dkgnlaw.com); David Hamilton (DHamilton@kenergycorp.com) (DHamilton@kenergycorp.com)  
**Subject:** Coleman Capital Cost

Michael, Per our discussion today, attached please find the capital cost and depreciation for the Coleman units for the years 2013-2016. There are two tabs one representing the normal plant capital and the second is the MATS compliance capital. As I stated in our meeting, the cost of this capital to Century is approximately \$1 per MWh in 2016.

Big Rivers and Kenergy will send you a mark-up of the Term Sheet on Friday 4-12 and we are available to meet on Tuesday and Wednesday of next week (4-17 and 4-18). Please let me know if those dates will work for you and what time you would prefer to begin the meetings.

Thanks  
Bob

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Thursday, April 11, 2013 11:40 AM  
**To:** Early, Michael  
**Subject:** Re: Coleman Capital Cost

Yes you are correct, I intended to say April 16 and 17th.

On Apr 11, 2013, at 11:34 AM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob

Assume you mean April 16-17/ Tuesday -Wednesday

---

**From:** Bob Berry [<mailto:Bob.Berry@bigrivers.com>]  
**Sent:** Wednesday, April 10, 2013 4:34 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim ([gstarheim@kenergycorp.com](mailto:gstarheim@kenergycorp.com)); Jim Miller; Drefke, Kyle W.; Chris Hopgood ([chopgood@dkgnlaw.com](mailto:chopgood@dkgnlaw.com)); David Hamilton ([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com))  
([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com))  
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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, June 03, 2013 7:18 PM  
**To:** 'Early, Michael'; Greg Starheim; Drefke, Kyle W.  
**Subject:** RE: Conference call on contracts

Michael, Would you and John be available for a call beginning at 3:00 p.m. central time? If so I will have my administrative assistant send out a meeting notice with the call in information.

Bob

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 03, 2013 6:58 PM  
**To:** Bob Berry; Greg Starheim; Drefke, Kyle W.  
**Subject:** Conference call on contracts

Bob

I understood you we going to schedule a call for Tuesday to discuss the draft contracts. John and I are available anytime tomorrow.

Thanks

Michael

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, June 10, 2013 11:04 PM  
**To:** 'Early, Michael'; Jim Miller; Drefke, Kyle W.; gstarheim@kenergycorp.com; Chris Hopgood; David Hamilton  
**Cc:** DeZee, John  
**Subject:** RE: contracts

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	'Early, Michael'	
	Jim Miller	Read: 6/11/2013 7:57 AM
	Drefke, Kyle W.	
	gstarheim@kenergycorp.com	
	Chris Hopgood	
	David Hamilton	
	DeZee, John	

Michael, I will work on this in the morning, but Greg will need to determine if he is willing to commit to not charging you for the Kenergy rate filings. I am sure Kyle can send the requested documents.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Monday, June 10, 2013 10:59 PM  
**To:** Bob Berry; Jim Miller; Drefke, Kyle W.; gstarheim@kenergycorp.com; Chris Hopgood; David Hamilton  
**Cc:** DeZee, John  
**Subject:** contracts

In the exhibit " Allocation of Specified Costs" that is attached to several contracts, can we clarify the provision that no costs will be allocated to Century "for Big Rivers rate cases" to be " for KPSC proceedings and filings involving Big Rivers, including Big Rivers rate cases" and have a similar provision for Kenergy

We don't want to hold things up. But can we see a final of the Arrangement Agreement with all the changes made today in the ESA carried through, and a red-line against the ESA so I can see the provisions in the ESA and AA that are identical, the provisions that are unique to the ESA, and the provisions that are unique to the AA

Thanks

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Sunday, June 09, 2013 8:47 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Document4

Michael, regarding your first question, if we are operating two units under an SSR and Big Rivers decides to bring the third unit on for its benefit then we would go back to MISO to have the SSR modified and if MISO would approve Century would only be obligated to pay the SSR cost on one unit. Remember MISO said that they would not allow Big Rivers to make any profit from running in an SSR status, so before we could bring the third unit on and receive revenue from it we would have to go back to MISO to request a modification to the SSR. If we didn't go back to MISO to modify the SSR agreement then all of the benefit would go to offset the SSR cost of the other units.

Regarding the second question, I put your request back in to say new capital thinking this would eliminate your concern about debt service. We have no intention to try and recover previous debt service through the SSR process.

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Sunday, June 09, 2013 8:35 PM  
**To:** Bob Berry  
**Subject:** RE: Document4

Bob

Assume two units are operated as SSRs and we operate at 482MW. Later BREC chooses to operate the last unit for its benefit. Are you saying we continue to pay for both SSR units even though the actual load flows would require only one unit to operate as SSR? Is the burden on us to have MISO revise the SSR agreement) and until that time BREC collects SSR costs for the two units?

In SSR Costs subpart (a), do we need to clarify what are "costs that are not reimbursed to Big Rivers" as distinct from costs in subpart (b) that are allocated to nodes and thus within MISO's the scope of costs that MISO views as SSR costs, ie again not debt service

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**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Sunday, June 09, 2013 5:59 PM  
**To:** Early, Michael  
**Subject:** RE: Document4

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Bob

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**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Sunday, June 09, 2013 7:36 PM  
**To:** Bob Berry  
**Subject:** FW: Document4

Bob

Your draft for Base Load doesn't work for subpart (e) as operation of any unit for SSR defaults to SSR costs even if the other units are operated for your own purposes. I think this "mixed" situation can be handled by the modification of subpart (a): MISO calculate the maximum capability accounting for the unit BREC chooses to operate and the other units assumes idled. To exceed that Base Load plus any Curtailable Load, Century would be under (c)

What do you think?

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]

**Sent:** Sunday, June 09, 2013 4:52 PM

**To:** Early, Michael

**Subject:** RE: Document4

Michael, please take a look at the edited language in the SSR Cost definition. I think I can accept this if it will work for you. If this works for you we will accept both the Base Load language and the SSR Cost language as written in this document.

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]

**Sent:** Sunday, June 09, 2013 2:51 PM

**To:** Bob Berry

**Subject:** FW: Document4

Please call to discuss

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]

**Sent:** Sunday, June 09, 2013 12:09 PM

**To:** Early, Michael

**Subject:** Document4

Michael, Attached is my proposed definitions of Base Load and SSR cost. Please let me know if you agree.

Bob

---

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**Barbara Harwood**

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Attachment for KIUC 1-11



Bob

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Sunday, June 09, 2013 6:52 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Document4  
**Attachments:** Base Load and SSR Cost drfinitions.docx

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**Base Load:** The “Base Load” shall be determined by the following, as applicable: (a) The maximum amount of Load (not to exceed 482 MW), that may be reliably delivered to the Hawesville Node, as confirmed or approved by MISO, in circumstances where Big Rivers has idled the Coleman Generation Station. (b) The “Base Load” may be increased (not to exceed 482 MW) by notice from Century to Kenergy and Big Rivers if such increase does not create a reliability issue, as determined by any Governmental Authority with jurisdiction over electric reliability. As of the date of this Agreement, the Parties are unaware of any Governmental Authority with jurisdiction over electric reliability with respect to an increase in the Base Load other than FERC and MISO. (c) If a SSR Agreement is in effect, the “Base Load” shall be the maximum amount of Load permitted under the SSR Agreement (not to exceed 482 MW); (d) The Base Load shall be 482 MW if Big Rivers is operating all three units at the Coleman Generating Station for any reason other than a requirement by MISO to operate for reliability. (e) The Base Load shall be determined by MISO (up to 482 MW) if Big Rivers operates less than all three units of the Coleman Generation Station for any reason other than a requirement by MISO to operate for reliability even if the remaining units are operated under an SSR Agreement. (f) In all other circumstances, the “Base Load” shall be zero.

**SSR Costs:** If and only to the extent that Century operates above the Base Load as defined in section 1.1.10 (a) and, if applicable, the Curtailable Load, or if any Coleman unit is designated as an SSR by the applicable RTO or ISO then “SSR Costs” shall mean (a) any costs that are not reimbursed to Big Rivers relating to any unit of the Coleman Generation Station required by the applicable RTO or ISO to be operated for reliability purposes for that reason, and (b) the costs, as determined and allocated by the RTO or ISO in which Big Rivers is a member, to the Hawesville Node or any other Node (as defined in the MISO Tariff) of Big Rivers, if Big Rivers is required by the RTO or ISO of which Big Rivers is a member requires for that reason to operate any unit of the Coleman Generation Station ~~to be operated~~ for reliability, including, (i) in circumstances where the RTO or ISO of which Big Rivers is a member requires Big Rivers to take the Coleman Generation Station out of an idled status for reliability, all costs incurred in connection with any restart and the operation of any such unit after the date of restart, and (ii) the net Cost of purchasing any replacement Electric Services following an unscheduled outage or real time de-rate of a unit of the Coleman Generation Station required to be operated for reliability purposes.

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Sunday, June 09, 2013 8:55 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Document4

Sounds good just call or email me when you are ready.

Bob

---

**From:** Early, Michael [<mailto:Michael.Early@centuryaluminum.com>]  
**Sent:** Sunday, June 09, 2013 8:51 PM  
**To:** Bob Berry  
**Subject:** RE: Document4

Ok I will look at the redlines when they come in. May not get back to you until early tomorrow

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Tuesday, June 11, 2013 9:28 PM  
**To:** Early, Michael; Marty Littrel  
**Cc:** Greg Starheim; DeZee, John  
**Subject:** Re: DRAFT Joint Press Release for Review and Comments

Michael, Big Rivers is in agreement with the proposed joint press release. Can you please have the appropriate person for Century to work with Marty Littrel, our Managing Director of Community Relations regarding the timing of the press release. I have copied Marty on this email for your convenience. Marty can also be reached at 270-844-6153. I also suggest you get a confirmation from Greg as well.

Thanks

Bob

On Jun 11, 2013, at 3:37 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob/Greg

Attached is proposed joint press release for your review

What time do you expect to make the filing tomorrow?

**Century, Big Rivers and Kenergy File Definitive Energy Agreements with the Kentucky Public Service Commission**

CHICAGO, IL--(June 11, 2013) - Century Aluminum of Kentucky, a wholly owned subsidiary of Century Aluminum Company (NASDAQ: CENX), Kenergy Corp. and Big Rivers Electric Corp. today announced that they have finalized and filed with the Kentucky Public Service Commission definitive agreements between the parties based on the tentative agreement reached in April. These agreements and the filing are a first step in finalizing the tentative agreement. The agreement is subject to approvals from various third parties, including the KPSC, the Rural Utilities Service and other regulatory agencies. The parties will continue to move as expeditiously as possible to finalize the agreement in advance of the expiration of the current power contract on August 20, 2013.

The Hawesville smelter, located in Hancock County, KY, has a rated capacity of 244,000 tonnes of primary aluminum and employs approximately 650 men and women.

Century Aluminum Company, the parent of Century Aluminum of Kentucky, owns primary aluminum capacity in the United States and Iceland. Century's corporate offices are located in Chicago, Illinois. More information can be found at [www.centuryaluminum.com](http://www.centuryaluminum.com).

Big Rivers Electric Corporation is a customer (Member) -owned, not-for-profit, wholesale electric generation and transmission cooperative headquartered in Henderson, Kentucky. **Case No. 2013-00221**  
**Attachment for KIUC 1-11**  
**Page 144 of 399**

owned by three distribution cooperative Members -- Jackson Purchase Energy Corporation, headquartered in Paducah; Kenergy Corp, headquartered in Henderson; and Meade County Rural Electric Cooperative Corporation, headquartered in Brandenburg. These Member cooperatives deliver retail electric power and energy to over 113,000 residential, commercial, and industrial customers in portions of 22 western Kentucky counties.

Kenergy Corp. is a nonprofit electric cooperative that serves 55,282 members in 14 counties in western Kentucky, including Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McLean, Muhlenberg, Ohio, Union and Webster. The corporate headquarters is located in Henderson, Ky.

#### **Cautionary Statement**

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements about future, not past, events and involve certain important risks and uncertainties, any of which could cause our actual results to differ materially from those expressed in our forward-looking statements. Such risks and uncertainties may include, without limitation, whether or not the parties are able to obtain all necessary approvals and consents, whether or not certain proposed equipment upgrades are agreed to and completed and whether or not the market pass through arrangement can be completed prior to the expiration of the current power contract. Forward-looking statements in this press release include statements regarding the completion of an agreement to provide, and the ultimate provision of, market priced power to the Hawesville smelter. More information about these risks, uncertainties and assumptions can be found in the risk factors and forward-looking statements cautionary language contained in our Annual Report on Form 10-K and in other filings made with the Securities and Exchange Commission. We do not undertake, and specifically disclaim, any obligation to revise any forward-looking statements to reflect the occurrence of future events or circumstances.

Certified Advisors for the First North market of the OMX Nordic Exchange Iceland hf. for Global Depositary Receipts in Iceland:

Atli B. Gudmundsson, Senior Manager -- Corporate Finance, Landsbankinn hf.  
Steingrímur Helgason, Director -- Corporate Finance, Landsbankinn hf.

#### **Century Aluminum Contacts:**

Mike Dildine (media)  
831-642-9364

Shelly Harrison (investors)  
831-642-9357



**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Tuesday, June 11, 2013 3:59 PM  
**To:** 'Early, Michael'; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** RE: DRAFT Joint Press Release for Review and Comments

Michael, Big Rivers needs time to review, comment and discuss this internally so please do not distribute until I get back with you.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
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**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
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**Century, Big Rivers and Kenergy File Definitive Energy Agreements with the Kentucky Public Service Commission**

CHICAGO, IL--(June 11, 2013) - Century Aluminum of Kentucky, a wholly owned subsidiary of Century Aluminum Company (NASDAQ: CENX), Kenergy Corp. and Big Rivers Electric Corp. today announced that they have finalized and filed with the Kentucky Public Service Commission definitive agreements between the parties based on the tentative agreement reached in April. These agreements and the filing are a first step in finalizing the tentative agreement. The agreement is subject to approvals from various third parties, including the KPSC, the Rural Utilities Service and other regulatory agencies. The parties will continue to move as expeditiously as possible to finalize the agreement in advance of the expiration of the current power contract on August 20, 2013.

The Hawesville smelter, located in Hancock County, KY, has a rated capacity of 244,000 tonnes of primary aluminum and employs approximately 650 men and women.

Century Aluminum Company, the parent of Century Aluminum of Kentucky, owns primary aluminum capacity in the United States and Iceland. Century's corporate offices are located in Chicago, Illinois. More information can be found at [www.centuryaluminum.com](http://www.centuryaluminum.com).

Big Rivers Electric Corporation is a customer (Member) -owned, not-for-profit, wholesale electric generation and transmission cooperative headquartered in Henderson, Kentucky that is owned by three distribution cooperative Members -- Jackson Purchase Energy Corporation, headquartered in

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Attachment for KIUC 1-11  
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Paducah; Kenergy Corp, headquartered in Henderson; and Meade County Rural Electric Cooperative Corporation, headquartered in Brandenburg. These Member cooperatives deliver retail electric power and energy to over 113,000 residential, commercial, and industrial customers in portions of 22 western Kentucky counties.

Kenergy Corp. is a nonprofit electric cooperative that serves 55,282 members in 14 counties in western Kentucky, including Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McLean, Muhlenberg, Ohio, Union and Webster. The corporate headquarters is located in Henderson, Ky.

#### Cautionary Statement

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements about future, not past, events and involve certain important risks and uncertainties, any of which could cause our actual results to differ materially from those expressed in our forward-looking statements. Such risks and uncertainties may include, without limitation, whether or not the parties are able to obtain all necessary approvals and consents, whether or not certain proposed equipment upgrades are agreed to and completed and whether or not the market pass through arrangement can be completed prior to the expiration of the current power contract. Forward-looking statements in this press release include statements regarding the completion of an agreement to provide, and the ultimate provision of, market priced power to the Hawesville smelter. More information about these risks, uncertainties and assumptions can be found in the risk factors and forward-looking statements cautionary language contained in our Annual Report on Form 10-K and in other filings made with the Securities and Exchange Commission. We do not undertake, and specifically disclaim, any obligation to revise any forward-looking statements to reflect the occurrence of future events or circumstances.

Certified Advisors for the First North market of the OMX Nordic Exchange Iceland hf. for Global Depository Receipts in Iceland:

Atli B. Gudmundsson, Senior Manager -- Corporate Finance, Landsbankinn hf.  
Steingrimur Helgason, Director -- Corporate Finance, Landsbankinn hf.

#### Century Aluminum Contacts:

Mike Dildine (media)  
831-642-9364

Shelly Harrison (investors)  
831-642-9357

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, June 12, 2013 9:48 AM  
**To:** Early, Michael; Marty Littrel  
**Cc:** Greg Starheim; DeZee, John  
**Subject:** RE: DRAFT Joint Press Release for Review and Comments

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Early, Michael	
	Marty Littrel	Delivered: 6/12/2013 9:49 AM
	Greg Starheim	
	DeZee, John	

Michael, Please include the following contact information in the joint press release. If you have a minute I would like to discuss another item with you. Please let me know a good time to call you.

Thanks

Bob

**FOR MORE INFORMATION CONTACT:**

Mark Bailey

[mark.bailey@bigrivers.com](mailto:mark.bailey@bigrivers.com)

(270) 827-2561

Marty Littrel

[marty.littrel@bigrivers.com](mailto:marty.littrel@bigrivers.com)

(270) 844-6153 - office

(270) 577-5496 - cell

**From:** Bob Berry  
**Sent:** Tuesday, June 11, 2013 9:28 PM  
**To:** Early, Michael; Marty Littrel  
**Cc:** Greg Starheim; DeZee, John  
**Subject:** Re: DRAFT Joint Press Release for Review and Comments

Michael, Big Rivers is in agreement with the proposed joint press release. Can you please have the appropriate person for Century to work with Marty Littrel, our Managing Director of Community Relations regarding the timing of the press release. I have copied Marty on this email for your convenience. Marty can also be reached at 270-844-6153. I also suggest you get a confirmation from Greg as well.

Thanks

Bob

On Jun 11, 2013, at 3:37 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob/Greg

Attached is proposed joint press release for your review

What time do you expect to make the filing tomorrow?

**Century, Big Rivers and Kenergy File Definitive Energy Agreements with the Kentucky Public Service Commission**

CHICAGO, IL--(June 11, 2013) - Century Aluminum of Kentucky, a wholly owned subsidiary of Century Aluminum Company (NASDAQ: CENX), Kenergy Corp. and Big Rivers Electric Corp. today announced that they have finalized and filed with the Kentucky Public Service Commission definitive agreements between the parties based on the tentative agreement reached in April. These agreements and the filing are a first step in finalizing the tentative agreement. The agreement is subject to approvals from various third parties, including the KPSC, the Rural Utilities Service and other regulatory agencies. The parties will continue to move as expeditiously as possible to finalize the agreement in advance of the expiration of the current power contract on August 20, 2013.

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Attachment 101 RIUC 1-11

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**Certified Advisors for the First North market of the OMX Nordic Exchange Iceland hf. for Global Depositary Receipts in Iceland:**

**Atli B. Gudmundsson, Senior Manager -- Corporate Finance, Landsbankinn hf.  
Steingrímur Helgason, Director -- Corporate Finance, Landsbankinn hf.**

**Century Aluminum Contacts:**

**Mike Dildine (media)  
831-642-9364**

**Shelly Harrison (investors)  
831-642-9357**

**Barbara Harwood**

---

**From:** Whitmore, Dave <DWhitmore@centuryKY.com>  
**Sent:** Thursday, May 17, 2012 2:56 PM  
**To:** Bob Berry  
**Subject:** RE: Follow up

Ok thanks

DAVE

**From:** Bob Berry [mailto:Bob.Berry@bigdrivers.com]  
**Sent:** Thursday, May 17, 2012 1:33 PM  
**To:** Whitmore, Dave  
**Subject:** RE: Follow up

Dave, A meeting on Tuesday morning may work. Can we make the Tuesday morning meeting tentative and I will follow up tomorrow afternoon to firm things up?

Bob

**From:** Whitmore, Dave [mailto:DWhitmore@centuryKY.com]  
**Sent:** Thursday, May 17, 2012 12:36 PM  
**To:** Bob Berry  
**Subject:** Follow up

Bob,

Have talked with Michael Early with and he will be in town for the coordinating committee meeting next. Is it possible to meet on Tuesday morning to discuss the BREC response to the contract modifications? John DeZee could also be here on Monday or Tuesday morning.

Thanks,

**Dave Whitmore**  
**Plant Manager - Hawesville Operations**

**Century Aluminum**  
Office: (270) 852-2810  
Cell: (270) 231-5853  
e-mail: [DWhitmore@centuryky.com](mailto:DWhitmore@centuryky.com)

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Friday, May 03, 2013 11:01 AM  
**To:** 'Early, Michael'; Jim Miller  
**Cc:** DeZee, John  
**Subject:** RE: KIUC's Petition and Supplemental Data Requests to Big Rivers, Docket No. 2012-00535

**Tracking:**

<b>Recipient</b>	<b>Read</b>
'Early, Michael'	
Jim Miller	Read: 5/3/2013 11:02 AM
DeZee, John	

Sure

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Friday, May 03, 2013 10:58 AM  
**To:** Jim Miller; Bob Berry  
**Cc:** DeZee, John  
**Subject:** FW: KIUC's Petition and Supplemental Data Requests to Big Rivers, Docket No. 2012-00535

Can we discuss KIUC's DRs on a separate call after the general call today?

---

**From:** Jim Miller [mailto:jmiller@smsmlaw.com]  
**Sent:** Friday, May 03, 2013 8:39 AM  
**To:** DeZee, John; Early, Michael  
**Cc:** Bob Berry; Drefke, Kyle W.  
**Subject:** FW: KIUC's Petition and Supplemental Data Requests to Big Rivers, Docket No. 2012-00535

Here are data requests on our deal that have just been issued by KIUC.

Jim

James M. Miller  
Sullivan, Mountjoy, Stainback & Miller, P.S.C.  
100 St. Ann Street  
P.O. Box 727  
Owensboro, KY 42302-0727  
Telephone (270) 926-4000  
Direct Dial (270) 691-1640  
Fax (270) 683-6694

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---

**From:** Kurt Boehm [mailto:KBoehm@bklawfirm.com]  
**Sent:** Friday, May 03, 2013 9:24 AM  
**To:** Tyson Kamuf; Jim Miller; Brown, David; tip.depp@dinsmore.com; jennifer.hans@ag.ky.gov; dennis.howard@ag.ky.gov; larry.cook@ag.ky.gov; chopgood@dkgnlaw.com; myates@dklaw.com; tbrite@bbtel.com; Richard.Raff@ky.gov; donald.seberger@riotinto.com; Mark Bailey; Nguyen, Quang D (PSC); Burns Mercer, Kelly Nuskels; gstarheim@kenenergycorp.com; Billie.Richert@bigrivers.com; 'childerslaw81@gmail.com'

Attachment for KIUC 1-11  
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**Cc:** Michael Kurtz

**Subject:** KIUC's Petition and Supplemental Data Requests to Big Rivers, Docket No. 2012-00535

Counsel, attached please find KIUC'S PETITION FOR LEAVE TO CONDUCT SUPPLEMENTAL DISCOVERY and KIUC's SUPPLEMENTAL DATA REQUESTS TO BIG RIVERS in .Word and .Pdf format for filing in the above-referenced docket. Hard copies have been mailed by regular, U.S. mail.

Kurt J. Boehm, Esq.

**BOEHM, KURTZ & LOWRY**

36 E. Seventh St., Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

[KBoehm@BKLawfirm.com](mailto:KBoehm@BKLawfirm.com)



**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, April 10, 2013 8:13 AM  
**To:** 'Early, Michael'  
**Subject:** RE: MISO call

Do you know how long after the call before you get to our offices?

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Wednesday, April 10, 2013 7:14 AM  
**To:** Bob Berry  
**Subject:** MISO call

Bob

DeZee and I will participate in the MISO call from our hotel and will arrive at your office shortly thereafter. Representatives from Siemens and PACE will participate in the call on behalf of Century.

Michael

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Friday, April 19, 2013 2:48 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Monday call

*RE Monday  
Call*

Yes I will get it set up.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Friday, April 19, 2013 2:41 PM  
**To:** Bob Berry  
**Subject:** Monday call

Can we schedule a conference call for Monday at 9 am Central for 2-3 hours?

thanks

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, April 11, 2013 12:33 PM  
**To:** Early, Michael  
**Subject:** Re: next meeting

That's what we would prefer if it's acceptable to you

On Apr 11, 2013, at 12:29 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Assume we are meeting at your offices?

**From:** Bob Berry [<mailto:Bob.Berry@bigrivers.com>]  
**Sent:** Thursday, April 11, 2013 9:56 AM  
**To:** Early, Michael  
**Cc:** DeZee, John  
**Subject:** Re: next meeting

Great I will send out a meeting notice see you on Tuesday

On Apr 11, 2013, at 11:44 AM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

OK with dates but let's start on Tuesday at 10am

**From:** Bob Berry [<mailto:Bob.Berry@bigrivers.com>]  
**Sent:** Thursday, April 11, 2013 9:40 AM  
**To:** Early, Michael  
**Subject:** Re: Coleman Capital Cost

Yes you are correct, I intended to say April 16 and 17th.

On Apr 11, 2013, at 11:34 AM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob

Assume you mean April 16-17/ Tuesday -Wednesday

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**Sent:** Wednesday, April 10, 2013 4:34 PM  
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**Cc:** Greg Starheim ([gstarheim@kenergycorp.com](mailto:gstarheim@kenergycorp.com)); Jim Miller; Drefke, Kyle W.; Chris Hopgood ([chopgood@dkgnlaw.com](mailto:chopgood@dkgnlaw.com)); David Hamilton ([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com)) ([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com))  
**Subject:** Coleman Capital Cost

Michael, Per our discussion today, attached please find the capital cost and depreciation for the Coleman units for the years 2013-2016. There are two tabs one representing the normal plant capital and the second is the MATS compliance capital. As I stated in our meeting, the cost of this capital to Century is approximately \$1 per MWh in 2016.

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Attachment for KIUC 1-11  
Page 156 of 399

Big Rivers and Kenergy will send you a mark-up of the Term Sheet on Friday 4-12 and we are available to meet on Tuesday and Wednesday of next week (4-17 and 4-18). Please let me know if those dates will work for you and what time you would prefer to begin the meetings.

Thanks  
Bob

---

The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you receive this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.

**Barbara Harwood**

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**Cc:** DeZee, John  
**Subject:** Re: next meeting

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**Sent:** Wednesday, April 10, 2013 4:34 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim ([gstarheim@kenergycorp.com](mailto:gstarheim@kenergycorp.com)); Jim Miller; Drefke, Kyle W.; Chris Hopgood ([chopgood@dkgnlaw.com](mailto:chopgood@dkgnlaw.com)); David Hamilton ([DHamilton@kenergycorp.com](mailto:DHamilton@kenergycorp.com))  
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Big Rivers and Kenergy will send you a mark-up of the Term Sheet on Friday 4-12 and we are available to meet on Tuesday and Wednesday of next week (4-17 and 4-18). Please let me know if those dates will work for you and what time you would prefer to begin the meetings.

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, April 11, 2013 12:55 PM  
**To:** Early, Michael  
**Subject:** Re: next meeting

Are you in the office today? I wanted to talk to you if you have a few minutes.

On Apr 11, 2013, at 12:51 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

ok

---

**From:** Bob Berry [<mailto:Bob.Berry@bigrivers.com>]  
**Sent:** Thursday, April 11, 2013 10:33 AM  
**To:** Early, Michael  
**Subject:** Re: next meeting

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**Sent:** Thursday, April 11, 2013 9:56 AM  
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**Cc:** DeZee, John  
**Subject:** Re: next meeting

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**Sent:** Thursday, April 11, 2013 9:40 AM  
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**Subject:** Re: Coleman Capital Cost

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**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Wednesday, April 10, 2013 4:34 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim (gstarheim@kenergycorp.com); Jim Miller; Drefke, Kyle W.; Chris Hopgood (chopgood@dkgnlaw.com); David Hamilton (DHamilton@kenergycorp.com)  
(DHamilton@kenergycorp.com)  
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Thanks  
Bob

---

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**Barbara Harwood**

---

**From:** Whitmore, Dave <DWhitmore@centuryKY.com>  
**Sent:** Friday, May 18, 2012 5:05 PM  
**To:** Bob Berry  
**Subject:** Re: Power Contract Discussions

Bob,

Yes, can we meet Tuesday morning as tentatively scheduled.? Say, 9:30 am at Brec offices? Dave

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Friday, May 18, 2012 03:51 PM  
**To:** Whitmore, Dave  
**Cc:** David Hamilton (DHamilton@kenergycorp.com) (DHamilton@kenergycorp.com) <DHamilton@kenergycorp.com>  
**Subject:** Power Contract Discussions

Dave,

Please find attached Big Rivers response to your letter dated May 15, 2012. After your review of this document please let us know if you want to schedule a meeting next week.

Regards  
Bob Berry  
V.P. of Production  
Big Rivers Electric  
270-844-6186  
[bob.berry@bigrivers.com](mailto:bob.berry@bigrivers.com)

---

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## Barbara Harwood

---

**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, June 11, 2013 3:42 PM  
**To:** Drefke, Kyle W.; DeZee, John  
**Cc:** Bob Berry; Greg Starheim; David Hamilton; Owens, Leo; Chris Hopgood; Jim Miller; Lindsay Barron; Michael Mattox; David Crockett; Lyon, Carl F.  
**Subject:** RE: Proposed Filing Versions of Capacitor Agreement, Protective Relays Agreement and Guarantees

Kyle and I talked and went over the changes. We are good to go.

**From:** Drefke, Kyle W. [mailto:kdrefke@orrick.com]  
**Sent:** Tuesday, June 11, 2013 1:35 PM  
**To:** Early, Michael; DeZee, John  
**Cc:** Bob Berry; Greg Starheim; David Hamilton; Owens, Leo; Chris Hopgood; Jim Miller; Lindsay.Barron@bigrivers.com; mike.mattox@bigrivers.com; David Crockett; Lyon, Carl F.  
**Subject:** RE: Proposed Filing Versions of Capacitor Agreement, Protective Relays Agreement and Guarantees

So, the process forward is as follows:

1. We will re-circulate the ESA, AA, DA and Lockbox Agreement with the final changes. (E.g., fax numbers included, Ex. B updated on the ESA, AA referencing survival of Article 9)
2. Michael will sign off on documents as being final. Note we circulated final versions of the guarantees, the Capacitor Agreement and the Protective Relay Agreement earlier today.
3. After sign off, we will send a clean pdf around to the group designated as the "To be Filed" copy.

Thanks and let me know if you have any questions.

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Tuesday, June 11, 2013 2:59 PM  
**To:** Drefke, Kyle W.; Owens, Leo; DeZee, John  
**Cc:** Bob Berry; Greg Starheim; David Hamilton; Chris Hopgood; Jim Miller; [Lindsay.Barron@bigrivers.com](mailto:Lindsay.Barron@bigrivers.com); [mike.mattox@bigrivers.com](mailto:mike.mattox@bigrivers.com); David Crockett; Lyon, Carl F.  
**Subject:** RE: Proposed Filing Versions of Capacitor Agreement, Protective Relays Agreement and Guarantees

Confirmed with the addition to the AA in Kyle's last email

What about the press release?

**From:** Drefke, Kyle W. [mailto:kdrefke@orrick.com]  
**Sent:** Tuesday, June 11, 2013 10:32 AM  
**To:** Owens, Leo; Early, Michael; DeZee, John  
**Cc:** Bob Berry; Greg Starheim; David Hamilton; Chris Hopgood; Jim Miller; [Lindsay.Barron@bigrivers.com](mailto:Lindsay.Barron@bigrivers.com); [mike.mattox@bigrivers.com](mailto:mike.mattox@bigrivers.com); David Crockett; Lyon, Carl F.  
**Subject:** RE: Proposed Filing Versions of Capacitor Agreement, Protective Relays Agreement and Guarantees

Michael and John, could you please confirm your agreement that these documents are in final form. BREC has people standing by to make the 50+ copies of items as they are completed for the filing package with the commission.

Thanks

---

**From:** Owens, Leo  
**Sent:** Tuesday, June 11, 2013 12:17 PM  
**To:** Early, Michael; DeZee, John  
**Cc:** Bob Berry; Greg Starheim; David Hamilton; Chris Hopgood; Jim Miller; [Lindsay.Barron@bigrivers.com](mailto:Lindsay.Barron@bigrivers.com); [mike.mattox@bigrivers.com](mailto:mike.mattox@bigrivers.com); David Crockett; Lyon, Carl F.; Drefke, Kyle W.  
**Subject:** Proposed Filing Versions of Capacitor Agreement, Protective Relays Agreement and Guarantees

Attached please find versions of the capacitor agreement, protective relays agreement and two guarantees proposed to be filed with the KPSC, as well as redlines marked against the prior drafts distributed. The only substantive change is to include Century's fax number.

We request sign off on these, so that production and assembly of the filing packages can begin.

Regards,  
Leo

**LEO D. OWENS**  
**ORRICK, HERRINGTON & SUTCLIFFE LLP**  
202-339-8678 (direct) • 202-339-8500 (fax)

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, June 12, 2013 8:40 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim; DeZee, John  
**Subject:** Re: Proposed Joint Statement To Legislators

Michael, Big Rivers will need to review internally and if we agree we will want an opportunity to edit the response. We will get back with you tomorrow.

Bob

On Jun 12, 2013, at 6:10 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob and Greg

Legislators will obviously be interested in today's filing at the PSC and we think a joint response would be helpful. Below is a proposed statement for you review.

Thanks  
Michael

Yesterday, Big Rivers, Kenergy and Century Aluminum took an important first step, after nearly a year of negotiations, toward a new electric service arrangement for the Hawesville smelter. Big Rivers filed with the Public Service Commission for its approval new power contracts among the parties. (Please see the news release below).

While this first step is important, it is imperative that the PSC review and approve this filing expeditiously to avoid a shutdown of the Hawesville smelter. The agreements must be approved by the PSC no later than August 19th. Without this approval, the current contracts expire and Kenergy and Big Rivers have no legal authority to supply power to the smelter. In addition, the agreements must not be changed by the PSC as they represent a delicate compromise among all the parties and even small changes could collapse that compromise causing the plant to shut down.

While the PSC is reviewing the filing, the parties are working in concert to obtain all necessary approvals from the appropriate regulatory agencies prior to the expiration of the current contracts on August 19th, 2013.

Century Aluminum, Big Rivers Electric, and Kenergy urge you to ask the PSC to promptly review and approve the agreements. If you need further information or have any questions, please do not hesitate to contact us.

Century Contact:

Stephen Huffman

Big Rivers Electric Contact:

Marty Littrel

Kenergy Contact:

XXX

**Century, Big Rivers and Kenergy File Definitive Energy Agreements with the Kentucky Public Service Commission**

CHICAGO, IL--(June 12, 2013) - Century Aluminum of Kentucky, a wholly owned subsidiary of Century Aluminum Company (NASDAQ: CENX), Kenergy Corp. and Big Rivers Electric Corp. today announced that they have finalized and filed with the Kentucky Public Service Commission definitive agreements between the parties based on the tentative agreement reached in April. These agreements and the filing are a first step in finalizing the tentative agreement. The agreement is subject to approvals from various third parties, including the KPSC, the Rural Utilities Service and other regulatory agencies. The parties will continue to move as expeditiously as possible to finalize the agreement in advance of the expiration of the current power contract on August 20, 2013.

The Hawesville smelter, located in Hancock County, KY, has a rated capacity of 244,000 tonnes of primary aluminum and employs approximately 650 men and women.

Century Aluminum Company, the parent of Century Aluminum of Kentucky, owns primary aluminum capacity in the United States and Iceland. Century's corporate offices are located in Chicago, Illinois. More information can be found at [www.centuryaluminum.com](http://www.centuryaluminum.com).

Big Rivers Electric Corporation is a customer (Member) -owned, not-for-profit, wholesale electric generation and transmission cooperative headquartered in Henderson, Kentucky that is owned by three distribution cooperative Members -- Jackson Purchase Energy Corporation, headquartered in Paducah; Kenergy Corp, headquartered in Henderson; and Meade County Rural Electric Cooperative Corporation, headquartered in Brandenburg. These Member cooperatives deliver retail electric power and energy to over 113,000 residential, commercial, and industrial customers in portions of 22 western Kentucky counties.

Kenergy Corp. is a nonprofit electric cooperative that serves 55,282 members in 14 counties in western Kentucky, including Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McLean, Muhlenberg, Ohio, Union and Webster. The corporate headquarters is located in Henderson, Ky.

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Thursday, June 13, 2013 1:53 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim; DeZee, John  
**Subject:** Re: Proposed Joint Statement To Legislators

Michael, Big Rivers has decided not to participate in a joint statement to the Legislators. It is our belief that both the Legislators and the KPSC fully understand the time requirements of this transaction. Please do not include Big Rivers or its information in your statement.

Regards  
Bob

On Jun 12, 2013, at 6:10 PM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Bob and Greg

Legislators will obviously be interested in today's filing at the PSC and we think a joint response would be helpful. Below is a proposed statement for you review.

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Michael

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While the PSC is reviewing the filing, the parties are working in concert to obtain all necessary approvals from the appropriate regulatory agencies prior to the expiration of the current contracts on August 19th, 2013.

Century Aluminum, Big Rivers Electric, and Kenergy urge you to ask the PSC to promptly review and approve the agreements. If you need further information or have any questions, please do not hesitate to contact us.

Century Contact:

Case No. 2013-00221  
Attachment for KIUC 1-11  
Page 168 of 399

Stephen Huffman

Big Rivers Electric Contact:

Marty Littrel

Kenergy Contact:

XXX

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Big Rivers Electric Corporation is a customer (Member) -owned, not-for-profit, wholesale electric generation and transmission cooperative headquartered in Henderson, Kentucky that is owned by three distribution cooperative Members -- Jackson Purchase Energy Corporation, headquartered in Paducah; Kenergy Corp, headquartered in Henderson; and Meade County Rural Electric Cooperative Corporation, headquartered in Brandenburg. These Member cooperatives deliver retail electric power and energy to over 113,000 residential, commercial, and industrial customers in portions of 22 western Kentucky counties.

Kenergy Corp. is a nonprofit electric cooperative that serves 55,282 members in 14 counties in western Kentucky, including Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McLean, Muhlenberg, Ohio, Union and Webster. The corporate headquarters is located in Henderson, Ky.



**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Tuesday, November 06, 2012 6:33 PM  
**To:** 'Early, Michael'  
**Cc:** Greg Starheim (gstarheim@kenergycorp.com)  
**Subject:** RE: Reimbursement  
**Attachments:** Copy of Draft Transaction Cost Report Rev 2.xlsx

Michael, I apologize for the delay in sending this to you but per our earlier conversation we have been experiencing email server problems today. Attached please find a draft version of what we envisioned the Transaction Cost Report would look like. Greg and I will make ourselves available on Wednesday 11-7, if you would like to discuss.

Thanks  
Bob

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Tuesday, November 06, 2012 1:02 PM  
**To:** Bob Berry  
**Subject:** Reimbursement

Bob

Any word on the Transaction Costs Report "form"?

# **DRAFT**

## **TRANSACTION COST DETAIL REPORT FOR THE MONTH ENDING November 30, 2012**

<b>Entity Providing Service</b>	<b>Current Month's Actual Expenses</b>	<b>YTD Actual Expenses</b>	<b>Expected Expenses (Next 30 Days)</b>
Sullivan, MountJoy, Stainback & Miller	500.00	500.00	750.00
Orrick	200.00	200.00	300.00
MISO	400.00	400.00	195.00
Dorsey, King, Gray, Norment (Chris Hopgood)	100.00	100.00	4,000.00
Dinsmore Shohl	50.00	50.00	200.00
Other	125.00	125.00	0.00
	<u>1,375.00</u>	<u>1,375.00</u>	<u>5,445.00</u>

<b>Prior Month - Escrow Account Balance</b>	<b>0.00</b>
<b>Plus: Last Month's Deposit (Expected Expenses)</b>	<b>1,300.00</b>
<b>Less: Current Month's Actual Disbursements</b>	<b>-1,375.00</b>
<b>Plus: Payment Required from Century to Escrow</b>	<b>5,520.00</b>
<b>Current Month - Escrow Balance Required</b>	<b><u>5,445.00</u></b>



**Note: This is a DRAFT document and does not reflect actual or expected expenses.**

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, November 01, 2012 11:41 AM  
**To:** 'Early, Michael'  
**Subject:** RE: Reimbursement Agreement

Michael, If you have time today I would like to give you a call to ask a quick question regarding the Reimbursement Agreement? Could you please provide me a time and a number that I can call you?

Thanks  
Bob

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Wednesday, October 31, 2012 3:33 PM  
**To:** Bob Berry; DeZee, John  
**Cc:** Mark Bailey; Jim Miller; Greg Starheim (gstarheim@kenegy.com); Chris Hopgood (chopgood@dkgnlaw.com); Drefke, Kyle W. (kdrefke@orrick.com)  
**Subject:** RE: Reimbursement Agreement

Bob

I have accepted all your revisions, deleted the "Notes", and made a few edits. I believe these changes are consistent with everyone's understanding that Big Rivers and Kenegy need to be reimbursed for all Transaction Costs even though these cannot be quantified at this time, and Century, while agreeing to reimburse such costs, needs to know the amount of these costs as they are incurred and how these costs relate to the individual tasks and the estimated overall cost for completion of the Transaction.

If a further call is necessary, John DeZee and I are available, We would like to finalize and sign this Agreement this week.

Thanks for your help

Michael

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Tuesday, October 30, 2012 3:34 PM  
**To:** DeZee, John; Early, Michael  
**Cc:** Mark Bailey; Jim Miller; Greg Starheim (gstarheim@kenegy.com); Chris Hopgood (chopgood@dkgnlaw.com); Bob Berry; Drefke, Kyle W. (kdrefke@orrick.com)  
**Subject:** Reimbursement Agreement

Gentlemen,

Per our conference call today please find attached the revised Reimbursement Agreement. For your convenience, I have included both a red-line version and a clean version. We look forward to hearing from you soon.

---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Thursday, November 01, 2012 12:50 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Reimbursement Agreement

How does 1:30 central time sound?

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Thursday, November 01, 2012 12:46 PM  
**To:** Bob Berry  
**Subject:** RE: Reimbursement Agreement

I am in the office all day. Send me a time so I will be off the phone. Call me at 503 402-8710

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Thursday, November 01, 2012 9:41 AM  
**To:** Early, Michael  
**Subject:** RE: Reimbursement Agreement

Michael, If you have time today I would like to give you a call to ask a quick question regarding the Reimbursement Agreement? Could you please provide me a time and a number that I can call you?

Thanks  
Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Wednesday, October 31, 2012 3:33 PM  
**To:** Bob Berry; DeZee, John  
**Cc:** Mark Bailey; Jim Miller; Greg Starheim (gstarheim@kenergycorp.com); Chris Hopgood (chopgood@dkgnlaw.com); Drefke, Kyle W. (kdrefke@orrick.com)  
**Subject:** RE: Reimbursement Agreement

Bob

I have accepted all your revisions, deleted the "Notes", and made a few edits. I believe these changes are consistent with everyone's understanding that Big Rivers and Kenergy need to be reimbursed for all Transaction Costs even though these cannot be quantified at this time, and Century, while agreeing to reimburse such costs, needs to know the amount of these costs as they are incurred and how these costs relate to the individual tasks and the estimated overall cost for completion of the Transaction.

If a further call is necessary, John DeZee and I are available, We would like to finalize and sign this Agreement this week.

Thanks for your help

Michael

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Tuesday, October 30, 2012 3:34 PM  
**To:** DeZee, John; Early, Michael  
**Cc:** Mark Bailey; Jim Miller; Greg Starheim (gstarheim@kenergycorp.com); Chris Hopgood (chopgood@dkgnlaw.com); 11

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Bob Berry; Drefke, Kyle W. ([kdrefke@orrick.com](mailto:kdrefke@orrick.com))  
**Subject:** Reimbursement Agreement

Gentlemen,

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---

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**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, November 07, 2012 1:33 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Reimbursement

No, Mr. Bailey has the authority to sign the agreement.

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Wednesday, November 07, 2012 1:30 PM  
**To:** Bob Berry  
**Subject:** FW: Reimbursement

Bob

Do you need BREC Board approval to sign?

---

**From:** Greg Starheim [mailto:GStarheim@kenergycorp.com]  
**Sent:** Wednesday, November 07, 2012 10:52 AM  
**To:** Early, Michael; Bob Berry  
**Cc:** Greg Starheim; Chris Hopgood (chopgood@dkonlaw.com)  
**Subject:** RE: Reimbursement

I am n/a tomorrow am – will be conducting all-employee staff meetings. Can break away briefly ~noon by cell. Alternatively, Fri.

Michael – I am more and more concerned about the lack of progress to bring this document “home” as it relates to accommodating Century’s request for market access. The Kenergy Board will require being briefed prior to us entering into agreement – they meet next on Tues (11/13) and then not again until 12/11. Since the agreement is not “effective” until all parties execute, the “14-day” issue to deliver the first Transaction Report may not be critical path. Upon execution of the agreement and fund deposited in escrow, we will begin the due diligence process as quickly as possible and work with BREC to get you the initial Transaction Report in a reasonable period of time.

Greg

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Wednesday, November 07, 2012 10:37 AM  
**To:** Bob Berry  
**Cc:** Greg Starheim  
**Subject:** RE: Reimbursement

Thanks. I will likely be unable to get back to you today—are you available Thursday morning

---

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Tuesday, November 06, 2012 4:33 PM  
**To:** Early, Michael  
**Cc:** Greg Starheim (gstarheim@kenergycorp.com)  
**Subject:** RE: Reimbursement

Michael, I apologize for the delay in sending this to you but per our earlier conversation we have been experiencing email server problems today. Attached please find a draft version of what we envisioned the Transaction Cost Report would look like. Greg and I will make ourselves available on Wednesday 11-7, if you would like to discuss.

Thanks  
Bob

---

**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Tuesday, November 06, 2012 1:02 PM  
**To:** Bob Berry  
**Subject:** Reimbursement

Bob

Any word on the Transaction Costs Report "form"?

---

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**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Wednesday, April 24, 2013 4:05 PM  
**To:** Drefke, Kyle W.; Bob Berry; Jim Miller; David Hamilton; Chris Hopgood; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** RE: Revised term sheet

Ok will wait to hear from you

**From:** Drefke, Kyle W. [mailto:kdrefke@orrick.com]  
**Sent:** Wednesday, April 24, 2013 2:04 PM  
**To:** Early, Michael; Bob Berry; Jim Miller; David Hamilton; Chris Hopgood; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** RE: Revised term sheet

Michael & John,

Thanks for the turn of the document. After quickly reviewing it, we think our time is better spent discussing points on our side first and then circling with you. We will confirm timing following our discussion at 5:30 p.m.

Let me know if you have any questions.

Best,  
Kyle

---

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Wednesday, April 24, 2013 3:59 PM  
**To:** Bob Berry; Drefke, Kyle W.; Jim Miller; David Hamilton; Chris Hopgood  
**Cc:** DeZee, John  
**Subject:** Revised term sheet

See attached revised term sheet

Sorry for the delay as I was a victim of the sequestration although the airline claimed weather

We are still available for the call today at 5:30 Eastern but if you need to delay until later today or tomorrow, let me know

Thanks

Michael

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Wednesday, April 03, 2013 10:14 AM  
**To:** 'Early, Michael'; Greg Starheim  
**Cc:** DeZee, John; Hoerner, John  
**Subject:** RE: Revised Term Sheet

Michael, I just received your email from Tuesday. As you can see it is dated for Tuesday but I received it at 10:12 a.m. on Wednesday.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Tuesday, April 02, 2013 4:03 PM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John; Hoerner, John  
**Subject:** Revised Term Sheet

Bob

Attached is a revised term sheet –both clean and redlined against Century's last draft.

Unlike the prior drafts which dealt with the costs to operate Coleman as an SSR facility, this revision assumes that Big Rivers may close Coleman and provides for the purchase and delivery of market power up to the maximum amount that MISO determines can be reliably delivered to the smelter if Coleman is closed, plus an additional amount that can be delivered if Protective Relays are installed that could curtail load at the smelter if a reliability contingency occurs.

Century would like to meet to discuss this revision. We are available this week.

Thanks

Michael

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Monday, February 25, 2013 7:53 AM  
**To:** Early, Michael  
**Cc:** Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Subject:** Re: Room 381

Thanks we will see you there

On Feb 25, 2013, at 7:50 AM, "Early, Michael" <[MEarly@centuryca.com](mailto:MEarly@centuryca.com)> wrote:

Conference room 381 of the Annex is reserved for Century/Big Rivers today starting at 12:30. This is the same room that we had last week.

**Barbara Harwood**

---

**From:** Bob Berry  
**Sent:** Wednesday, December 26, 2012 2:29 PM  
**To:** 'Early, Michael'  
**Cc:** DeZee, John  
**Subject:** RE: Third party claims memos

Big Rivers is prepared to exchange the memos on Friday providing all parties are in agreement and executes the Common Interest Agreements that Jim Miller sent earlier today.

Bob

---

**From:** Early, Michael [<mailto:MEarly@centuryca.com>]  
**Sent:** Wednesday, December 26, 2012 2:23 PM  
**To:** Bob Berry  
**Cc:** DeZee, John  
**Subject:** Third party claims memos

I assume you are ok with the memo exchange on Friday.

We received today comments from Jim Miller on the amendments to the confidentiality agreements and are reviewing

**From:** Greg Starheim [<mailto:GStarheim@kenergycorp.com>]  
**Sent:** Thursday, December 20, 2012 1:35 PM  
**To:** Early, Michael  
**Subject:** RE: Third party claims memos

ok

---

**From:** Early, Michael [<mailto:MEarly@centuryca.com>]  
**Sent:** Thursday, December 20, 2012 2:30 PM  
**To:** Bob Berry; Greg Starheim  
**Subject:** Third party claims memos

Bob and Greg

In view of the pending request to amend the confidentiality agreements and as the lawyers are still finishing our memo, I suggest we postpone the exchange of memos on third party claims until Friday December 28<sup>th</sup>. That still leaves time to review the memos before our call on January 2<sup>nd</sup>.

Thanks

Michael

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**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Tuesday, December 11, 2012 1:06 PM  
**To:** Drefke, Kyle W.  
**Cc:** Mark Bailey; Greg Starheim; Bob Berry; Chris Hopgood; Jim Miller; Lyon, Carl F.; Davidson, Benjamin H.; DeZee, John  
**Subject:** RE: Third Party Claims Update

Kyle

Thanks for acting on this quickly. I look forward your memo on the 21<sup>st</sup> and Century will provide you with our summary on the 21<sup>st</sup> as well.

Michael

---

**From:** Drefke, Kyle W. [mailto:kdrefke@orrick.com]  
**Sent:** Friday, December 07, 2012 8:28 PM  
**To:** Early, Michael; DeZee, John  
**Cc:** Mark Bailey; Greg Starheim; Bob Berry; Chris Hopgood; Jim Miller; Lyon, Carl F.; Davidson, Benjamin H.  
**Subject:** Third Party Claims Update

As discussed earlier in our call this week, we have spoken about providing you information regarding potential claims of Alcan or other third parties if Kenergy or Big Rivers enters into new service arrangements with Century. Dinsmore Shohl, our counsel evaluating these matters, has indicated that it can provide to us a writing that we can share with you outlining the bases for potential claims by third parties (including Alcan) and Dinsmore's assessment of these items. This writing would be a general outline of potential claims and describe Dinsmore's "bottom-line" assessment of those potential claims.

Absent unexpected circumstances, Dinsmore believes that it can provide this writing to us a week from this coming Wednesday, December 19<sup>th</sup>. We would like a couple days to confirm the analysis with Dinsmore before sharing it's assessment with you on December 21. We would expect that Century similarly would share a written summary of its assessment of these issues on that date.

Obviously the conclusions in any assessment will be subject to revision based on the outcome of the ongoing due diligence.

Please let us know if you have any questions.



**O R R I C K**

**KYLE W. DREFKE**  
*partner*

**ORRICK, HERRINGTON & SUTCLIFFE LLP**  
1152 15TH STREET, N.W.  
WASHINGTON, DC 20005

tel 202.339.8434  
fax 202.339.8500  
e-mail [kdrefke@orrick.com](mailto:kdrefke@orrick.com)

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Friday, April 19, 2013 12:03 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Todays Meeting

Thanks, Just let me know when you would like to have a call and I will set it up.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Friday, April 19, 2013 12:00 PM  
**To:** Bob Berry  
**Subject:** RE: Todays Meeting

No need for a conference call today. If I have any questions today I will just call you

thanks

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Friday, April 19, 2013 9:53 AM  
**To:** Early, Michael  
**Subject:** Todays Meeting  
**Importance:** High

Michael, Do you guys want to meet at our scheduled time today or would you prefer to reschedule for early next week?

Bob

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The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you receive this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Friday, April 19, 2013 12:00 PM  
**To:** Bob Berry  
**Subject:** RE: Todays Meeting

No need for a conference call today. If I have any questions today I will just call you

thanks

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**From:** Bob Berry [mailto:Bob.Berry@bigdrivers.com]  
**Sent:** Friday, April 19, 2013 9:53 AM  
**To:** Early, Michael  
**Subject:** Todays Meeting  
**Importance:** High

Michael, Do you guys want to meet at our scheduled time today or would you prefer to reschedule for early next week?

Bob

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**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Friday, April 19, 2013 3:39 PM  
**To:** 'Early, Michael'  
**Subject:** RE: Todays Meeting

Michael, Carrying cost for capital would be interest, depreciation, property tax and property insurance.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Friday, April 19, 2013 1:29 PM  
**To:** Bob Berry  
**Subject:** RE: Todays Meeting

Do you have a definition for "carrying costs"?

I expect to send you a revised draft late today or tomorrow and a request for a conference call on Monday

Thanks

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Friday, April 19, 2013 10:03 AM  
**To:** Early, Michael  
**Subject:** RE: Todays Meeting

Thanks, Just let me know when you would like to have a call and I will set it up.

Bob

**From:** Early, Michael [mailto:Michael.Early@centuryaluminum.com]  
**Sent:** Friday, April 19, 2013 12:00 PM  
**To:** Bob Berry  
**Subject:** RE: Todays Meeting

No need for a conference call today. If I have any questions today I will just call you

thanks

**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Friday, April 19, 2013 9:53 AM  
**To:** Early, Michael  
**Subject:** Todays Meeting  
**Importance:** High

Michael, Do you guys want to meet at our scheduled time today or would you prefer to reschedule for early next week?

Bob

entitles other than the intended recipient is not allowed. If you receive this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Tuesday, March 05, 2013 7:34 AM  
**To:** Early, Michael  
**Subject:** Re: Y2 study

Michael, we have not received the results of the Y-2 study. We have contacted MISO regarding the study and they responded that we should get the results around mid March.

On Mar 5, 2013, at 6:51 AM, "Early, Michael" <[Michael.Early@centuryaluminum.com](mailto:Michael.Early@centuryaluminum.com)> wrote:

Did you receive the Y2 study from MISO?

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Sunday, November 11, 2012 7:18 PM  
**To:** Early, Michael  
**Subject:** Reimbursement Agreement  
**Attachments:** 11-11-12 Reimbursement Agreement.docx

Michael, Please see the attached Reimbursement Agreement which I believe captures all of the items we discussed on Friday. On Monday morning I will send out a meeting notice with the call in information for a call at 2:00 p.m. on Monday November 12. We will be prepared to discuss the Escrow Agreement during the call as well.

Bob

**REIMBURSEMENT AGREEMENT**

This REIMBURSEMENT AGREEMENT, dated as of November \_\_, 2012 (this "Agreement"), is made by and among BIG RIVERS ELECTRIC CORPORATION, a Kentucky electric cooperative corporation (together with its successors and assigns, "Big Rivers"), KENERGY CORP., a Kentucky electric cooperative corporation (together with its successors and assigns, "Kenergy"), CENTURY ALUMINUM COMPANY, a Delaware corporation, (together with its successors and assigns, "Century"), and CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP, a Kentucky general partnership (together with its successors and assigns, "CAK").

**PRELIMINARY STATEMENTS:**

A. The parties are considering negotiation of a letter of intent pursuant to which each of them will agree to investigate, evaluate and negotiate electric service arrangements for CAK, whereby Kenergy would provide electric services to CAK with energy supplied from third parties and transmission and ancillary services provided by Big Rivers pursuant to the tariff of Midwest Independent Transmission System Operator, Inc. ("MISO"), all as further described in the letter of intent (the "Transaction").

B. The provisions of this Agreement will govern the rights of Big Rivers and Kenergy and the obligations of Century with respect to the circumstances upon which, and the times at which, Century shall be required to reimburse Big Rivers and Kenergy for certain costs that are incurred by or otherwise chargeable to Big Rivers or Kenergy.

C. Contemporaneously with the execution and delivery of this Agreement, (i) the parties hereto will enter into an Escrow Agreement, dated the date hereof, with Old National Bank of Evansville, Indiana (the "Escrow Agreement"), to facilitate the provisions of this Agreement from which amounts deposited in the account established thereunder by Century will be applied in accordance with the terms hereof; and (ii) Century has deposited the Initial Escrow Amount into the Deposit Account (each as defined in the Escrow Agreement).

**NOW, THEREFORE**, the parties hereto hereby agree as follows:

1. Costs of Century. Century or Century's affiliates will pay all of its own and its affiliates' costs and expenses associated with the proposed Transaction.
2. Costs of Big Rivers or Kenergy; Reimbursement by Century.
  - (a) Century will reimburse Big Rivers and Kenergy for all out-of-pocket fees, costs and expenses (but excluding internal staffing costs and allocated overhead costs) actually incurred by or otherwise chargeable to Big Rivers or Kenergy, respectively, in connection with the investigation, evaluation and negotiation of, and the preparation of agreements, obtaining of necessary consents and approvals and satisfaction of other conditions precedent for, the Transaction, whether or not the Transaction shall be closed or consummated (collectively, "Transaction Costs"), including, without limitation, all of:

- (i) the fees, at standard rates (less any discounts provided to Big Rivers or Kenergy), and expenses of counsel and any advisors to Big Rivers or Kenergy, including fees related to compliance with the requirements of this Agreement; provided, that with respect to expenses of current counsel or advisors to Big Rivers or Kenergy, such expenses are of a type reimbursable under the current engagement arrangements;
  - (ii) the out-of-pocket costs and expenses for travel, food and lodging of employees of Big Rivers or Kenergy, in connection with their consideration and approval of the proposed Transaction;
  - (iii) the fees and expenses of counsel and any advisors to any creditor of Big Rivers or Kenergy, the consent or approval of which is required to effect the Transaction;
  - (iv) the fees and expenses of counsel and any advisors to MISO or any wholesale supplier of electric energy, capacity or other electric services to Kenergy for resale to CAK in connection with the investigation, negotiation and evaluation of the Transaction by MISO or any such supplier; and
  - (v) the fees and expenses of counsel and any advisors to any other third-party not participating in the Transaction, the consent or approval of which is required to effect the Transaction, that are chargeable to or reimbursable by Big Rivers or Kenergy.
- (b) The Transaction Costs shall not include:
- (i) any taxes or assessments by any governmental or regulatory authority arising out of the consummation of the proposed Transaction or any other transaction entered into in connection therewith or to facilitate the same;
  - (ii) the costs or expenses associated with Big Rivers' or Kenergy's performance of any debt, obligation or liability undertaken by Big Rivers or Kenergy (as applicable) pursuant to any definitive agreement entered into by it in order to consummate the Transaction or any other transaction entered into in connection with or to facilitate the Transaction; or
  - (iii) any costs or expenses incurred by or otherwise chargeable to Big Rivers, Kenergy or any other person or entity in connection with any dispute or litigation proceeding between Century or any of its affiliate(s), on the one hand, and Big Rivers, Kenergy or such other person or entity, on the other hand, or between Big Rivers, Kenergy and such other person or entity, directly relating to the interpretation or enforcement of this Agreement or any letter of intent or definitive documentation that may be entered into by Century or its affiliate(s), Big Rivers, Kenergy or such other person or entity. Notwithstanding any other provision hereof, the costs and expenses arising out of proceedings or litigation before any governmental authority

relating to obtaining any governmental approvals for the Transaction (but not the costs and expenses arising out of any rate case proceeding before the Kentucky Public Service Commission or any associated litigation in which Big Rivers or Kenergy seek to recover the revenue lost by the termination of the current power sale agreements with Century) shall constitute Transaction Costs.

(c) Century shall have deposited the Initial Escrow Amount into the Deposit Account in connection with the entry into this Agreement and the Escrow Agreement.

3. Reports; Additional Deposits Into Deposit Account.

(a) Big Rivers, for work it performs as well as that performed by Kenergy, shall provide Century with periodic reports of the Transaction Costs incurred by or otherwise chargeable to Big Rivers or Kenergy (each a "Transaction Costs Report"). Big River and Kenergy shall provide the first Transaction Costs Report to Century on November 30, 2012, which will cover the period from the effective date of this Agreement through November 30, 2012. Subsequent Transaction Costs Reports will be provided to Century on the 15<sup>th</sup> day of each month (or the immediately ~~prior~~ <sup>following</sup> ~~working-business~~ day if the 15<sup>th</sup> is a weekend or holiday ~~not a business day~~) and the Reporting Period shall be the prior calendar month (each a "Reporting Period"). In addition on the 1<sup>st</sup> and 15<sup>th</sup> day of each month (or the immediately ~~prior~~ <sup>following</sup> ~~working-business~~ day if the 1<sup>st</sup> or 15<sup>th</sup> is a weekend or holiday ~~not a business day~~), Big Rivers and Kenergy shall provide Century with a telephonic briefing that includes a summary of all the items that are contained in a Transaction Costs Report except invoices and where the Reporting Period is the prior month ~~not previously summarized or discussed in a prior Transaction Costs Report?~~. Big Rivers and Kenergy shall ~~schedule a conference call with Century on both the 1<sup>st</sup> and 15<sup>th</sup> reporting days to present the Transaction Costs Report and briefing and shall require the responsible attorney or consultant representing Big Rivers or Kenergy and incurring Transaction Costs to participate and be prepared to address summarize~~ the items listed in (b) below for the Reporting Period.

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- (b) Each Transaction Costs Report will contain:
- (i) an updated list of known tasks for the Transaction to be completed and estimated completion dates;
  - (ii) subject to paragraph 3(e) below and to the extent necessary in view of the invoices provided in (iv) below, a description of the work performed on each task during the Reporting Period and the status of those tasks toward completion;
  - (iii) identify any additional tasks expected to be undertaken and/or completed during the next 30 days;

(iv) the aggregate amount of the Transaction Costs for such Reporting Period, including, subject to paragraph 3(e) below, all related redacted invoices detailing identifying costs or expenses incurred—the hours billed with the associated description, billing rates, and names of the individuals performing the tasks generating the Transaction Costs; and

(v) a budget of the Transaction Costs estimated by Big Rivers and Kenergy to be incurred by or otherwise chargeable to Big Rivers or Kenergy during the 30 days following the date of such report (each a “Budget”).

(c) Big Rivers and Kenergy shall (i) require each counsel and advisor to Big Rivers or Kenergy incurring Transaction Costs which customarily bills monthly to provide an invoice for such costs on or before the 10<sup>th</sup> day of the month for Transaction Costs incurred in the prior month and, subject to paragraph 3(e) below, said invoice shall include hours billed with the associated description, billing rates, and names of the individuals performing the tasks generating the Transaction Costs in such invoice, and (ii) request other third parties incurring Transaction Costs to provide an invoice with the same information on the same schedule for costs incurred in the prior month. —The parties intend that any invoice for Transaction Costs received by Big Rivers or Kenergy shall be included in the next following Transaction Costs Report; however failure to do so shall not limit the ability of Big Rivers or Kenergy to include any such Transactions Costs in a later Transaction Costs Report unless such costs were withheld in bad faith.

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(d) For purposes of this Agreement, a “task” shall be such work-specific milestone that must be obtained for the Transaction to proceed, such as obtainment of consents, regulatory filings, regulatory approvals, legal review of authority to enter into the Transaction, or MISO application. Included within a task may be transaction structuring, documentation preparation, or similar work.

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(e) In describing the tasks performed or to be performed in a Transaction Costs Report, Big Rivers may exclude a detailed description of any work to the extent such description would, as determined by Big Rivers or Kenergy in good faith, disclose confidential business information, attorney-client privileged or attorney-client work product or to be information the disclosure of which would compromise Big Rivers’ or Kenergy’s negotiating strategy with Century, its affiliates or other Transaction participants in connection with the Transaction. Notwithstanding this subsection, Big Rivers and Kenergy shall be required to provide some description of each task including the hours billed, billing rates, and names of the individuals performing the task.

(f) Transaction Cost Report shall be provided in accordance with the form attached hereto as Ex. A.

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(g) The parties agree to work diligently and in good faith to meet the schedule in the Transaction Costs Report but the failure to meet the schedule will not



provide a basis to delay or reject reimbursement of Transaction Costs; provided that nothing in this Agreement shall obligate Big Rivers or Kenergy to enter into a letter of intent or definitive documentation with respect to a Transaction or otherwise continue evaluating a potential Transaction if either determines not to continue discussions.

4. Additional Deposits Into Deposit Account. Century shall make additional deposits into the Deposit Account not more than two business days following receipt from Big Rivers or, in the absence thereof, from Kenergy, of each new Budget in an amount equal to the positive difference (if any) of (i) the amount set forth in the Budget to be expended by Big Rivers or Kenergy during the following 30 days, over (ii) the then-current balance in the Deposit Account, after adjustment for any Reimbursement Payment (as defined in the Escrow Agreement) that is not yet reflected in such balance. Century's failure to make additional deposits into the Deposit Account within five business days following the receipt of each new Budget from Big Rivers or Kenergy will terminate the Reimbursement Agreement. In the event of a termination of this Agreement as contemplated in this paragraph, Century shall continue to be obligated for the reimbursement of reimbursable (in accordance with this Agreement) Transaction Costs that have been incurred by or otherwise chargeable to Big Rivers or Kenergy as of the effectiveness of such termination, or for which Big Rivers or Kenergy is then obligated to reimburse a third party described in paragraph 2(a) due to that third party's incurrence of corresponding fees and disbursements on or prior to such termination.

5. Definitive Documentation. If Century, any of its affiliates, Kenergy or Big Rivers successfully negotiate and enter into definitive documentation with respect to a Transaction, and such Transaction is consummated in accordance with that documentation, without limiting the obligation of Century to make additional deposits into the Deposit Account and the right of Big Rivers and Kenergy to be reimbursed periodically as otherwise provided herein, Century will reimburse Big Rivers and Kenergy for all Transaction Costs that have been incurred by or otherwise chargeable to Big Rivers or Kenergy, but which have not previously been reimbursed by Century pursuant to this Agreement and the Escrow Agreement.

6. Right to Terminate. Century shall be entitled, in its sole discretion, upon written notice delivered to Big Rivers and Kenergy, to terminate this Agreement and Century's reimbursement obligations hereunder at any time prior to the execution and delivery by Century or any affiliate of Century, Kenergy and Big Rivers of a letter of intent requiring Century to continue to negotiate or attempt to pursue a Transaction with Big Rivers and Kenergy, subject to the other terms and conditions of this Agreement. Upon receipt of such notice, Big Rivers and Kenergy shall immediately cease, or cause to be ceased, all work that would be reimbursable under this Agreement and Century shall not be liable for any such work performed after the date of receipt of the notice. If Century or any of its affiliates, Kenergy and Big Rivers shall fully execute such a letter of intent at any time prior to Century's termination of this Agreement pursuant to this paragraph, such a unilateral termination of this Agreement by Century may not thereafter be undertaken except upon two business days' prior written notice delivered to Big Rivers and Kenergy which notice may not be given until the earlier to occur of: (a) expiration of the term or duration of that letter of intent or the earlier termination of the same in accordance with its terms (other than any expiration or termination of the letter of intent upon the execution of definitive documentation for the Transaction unless that definitive documentation shall

expressly terminate or supersede this Agreement); or (b) the expiration or termination of such definitive documentation for the Transaction (if any shall be entered into) in accordance with its terms other than in connection with the consummation of the Transaction. In the event of a termination of this Agreement as contemplated in this paragraph, Century shall continue to be obligated for the reimbursement of reimbursable (in accordance with this Agreement) Transaction Costs that have been incurred by or otherwise chargeable to Big Rivers or Kenergy as of the effectiveness of such termination, or for which Big Rivers or Kenergy is then obligated to reimburse a third party described in paragraph 2(a) due to that third party's incurrence of corresponding fees and disbursements on or prior to such termination; provided that Century shall not be obligated to reimburse invoices for Transaction Costs that were received by Big Rivers or Kenergy before the Notice of Termination and could have been included in a prior Transaction Costs Report and Reimbursement Notice which were withheld from prior Transaction Cost Reports in bad faith by Big Rivers or Kenergy; and provided further that Big Rivers will provide a final Transaction Costs Report and Reimbursement Notice within 60 days after receipt of notice of termination and that Century shall have no obligation to pay for any costs invoiced to Big Rivers or Kenergy on or before the 45<sup>th</sup> day after the termination of this Agreement and not included in such final Reimbursement Notice. Big Rivers agrees that pursuant to Section 12 of the Escrow Agreement, it will exercise its right to terminate the Escrow Agreement, upon a termination of this Agreement in accordance with this paragraph and reimbursement of all reimbursable Transaction Costs pursuant to this Agreement and the Escrow Agreement.

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7. Closing. If Century, its relevant affiliates, Kenergy and Big Rivers successfully negotiate and enter into definitive documentation with respect to a Transaction, and such Transaction is consummated in accordance with that documentation following a termination of this Agreement by Century pursuant to paragraph 6 above, Century agrees to reimburse Big Rivers or Kenergy, as applicable, at the closing of that Transaction for any Transaction Costs that were not previously reimbursed by Century unless otherwise provided in the definitive documentation.

8. Reimbursement Notices.

(a) On the 15<sup>th</sup> day of each month Big Rivers will deliver a copy of the Reimbursement Notice (as defined in the Escrow Agreement) to Century with respect to all Transaction Costs incurred or otherwise chargeable in the period covered by the Transaction Costs Report that have become reimbursable by Century hereunder for the benefit of either Big Rivers or Kenergy; provided, subject to the limitations in section 6, that the failure to deliver such Reimbursement Notice within such time or the failure to seek reimbursement of any amounts contained in a Transaction Costs Report shall not limit the ability to seek reimbursement for such amounts in a later Reimbursement Notice, including following termination of this Agreement as provided in paragraph 6 hereof. Reimbursement shall be made pursuant to the Escrow Agreement.

(b) Big Rivers and Kenergy will submit a Reimbursement Notice only for costs which have been incurred directly by or are otherwise chargeable to Big Rivers or Kenergy, including by obligation to reimbursement to a third party. Without limiting its rights to verification set forth in this paragraph 8, Century shall have no right to approve any

Reimbursement Notice, Transaction Costs Report or the invoices underlying any Transactions Cost Report.

(c) Century may, at its expense (whether before or after the relevant payment), have a third party selected by Century that is reasonably satisfactory to Big Rivers and Kenergy confirm whether invoices included in a Reimbursement Notice actually were incurred or were otherwise chargeable and were Transaction Costs (provided that the method of such confirmation may not result in the waiver or implied waiver of any attorney-client or other privilege). Big Rivers and Kenergy will reasonably cooperate with such third party and provide it with all information and supporting documentation as shall be reasonably necessary in order to verify that the items included on invoices included in a Reimbursement Notice are properly chargeable under this Agreement. To facilitate such third party confirmation, Big Rivers and Kenergy agree to keep copies of all billing records for items of Transaction Cost for which reimbursement is sought for a period of one year following the later of the expiration or termination of this Agreement or Century's receipt of the final Reimbursement Notice relating to reimbursement hereunder. Big Rivers and Kenergy will afford the third party reasonable access to such billing records throughout that one-year period. If the third party finds that any fees, costs or expenses are not Transaction Costs, are not reimbursable under the limitations of section 6, or ~~fraud~~ then Big Rivers or Kenergy, as applicable, will refund such amounts to Century within five working days. The provisions of the preceding two sentences, together with Century's right to challenge as inappropriate for reimbursement hereunder any invoices (or portions thereof) included in a Reimbursement Notice or Transaction Costs Report and reimbursed or paid hereunder, shall survive the expiration or termination of this Agreement for that one-year period (and thereafter to the extent Century has asserted a claim of wrongful invoicing and reimbursement or payment hereunder during that one-year period, until that claim is finally resolved). Century will have no obligation to reimburse Big Rivers or Kenergy for any Transaction Costs if they are not included in a Reimbursement Notice.

9. No Waiver of Privilege. Notwithstanding payment by Century of fees, costs and expenses of Big Rivers and Kenergy, such payment shall not constitute a waiver of the attorney-client or other privilege of Big Rivers or Kenergy, all of which privilege are expressly preserved.

10. Indemnification. Century hereby agrees to indemnify and hold harmless Big Rivers and Kenergy and any officers, agents or employees of either of them from any and all liability, including costs, fees, and settlements arising out the failure to pay in full any Transaction Costs of third parties that are reimbursable under this Agreement, *provided*, that as conditions precedent to any liability of Century under this indemnification provision, (a) Big Rivers or Kenergy (as applicable) must notify Century of any claim for indemnification hereunder with reasonable promptness after receiving written notification of the asserted liability, (b) Century, at its election, made promptly after receipt of notice of a claim hereunder, and at its expense, shall have the right to compromise or defend any such matter through counsel of its own choosing, and (c) Century shall have the right to participate in and approve the terms of any settlement of a claim against which indemnification is sought.

11. Miscellaneous. This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Kentucky, shall be for the sole benefit of the parties signatory hereto, and shall not vest in or grant to any other party any third-party

*beneficiary* or other similar rights. Nothing contained in this Agreement shall create any obligation on the part of Century, any of its affiliates, Kenergy or Big Rivers to continue any discussions or negotiations, or to enter into any binding agreement(s), with respect to a Transaction or any other transaction.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Agreement as of the date first set forth above.

**BIG RIVERS ELECTRIC CORPORATION**

By: \_\_\_\_\_  
Mark A. Bailey  
President and CEO

**KENERGY CORP.**

By: \_\_\_\_\_  
Name: Gregory J. Starheim  
Title: President and CEO

**CENTURY ALUMINUM COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

**CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP**

By: \_\_\_\_\_  
Name:  
Title:

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Sunday, July 08, 2012 4:15 PM  
**To:** Bob Berry  
**Cc:** DeZee, John  
**Subject:** Request for MISO information

**Follow Up Flag:** Follow up  
**Due By:** Monday, July 09, 2012 9:00 AM  
**Flag Status:** Flagged

Bob

This will confirm the voice mail I left you on Friday July 6<sup>th</sup>.

Century is hiring a consultant to evaluate the available transmission capacity, potential congestion, and potential voltage stability issues if the Hawesville plant were to import power for its entire load into BREC's system under a variety of operational scenarios of BREC's generation.

I have been advised that the consultant will need certain power flow and stability cases from MISO. The consultant has a CEII Non-Disclosure Agreement on file with MISO and BREC may request MISO to provide the information directly to the consultant. Alternatively, the consultant may directly request the information from MISO if BREC informs MISO that it has added the consultant to its Universal Non-Disclosure Agreement with MISO.

I will call you Monday to discuss and thanks for your cooperation.

Michael Early

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, April 02, 2013 4:03 PM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John; Hoemer, John  
**Subject:** Revised Term Sheet  
**Attachments:** Century Term Sheet 3 9 13.docx; Century Term Sheet TRACKED 4.2.13.docx

Bob

Attached is a revised term sheet –both clean and redlined against Century’s last draft.

Unlike the prior drafts which dealt with the costs to operate Coleman as an SSR facility, this revision assumes that Big Rivers may close Coleman and provides for the purchase and delivery of market power up to the maximum amount that MISO determines can be reliably delivered to the smelter if Coleman is closed, plus an additional amount that can be delivered if Protective Relays are installed that could curtail load at the smelter if a reliability contingency occurs.

Century would like to meet to discuss this revision. We are available this week.

Thanks

Michael

**SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION**

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Base Load: The maximum amount (MW) that can be reliably delivered to the Hawesville node, as determined by MISO prior to the Effective Date, with the Coleman Generation Station closed; provided such amount shall be increased if Big Rivers decides to operate the Coleman Generation Station for its own purposes.



- D. Capacitor Additions: The amount of capacitors (MVARs) that are needed to provide voltage support for the Base Load – or, if applicable, for the Base Load plus Curtailable Load – with the Coleman Generation Station closed.
- E. Capacitor Costs: The costs to purchase, install, and maintain the Capacitor Additions.
- F. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- G. Cost incurred solely due to Century's operation: In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy to the extent that such costs are solely and directly related to the operation of Century.
- H. Curtailable Load: The maximum amount of additional load (MW) at the Hawesville node above the Base Load that can be served, as determined by MISO, with the installation of Protective Relays at the Hawesville Smelter, up to the Maximum Load.
- I. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- J. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.

Definitive Documents shall include:

- a) Electric Service Agreement for the Base Load and for additional amounts under Rider 1, if separately agreed to;
- b) Arrangement Agreement for the Base Load and for additional amounts under Riders 1, if separately agreed to;
- c) Direct Agreement;
- d) Tax Indemnity Agreement between Kenergy and

Century; and

e) Parent Guarantee of Century Parent

- K. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- L. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- M. Effective Date: The date on which the conditions set forth in paragraph IX below are satisfied; provided installation and reimbursement for capacitors may begin before the Effective Date under separate agreement.
- N. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- O. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- P. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- Q. KPSC: Kentucky Public Service Commission
- R. kWh: Kilowatt-hour
- S. Maximum Load: 482 megawatts
- T. MW: Megawatts
- U. MISO: The Midwest Independent Transmission System Operator, Inc.
- V. MISO Tariff: The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
- W. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- X. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.

- Y. RTO: Regional transmission organization
- Z. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
- AA. Transaction: The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General: During the Service Period, Kenergy will use reasonable commercial efforts to acquire, as applicable, Base Load or Base Load plus Curtailable Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions, if any. Imbalance requirements, including up to 10 MW above the Base Load or Base Load plus Curtailable Load, as applicable, will be obtained in the Real Time Market.
- B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may elect, subject to the consent and approval of Century in its sole discretion, to become the Market Participant itself at the Hawesville Node with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant (other than Kenergy) which Kenergy shall accept, *provided* Kenergy is satisfied, in its sole discretion, only as to the financial security arrangements and elimination of risk to Kenergy relating to such alternative Market Participant. Century shall give Kenergy and, if the Arrangement Agreement is in effect, Big Rivers not less than 120 days' prior written notice of the appointment of a new Market Participant.
- C. Definitive Documents: The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the

Definitive Documents.

D. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. If such change results in additional cost to Century then Big Rivers or Kenergy, as applicable, shall reimburse Century for such costs; provided that the Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTO. In such case any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to Kenergy associated with such bilateral contracts.

B. Scheduling, Load and Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule, as applicable, the Base Load or the Base Load plus Curtailable Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than two hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed, as applicable, the Base Load or the Base Load plus Curtailable Load without the prior consent of Kenergy.

and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed.

C. Charges to Century:

Charges and Credits to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. A credit for (a) any revenue resulting from the ownership, sale or trade of ARR or FTRs under section IV. J. and (b) charges or costs paid by Century directly or indirectly for transmission services under the MISO tariff or the Big Rivers tariff and (c) any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff.
3. An amount equal to Kenergy's internal and direct costs incurred in serving Century, including KPSC fees and a nominal net margin roughly equivalent to Kenergy's historical net margin attributable to service to Century, provided Century shall have the right to audit such costs.;
4. Costs associated with any entity or person other than Big Rivers serving as Market Participant;
5. To the extent not covered under clause (1) above, charges to Kenergy from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract which Century has approved;
6. Monthly charges with respect to the items set forth in paragraph V. hereof and charged to Kenergy under the Arrangement Agreement; and
7. Any other amounts due and owing to Kenergy under the Definitive Documents, including

pursuant to paragraph IV.D. below and applicable taxes.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from costs relating to, without duplication of amounts due under paragraph IV.C. above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

E. Performance by Kenergy:

To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.

F. Term:

The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.

G. Billing; Payment:

Kenergy shall invoice Century each [\_\_\_] on or before the [\_\_\_] business day of [\_\_\_]. Century shall pay Kenergy all amounts due and owing to [\_\_\_] on the [\_\_\_] business day of the following [\_\_\_]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph X. [Note: Big Rivers and Kenergy confirming mechanics of Century's request given that MISO bills weekly.]

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in Section XI herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on

August 20, 2013;

2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on twelve months prior written notice to Kenergy.

Termination of the Electric Service Agreement will also terminate all other Definitive Documents and the parties' obligations under all Definitive Agreements will terminate, except as provided in section XII. B.

I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services within 3 days after due date;
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

J. FTR/ARR Rights:

Century shall have the rights to all FTRs or ARR's resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARR's and shall retain all revenues from such FTRs or ARR's.

- K. Power Factor: Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.
- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph X hereof.
- O. Other Matters:
1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. Century will not be entitled to service under any tariff of Kenergy.
  2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or, except as provided herein, under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Big Rivers with respect to the Sebree smelter if it is acquired by Century or



Century's Parent.

3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Kenergy with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof during the period of any survival of obligations to it under paragraph XII.B. below.

## V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General: The following items shall be an adjustment to the amounts payable under the Arrangement Agreement, without duplication, for charges under the Electric Service Agreement:

1. Charges by MISO to establish or maintain the Hawesville Node;
2. Additional costs or charges of ACES, or similar service provider, incurred solely due to Century's operation, for scheduling, awards and settlements;
3. The proportionate share of costs incurred by Kenergy or Big Rivers to comply with (i) state or federal renewable energy portfolio or similar

standards, or (ii) environmental laws or regulations not related to capital expenditures for the Coleman Station, in each case, to the extent such costs are solely and directly related to Century's operation; provided, to the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy; provided further, the parties acknowledge that there are no such costs as of the Effective Date;

4. Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act to the extent such costs are costs incurred solely due to Century's operation; and
5. Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market Participant;

**B. Dispute Resolution:**

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge's distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing and subject to agreed minimum dispute amounts. Each party to the arbitration shall appoint a judge (i) with substantial experience in the electric utility sector, (ii) who has not been employed or been a consultant to such party in the past. The two appointed judges shall select a third judge meeting these criteria. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.

**VI. ARRANGEMENT AGREEMENT**

**A. General:**

The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases

by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, obtained in the Real Time Market for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements and elimination of risk to Big Rivers of such bilateral contracts.

- B. Capacitors: Century will acquire and Big Rivers will install the Capacitors Additions on or before August 20, 2013.
- C. Delivery Point: Before March 15, 2013, Big Rivers will apply for Hawesville Node, which Deliver Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.
- D. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- E. Scheduling, Load and Load Factor: Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule, as applicable, the Base Load or Base Load plus Curtailable Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than two hours prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed, as applicable, the Base Load or Base Load plus Curtailable Load without the prior consent of Big Rivers.
- F. Charges to Kenergy: Charges to Kenergy shall be, without duplication:
1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
  2. Charges for transmission service to the Hawesville Node; and

3. The charges under section V to the extent not charged to Century under the Arrangement Agreement or Electric Service Agreement.

G. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.

H. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

I. Billing; Payment: Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph X. [Note: See above comment.]

J. Termination: The Arrangement Agreement may be, or shall be, as provided herein, terminated in the following circumstances:

1. By either party if the conditions precedent in section XI herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 20, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric

Service Agreement; provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement;

5. The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant;

Big Rivers will provide Kenergy and Century not less than 3 business days' prior notice of an election to terminate the Arrangement Agreement as a result of an Event of Default.

K. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

L. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

M. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

## VII. DIRECT AGREEMENT/CAPICITOR AGREEMENT

A. Responsibility for Certain

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating

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Costs:

to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;
2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century; and
3. Costs under Rider 1, if applicable.

B. Capacitor Costs:

Century shall own the Capacitor Additions and shall reimburse Big Rivers for the cost of installing and maintaining the Capacitor Additions either under Direct Agreement or under a separate Capacitor Agreement effective prior to the Effective Date.

## VIII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

A. Acknowledgments:

Century will acknowledge and agree that:

1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 20, 2013 other than pursuant to a new rate or contract approved by the KPSC;
2. Subject to section III. D., Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
3. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter.

B. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive

Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will be granted in its sole discretion.

- C. KPSC Proceedings: Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

#### **IX. TAX INDEMNITY AGREEMENT**

- A. General: Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless for costs relating to the failure of Kenergy to maintain its status as an entity exempt from federal income taxation solely in consequence of the Transaction.

#### **X. CREDIT**

- A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. C., in the form of the following at Big Rivers' and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount not to exceed the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than than the payment terms required by each

supplier to Kenergy;

2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months. For amounts under the Direct Agreement, then no longer than the billing period therein.;
3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.

- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- D. Bilateral Power Supply Arrangements Credit Support: Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## XI. CONDITIONS TO THE EFFECTIVE DATE

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:



1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
2. All representations and warranties of the parties are true and correct in all material respects;
3. All Definitive Documents become effective;
4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons identified prior to entry into the Definitive Documents will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
5. A signed SSR agreement with MISO regarding Protective Relays under Rider 1, if applicable, satisfactory to Century in its sole discretion.
6. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
7. All Transaction documents have been executed and delivered by the parties thereto.

## **XII. OTHER**

### **A. Preparation of Definitive Documents:**

The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.

### **B. Survival of Obligations:**

Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.

### **C. Schedule**

The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Big

Rivers and Kenergy will propose a schedule for the distribution of initial drafts of the Definitive Documents, obtainment of all board approvals, filing with the KPSC for approval of the Transaction, and request to the KPSC to issue an order approving the Definitive Documents on an expedited basis.[ BREC to provide specific schedule.]

The parties agree to publicly endorse this Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.

D. Governing Law

Commonwealth of Kentucky

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**Rider I – Protective Relays**

- A. Request to MISO: Century and Big Rivers shall request MISO to agree to an SSR Agreement that will allow Century to operate above the Base Load to the maximum extent allowable based on Protective Relays that would allow MISO to curtail load at Century above the Base Load.
- B. Cooperation: Big Rivers and Kenergy will cooperate and support their request.
- C. Costs: Century will reimburse Big Rivers and Kenergy for any additional equipment costs to implement the Protective Relay Program.
- D. Power Costs: The applicable rate for Base Energy will apply to Curtailable Energy.

**SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION**

OHSUSA:752513424.14

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
1. Kenergy;
  2. Jackson Purchase Energy Corporation; and
  3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Base Load: The maximum amount (MW) that can be reliably delivered to the Hawesville node, as determined by MISO prior to the Effective Date, with the Coleman Generation Station closed; provided such amount shall be increased if Big Rivers decides to operate the Coleman Generation Station for its own purposes.

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D. <u>Capacitor Additions:</u>	<u>The amount of capacitors (MVARs) that are needed to provide voltage support for the Base Load – or, if applicable, for the Base Load plus Curtailable Load – with the Coleman Generation Station closed.</u>
E. <u>Capacitor Costs:</u>	<u>The costs to purchase, install, and maintain the Capacitor Additions.</u>
G.F. <u>Closing Date:</u>	The date upon which the Definitive Documents are executed and delivered.
D.G. <u>Cost incurred solely due to Century's operation:</u>	-In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy to the extent that such costs are solely and directly related to the operation of Century.
H. <u>Curtailable Load:</u>	<u>The maximum amount of additional load (MW) at the Hawesville node above the Base Load that can be served, as determined by MISO, with the installation of Protective Relays at the Hawesville Smelter, up to the Maximum Load.</u>
E.I. <u>Day Ahead Market:</u>	The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
F.J. <u>Definitive Documents:</u>	Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.
	<u>Definitive Documents shall include:</u>
	a) <u>Electric Service Agreement for the Base Load and for additional amounts under Rider 1, if separately agreed to;</u>
	b) <u>Arrangement Agreement for the Base Load and for additional amounts under Riders 1, if separately agreed to;</u>
	c) <u>Direct Agreement;</u>
	d) <u>Tax Indemnity Agreement between Kenergy and</u>

Century; and

1-e) Parent Guarantee of Century Parent

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G.K. Delivery Point:

The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.

H.L. Direct Agreement:

An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.

I.M. Effective Date:

The date on which the conditions set forth in paragraph IX below are satisfied; provided installation and reimbursement for capacitors may begin before the Effective Date under separate agreement.

J.N. Electric Service Agreement:

A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.

K.O. FTR:

Financial Transmission Rights as defined in the MISO Tariff.

L.P. Hawesville Node:

A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.

M.Q. KPSC:

Kentucky Public Service Commission

N.R. kWh:

Kilowatt-hour

O.S. Maximum Load:

482 megawatts-per-hour.

P.T. MW

Megawatts

Q.U. MISO:

The Midwest Independent Transmission System Operator, Inc.

R.V. MISO Tariff:

The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.

S.W. Prime Rate:

The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."

T.X. Real Time Market:

The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.

U.Y. RTO:

Regional transmission organization

V.Z. Service Period:

The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.

W.AA. Transaction:

The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

A. General:

During the Service Period, Kenergy will use reasonable commercial efforts to acquire ~~an aggregate of no more than the Maximum, as applicable, Base Load or Base Load plus Curtailable Load~~ from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions, if any. Imbalance requirements, including up to 10 MW above the ~~Maximum Base Load or Base Load plus Curtailable Load, as applicable,~~ will be obtained in the Real Time Market.

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B. MISO Market Participant:

At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may elect, subject to the consent and approval of Century in its sole discretion, to become the Market Participant itself at the Hawesville Node with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant (other than Kenergy) which Kenergy shall accept, *provided* Kenergy is satisfied, in its sole discretion, ~~with only as to~~ the financial security arrangements and elimination of risk to Kenergy relating to such alternative Market Participant. Century shall give Kenergy and, if the Arrangement Agreement is in effect, Big Rivers not less than 120 days' prior written notice of the appointment of a new Market Participant.

C. Definitive Documents:

The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the



~~Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, (iv) a Tax Indemnity Agreement between Kenergy and Century, and (v) a Parent Guarantee of Century Parent.~~

D. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. If such change results in additional cost to Century then Big Rivers or Kenergy, as applicable, shall reimburse Century for such costs; provided that the Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTO. In such case any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to Kenergy associated with such bilateral contracts.

B. Scheduling, Load and Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; ~~provided that Kenergy will schedule the Maximum,~~ as applicable, the Base Load or the Base Load plus Curtailable Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner

acceptable to Kenergy of an alternative schedule not less than two hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed ~~the Maximum, as applicable, the Base Load or the Base Load plus Curtailable Load~~ without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed.

C. Charges to Century:

Charges and Credits to Century shall include, without duplication:

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1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. A credit for (a) any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J. and (b) charges or costs paid by Century directly or indirectly for transmission services under the MISO tariff or the Big Rivers tariff and (c) any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff.
- 2-3. An amount equal to Kenergy's internal and direct costs incurred in serving Century, including KPSC fees and a nominal net margin roughly equivalent to Kenergy's historical net margin attributable to service to Century, provided Century shall have the right to audit such costs;
4. Costs associated with any entity or person other than Big Rivers serving as Market Participant;
- 3-5. To the extent not covered under clause (1) above, charges to Kenergy from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract which Century has approved;
- 4-6. Monthly charges, ~~whether positive or negative~~, with

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respect to the items set forth in paragraph V. hereof and charged to Kenergy under the Arrangement Agreement; ~~provided if the Arrangement Agreement is terminated then applicable costs and revenues under section V are charged directly to Century under the Direct Agreement; and~~

5.7. Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D. below and applicable taxes.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from ~~all direct costs, expenses, liabilities, claims or similar consequences~~ relating to, without duplication of amounts due under paragraph IV.C. above:

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1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

E. Performance by Kenergy:

To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.

F. Term:

The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.

G. Billing; Payment:

Kenergy shall invoice Century each [ ] on or before the [ ] business day of [ ]. Century shall pay Kenergy all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph

X. [Note: Big Rivers and Kenergy confirming mechanics of Century's request given that MISO bills weekly.]

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in Section ~~XI~~ herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 4920, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on twelve months prior written notice to Kenergy.

Termination of the Electric Service Agreement will also terminate all other Definitive Documents and the parties' obligations under all Definitive Agreements will terminate, except as provided in section XII. B.

I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services; within 3 days after due date;
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as

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permitted thereunder; or

7. Certain bankruptcy or insolvency events.

- J. FTR/ARR Rights: Century shall have the rights to all FTRs or ARR's resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARR's and shall retain all revenues from such FTRs or ARR's.
- K. Power Factor: Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.
- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph X hereof.
- O. Other Matters:
1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. Century will not be entitled to service under

any tariff of Kenergy.

2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or, except as provided herein, under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Big Rivers with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Kenergy with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof during the period of any survival of obligations to it under paragraph XII.B. below.

#### V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General: The following items shall be an adjustment, ~~positive or negative~~, to the amounts payable under the Arrangement Agreement ~~or the Direct Agreement~~, without duplication.

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including for charges for transmission services under the Electric Service Agreement:

1. ~~Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville node or the Big Rivers' node which are solely and directly related to the requirement to operate the Coleman Generating Station for reliability of transmission of electricity to Century under the Electric Service Agreement; plus~~
2. ~~All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to the Hawesville Node; plus~~
- 3.1. ~~Charges by MISO to establish or maintain the Hawesville Node; ~~less~~~~
4. ~~Any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J.; plus~~
- 5.2. ~~Additional costs or charges of ACES, or similar service provider, incurred solely due to Century's operation, for scheduling, awards and settlements; plus~~
- 6.3. ~~The proportionate share of costs incurred by Kenergy or Big Rivers to comply with (i) state or federal renewable energy portfolio or similar standards, or (ii) environmental laws or regulations not related to capital expenditures for the Coleman Station, in each case, to the extent such costs are solely and directly related to Century's operation; provided, to the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy. The; provided further, the parties acknowledge that there are not aware of any no such costs as of the effective date; plus Effective Date;~~
7. ~~Any costs associated with any entity or person other than Big Rivers serving as Market Participant; plus~~
- 8.4. ~~Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act to the extent such costs are costs incurred solely due to Century's operation; plus and~~

9. ~~Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market Participant; *///*~~

10.5. ~~Charges or costs paid by Century directly or indirectly for transmission services under the MISO tariff or the Big Rivers tariff and any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff.~~

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B. Dispute Resolution:

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge's distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing and subject to agreed minimum dispute amounts. Each party to the arbitration shall appoint a judge (i) with substantial experience in the electric utility sector, (ii) who has not been employed or been a consultant to such party in the past. The two appointed judges shall select a third judge meeting these criteria. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.

VI. ARRANGEMENT AGREEMENT

A. General:

The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, ~~including up to 10 MW above the Maximum Load,~~ obtained in the Real Time Market for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the

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financial security arrangements and elimination of risk to Big Rivers of such bilateral contracts.

B. <u>Capacitors:</u>	<u>Century will acquire and Big Rivers will install the Capacitors Additions on or before August 20, 2013.</u>	
C. <u>Delivery Point:</u>	<u>Before March 15, 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.</u>	Formatted Table
D. <u>Designation:</u>	<u>Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.</u>	
B-E. <u>Scheduling, Load and Load Factor:</u>	Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the <del>Maximum</del> <u>as applicable, the Base Load or Base Load plus Curtailable Load</u> as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than two <del>hours</del> <u>hours</u> prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed, <del>as applicable, the Maximum Base Load or Base Load plus Curtailable Load</del> <u>as applicable, the Maximum Base Load or Base Load plus Curtailable Load</u> without the prior consent of Big Rivers.	
C. <u>Delivery Point:</u>	<del>Before March 15, 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents if Big Rivers can cancel such application on or before June 1, 2013 and Century pays the costs of such application.</del>	
D. <u>Designation:</u>	<del>Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.</del>	
E-F. <u>Charges to Kenergy:</u>	Charges to Kenergy shall be, <u>without duplication:</u>	Formatted Table
	1. Market cost of all electricity, electric capacity and	

electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;

2. Charges for transmission service to the Hawesville Node; and
3. The charges, revenues, and effects under section V to the extent not charged to Century under the Direct Agreement; provided, that during the term of the Arrangement Agreement, section V charges that are recoverable under the Direct Agreement will be recovered under the Arrangement or Electric Service Agreement.

F-G. Performance by Kenergy:

To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.

G-H. Term:

The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

H-I. Billing; Payment:

Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph X. [Note: See above comment.]

H-J. Termination:

The Arrangement Agreement may be, or shall be, as provided herein, terminated in the following circumstances:

1. By either party if the conditions precedent in section ~~H-XI~~ herein to the effectiveness of the

agreement are not satisfied by 11:59:59 p.m. on August 19~~20~~, 2013;

2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement; provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement;
5. The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant;

Big Rivers will provide Kenergy and Century not less than 3 business days' prior notice of an election to terminate the Arrangement Agreement as a result of an Event of Default.

J-K. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K-L. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L-M. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other

Definitive Document;

- 6. Assignment of the agreement other than as permitted thereunder; or
- 7. Certain bankruptcy or insolvency events.

**VII. DIRECT AGREEMENT/CAPICITOR AGREEMENT**

**A. Responsibility for Certain Costs:**

-Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

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- 1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;
- 2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century; and
- 3. Costs under Rider 1, if applicable.

**A.B. Capacitor Costs:**

Century shall own the Capacitor Additions and shall reimburse Big Rivers for the cost of installing and maintaining the Capacitor Additions either under Direct Agreement or under a separate Capacitor Agreement effective prior to the Effective Date.

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~~3.4. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;~~

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~~4.5. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century; and~~

~~5. Net costs or revenues under paragraph V.A.1, 2, 4, 10 and 11; provided for clarity if such net is a net cost then such amount shall be billed and paid monthly by Century and if such net is a revenue then such amount shall be~~

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paid to Century monthly by Big Rivers.

## VIII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

### A. Acknowledgments:

Century will acknowledge and agree that:

1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 1920, 2013 other than pursuant to a new rate or contract approved by the KPSC;
2. Subject to section III. D., Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
3. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter.

### B. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will be granted in its sole discretion.

### C. MISO Processes:

~~In any MISO process or negotiation to determine the SSR status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Big Rivers and, if applicable, Kenergy shall provide Century with a reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes. Big Rivers acknowledges that any capital costs shall be allocated over~~

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~~the life of the the Coleman Generating Station and recovered from Century only during any SSR periods; provided that only the carrying costs on such capital shall be allocated and recovered from Century during any SSR period before the asset requiring such capital investment is required, becomes operational, and is used and useful. Big Rivers and Kenergy shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the Definitive Documents and will actively support Century's direct participation in all such negotiations and processes. Big Rivers will not agree to an SSR Agreement on Coleman without Century's consent.~~

~~D.C.~~ KPCS Proceedings:

Century, Kenergy and Big Rivers will request the KPCS approve the Transaction on an expedited basis.

#### **IX. TAX INDEMNITY AGREEMENT**

A. General:

Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless for costs relating to the failure of Kenergy to maintain its status as an entity exempt from federal income taxation solely in consequence of the Transaction.

#### **X. CREDIT**

A. Security Arrangements:

Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. C., in the form of the following at Big Rivers' and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount not to exceed the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than the payment terms required by each supplier to Kenergy;
2. The amounts reasonably estimated by Big Rivers to

be due with respect to Century's additional obligations to Big Rivers for a period of two months. For amounts under the Direct Agreement, then no longer than the billing period therein.;

3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.

- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- D. Bilateral Power Supply Arrangements Credit Support: Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## XI. CONDITIONS TO THE EFFECTIVE DATE

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:
  1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
  2. All representations and warranties of the parties are

true and correct in all material respects;

3. All Definitive Documents become effective;
4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons identified prior to entry into the Definitive Documents will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
5. A signed SSR agreement with MISO regarding Coleman with MISO Protective Relays under Rider 1, if applicable, satisfactory to Century in its sole discretion.
6. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
7. All Transaction documents have been executed and delivered by the parties thereto.

## XII. OTHER

- A. Preparation of Definitive Documents: The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.
- B. Survival of Obligations: Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents. ~~BREC to propose specific dates.~~
- C. Schedule The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Big Rivers and Kenergy will propose a schedule for the distribution of initial drafts of the Definitive Documents,



obtainment of all board approvals, filing with the KPSC for approval of the Transaction, and request to the KPSC to issue an order approving the Definitive Documents on an expedited basis.[ BREC to provide specific schedule.]

The parties agree to publicly endorse this Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.

D. Governing Law

Commonwealth of Kentucky

E. Legislative Fallback

The parties agree to support passage of HB 211 and SB 71 with a sunset provision.

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**Rider I – Protective Relays**

A. Request to MISO:

Century and Big Rivers shall request MISO to agree to an SSR Agreement that will allow Century to operate above the Base Load to the maximum extent allowable based on Protective Relays that would allow MISO to curtail load at Century above the Base Load.

B. Cooperation:

Big Rivers and Kenergy will cooperate and support their request.

C. Costs:

Century will reimburse Big Rivers and Kenergy for any additional equipment costs to implement the Protective Relay Program.

D. Power Costs:

The applicable rate for Base Energy will apply to Curtailable Energy.

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**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Monday, February 25, 2013 7:50 AM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Subject:** Room 381

Conference room 381 of the Annex is reserved for Century/Big Rivers today starting at 12:30. This is the same room that we had last week.

**Barbara Harwood**

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**From:** Bob Berry  
**Sent:** Tuesday, February 19, 2013 3:42 PM  
**To:** Early, Michael; JDeZee@centuryca.com  
**Cc:** Jim Miller; Tyson Kamuf (tkamuf@smsmlaw.com)  
**Subject:** Siemens Flow Study Report

Michael and John, In this current rate case, Big Rivers has been requested to provide all documents related to the flow study regarding the potential must run condition at Coleman Station. Per the Confidentiality Agreement we are requesting your permission to provide the Siemens flow study to the interveners in the case. Please respond as to your approval or denial of this request.

Thanks  
Bob

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Thursday, February 21, 2013 8:40 AM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Chris Hopgood; David Hamilton; Drefke, Kyle W.  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** TERM SHEET  
**Attachments:** Term Sheet Markup 2 20.docx; Term Sheet Markup 2 20.docx

Gentlemen:

Attached is a clean and red-lined copy of Century's mark-up of your last Term Sheet proposal. As we are all aware, these negotiations in one form or another have continued for almost a year and at considerable expense to Century. As we approach the August 2013 effective date under Century's notice, time is critical and we need to bring these negotiations to a close. The attached mark-up represents what Century needs on the major terms of the Transaction including costs and revenues. Although Century remains open to further discussions, we have little or no room on the major terms.

We propose to meet at 2pm today in the Annex to answer any questions on the mark-up. We request that in any responsive mark-up, Big Rivers and Kenergy propose their last, best and final offer.

Michael

Jim—What is the room number that you reserved for us this afternoon?

**SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION**

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- D. Cost incurred solely due to Century's operation: In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy that are solely and directly related to the operation of Century.

- E. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- F. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.
- G. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- H. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- I. Effective Date: The date on which the conditions set forth in paragraph X below are satisfied.
- J. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- K. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- L. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- M. KPSC: Kentucky Public Service Commission
- N. kWh: Kilowatt-hour
- O. Maximum Load: 482 megawatts per hour.
- P. MW: Megawatts
- Q. MISO: The Midwest Independent Transmission System Operator, Inc.
- R. MISO Tariff: The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.



- S. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- T. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
- U. RTO: Regional transmission organization
- V. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
- W. Transaction: The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General: During the Service Period, Kenergy will use reasonable commercial efforts to acquire an aggregate of no more than the Maximum Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying the amount and duration of electricity desired. Imbalance requirements, including up to 10 MW above the Maximum Load, will be obtained in the Real Time Market.
- B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. Kenergy may elect, subject to the consent of Century in its sole discretion, to become the Market Participant itself with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant which Kenergy shall accept, provided Kenergy is satisfied, in its sole discretion, with the financial security arrangements with the entity
- C. Mitigation of Tax and Credit Risk:

- D. **Definitive Documents:** The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, (v) a Parent Guarantee of Century Parent, and (vi) a Security and Lockbox Agreement among Kenergy, Big Rivers and Century.
- E. **Election to Join Alternative RTO:** Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO. If such change results in additional costs to Century then Big Rivers or Kenergy, as applicable, shall reimburse Century for such costs *provided further*, that the Hawesville Node may remain in MISO if (i) requested by Century and (ii) permitted by the RTOs. In such case, any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

#### IV. ELECTRIC SERVICE AGREEMENT

- A. **Power Supply:** The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements of such bilateral contracts.
- B. **Scheduling, Load and Load Factor:** Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than two hours'

prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market[; provided, Century may offer and sell f interruption and demand reduction services.] [Kenergy evaluating potential tax consequences of sales.]

C. Charges to Century:

Charges to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. An adder amount (per kWh) equal to Kenergy's actual administrative costs in implementing the Transaction but not to exceed the Retail Fee in § 4.12 of the current contract while Big Rivers or another entity is the Market Participant, provided if Kenergy becomes the Market Participant the adder shall reflect actual costs incurred by Kenergy in connection with the performance of the obligations of the Market Participant. Century shall have to right to audit such costs;
3. Monthly charges, whether positive or negative, with respect to the items set forth in paragraph V. hereof; and
4. Any other amounts due and owing to Kenergy pursuant to paragraph IV.D. below.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph IV.C. above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and

2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction..

- E. Performance by Kenergy: To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has a obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.
- F. Term: The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.
- G. Billing; Payment: Kenergy shall invoice Century each [\_\_\_] on or before the [\_\_\_] business day of [\_\_\_]. Century shall pay Kenergy all amounts due and owing to [\_\_\_] on the [\_\_\_] business day of the following [\_\_\_]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph VIII. [Note: same as under current contract.]
- H. Termination: The Electric Service Agreement may be terminated in the following circumstances:
1. By either party if the conditions precedent in Section X herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
  2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
  - 3.
  4. By a non-defaulting party following an Event of Default; or
  5. By Century in its sole discretion on twelve months prior written notice to Kenergy.

I. Events of Default:

Events of default under the Electric Service Agreement shall be :

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services when due within 3 business days after receipt of written notice;
2. Failure to maintain the security arrangements described in paragraph VIII within 3 business days after receipt of written notice;
3. Failure to perform a material non-payment obligation within 30 days following written notice;
4. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or other Definitive Document;
5. Assignment of the agreement other than as permitted thereunder; or
6. Certain bankruptcy or insolvency events.

J. FTR/AAR Rights:

Century shall have the rights to all FTRs or ARRs resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARRs and shall retain all revenues from such FTRs or ARRs.

K. Power Factor:

Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.

L. Assignment and Assumption:

Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Kenergy that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume

all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will not be unreasonably withheld. .

M. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

N. Indemnification; Force Majeure:

The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph VIII hereof.

O. Other Matters:

1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility..
2. Century will acknowledge and agree that except as provided herein Big Rivers has no obligation to serve or supply power from its generating resources or under contract to Kenergy for the benefit of Century's Hawesville smelter,.
3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter following termination of the Service Period.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary:

Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions

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thereof as long as Big Rivers is the Market Participant.

## V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

### A. General:

The following items shall be an adjustment, positive or negative, to the amounts payable under the Electric Service Agreement or, if applicable, the Arrangement Agreement:

1. Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville Node or any other Big Rivers' Node which are solely and directly related to the requirement to operate the Coleman Generating Station for reliability of transmission of electricity to Century under the Transaction. , *plus*
2. All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to the Hawesville Node; *plus*
3. Charges by MISO to maintain the Hawesville Node; *less*
4. Any revenue resulting from the ownership, sale or trade of ARR or FTRs under section IV. J. ; *plus*
5. Additional costs or charges of ACES, incurred solely due to Century's operation, to settle bills; *plus*
6. The costs proportionate share by load (MWh) of costs incurred by Kenergy or Big Rivers to comply with state or federal renewable energy portfolio standards to the extent such costs are incurred solely due to Century's operation; provided Century may self comply by purchasing its proportionate share of renewable energy. Parties acknowledge that there are not aware of any such costs as of the effective date; *plus*
7. Any costs associated with any entity or person other than Big Rivers serving as Market Participant; *less*
8. Charges or costs paid by Century, directly or indirectly, for transmission services under the MISO tariff or the Big Rivers tariff and any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Bir Rivers tariff ,

plus.

9. Costs of 0.25 FTE employee of Big Rivers if Big Rivers is the Market Participant

B. Dispute Resolution:

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter to binding arbitration under AAA rules for three judge arbitration with the losing party to pay the fees and costs of the prevailing party.. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.

## VI. ARRANGEMENT AGREEMENT

A. General:

The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, including up to 10 MW above the Maximum Load, obtained in the Real Time Market for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements of such bilateral contracts.

B. Scheduling, Load and Load Factor:

Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than two hours'

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prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed the Maximum Load without the prior consent of Big Rivers.

- C. Delivery Point: Before March 15 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.
- D. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- E. Charges to Kenergy: Charges to Kenergy shall include, without duplication:
1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
  2. Charges for transmission service;
  3. Any other amounts due and owing to Big Rivers under the Direct Agreement or bilateral contract entry into which was agreed to by Century.
- F. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century. [Note: This language parallels the 2009 agreement.]
- G. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

H. Billing; Payment:

Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph VIII. [Note: same as under current contract]

I. Termination:

The Arrangement Agreement may be terminated in the following circumstances; provided the Agreement shall not terminate until another Market Participant is in place under the Agreements:

1. By either party if the conditions precedent in section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement;
5. By either party if Big Rivers is no longer the Market Participant; or
6. All Definitive Documents shall terminate if Century terminates the Electric Service Agreement with Kenergy.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph VIII;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

VII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

A. Responsibility for Certain Costs:

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Arrangement Agreement, without duplication:

1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction; and
2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century.

B. Acknowledgments:

Century will acknowledge and agree that:

1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 19, 2013 other than pursuant to a new rate or contract

approved by the KPSC;

2. Subject to III. E., Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
3. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter; and

C. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will not be unreasonably withheld..

D. MISO Processes:

In any MISO process or negotiation to determine the SSR Status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Century shall be a party to such negotiations and processes; Big Rivers and, if applicable, Kenergy shall provide Century with an opportunity to review and comment on all information, proposals and submittals to MISO in such processes and negotiations; Big Rivers and, if applicable, Kenergy shall propose only such actions that minimize the SSR costs, recognizing that Century's interest in Coleman is only for the SSR period; and Big Rivers and, if applicable, Kenergy will seek to delay incurring any capital costs until after the end of the entire expected SSR period. Big Rivers acknowledges that any capital costs shall be allocated and recovered over the remaining life of Coleman Big Rivers and, if applicable,

Kenergy shall not agree, with regard to Coleman, to any SSR status, SSR periods, net SSR cost determination methodology or specific amounts, or allocation of net SSR costs amounts, nor enter into any SSR contract with MISO without Century's consent.

- E. KPSC Proceedings: Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.
- F. Survival: Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those costs.

#### VIII. CREDIT

- A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. D., in the form of the following at Big Rivers's and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount at least equal to the sum of:
1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period of two months;
  2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months;

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents,

- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- D. Bilateral Power Supply Arrangements Credit Support: Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## IX. CONDITIONS TO THE EFFECTIVE DATE

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:
1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
  2. All representations and warranties of the parties are true and correct in all material respects;
  3. Approvals by the Big Rivers board; the three Members boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the Commission will have been obtained prior to the

Effective Date;

4. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
5. All Transaction documents have been executed and delivered by the parties thereto.

**X. OTHER**

- A. Preparation of Definitive Documents: The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.
- B. Schedule  
Term sheet will be signed on or before March 1 2013; Definitive Documents will be signed not later than 10 days thereafter; all board approvals obtained no later than 10 days after Definitive Documents signed; Definitive Documents filed with the Commission for approval no later than 20 days after all board approvals obtained; all creditor approvals obtained no later than 60 days after the Definitive Documents signed; and all parties will request the Commission to issue an order approving the Definitive Documents no later than 45 days after filing.  
  
C. Support for Approval Parties agree to publicly endorse the Agreements and to support the filing at the Commission and to oppose any changes to the Agreements. Century shall be allowed to attend and participate in any meetings with the Big Rivers board , the three Members boards or with creditors at with approval of the Agreements is requested.
- D Legislation. The term sheet shall be subject to the parties reaching a mutually agreeable resolution of HB 211 and SB 71 and other post-execution activities.

E. Reimbursement Agreement Century's obligation under the Reimbursement Agreement shall include only costs through the date that the Term Sheet is signed

F. Governing law Commonwealth of Kentucky



*Draft 2/19/13*

SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION

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## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- |    |                 |   |
|----|-----------------|---|
| A. | Kenergy:        | Kenergy Corp., a Kentucky cooperative corporation   |
| B. | Big Rivers:     | Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative  |
| C. | Century:        | Century Aluminum of Kentucky General Partnership  |
| D. | Century Parent: | Century Aluminum Company  |
| E. | Members:        | <ol style="list-style-type: none"><li>1. Kenergy;</li><li>2. Jackson Purchase Energy Corporation; and</li><li>3. Meade County Rural Electric Cooperative Corporation.</li></ol> |

### II. DEFINITIONS

- |    |  |  |
|----|--|--|
| A. | ARR:   | Auction revenue rights as defined in the MISO Tariff.  |
| B. | Arrangement Agreement:                           | The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.   |
| C. | Closing Date:                                    | The date upon which the Definitive Documents are executed and delivered.   |
| D. | Cost incurred solely due to Century's operation: | In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy <u>that are solely and directly related to the operation of Century to the extent incurred or committed to during the Service Period in connection with the Transaction, including costs which are enhancements of costs which otherwise might</u> |

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~~be incurred or which become committed to by Big Rivers and/or Kenergy in preparation for entry into the Definitive Documents remain in effect.~~

- E. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- F. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.
- G. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- H. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- I. Effective Date: The date on which the conditions set forth in paragraph IX below are satisfied.
- J. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- K. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- L. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- M. KPSC: Kentucky Public Service Commission
- N. kWh: Kilowatt-hour
- O. Maximum Load: 482 megawatts per hour.
- P. MW: Megawatts
- Q. MISO: The Midwest Independent Transmission System Operator,

Inc.

- R. MISO Tariff: The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
- S. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- T. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
- U. RTO: Regional transmission organization
- V. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
- W. Transaction: The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General: During the Service Period, Kenergy will use reasonable commercial efforts to acquire an aggregate of no more than up to the Maximum Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) ~~other material terms and conditions~~. Imbalance requirements, including up to 10 MW above the Maximum Load, will be obtained in the Real Time Market. ~~[Note: "Reasonable commercial efforts" standard is the same as in the 2009 agreements.]~~
- B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may elect, at its election subject to the consent of Century in its sole discretion, without the necessity of consent or approval of

~~Big Rivers [or Century], select an alternate Market Participant to or become the Market Participant itself with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant which Kenergy shall accept, provided Kenergy is satisfied, in its sole discretion, with the financial security arrangements with the entity [Kenergy believes Century previously agreed to Kenergy's right to become the Market Participant.]~~

C. Mitigation of Tax and Credit Risk:

~~The Transaction will be structured in a manner intended to mitigate or eliminate exposure of Kenergy or Big Rivers to adverse tax consequences or potential liability to third parties for risks of non-performance by Century; provided that, with respect to structuring around adverse tax consequences, this does not unreasonably increase costs to Century; provided, further, that the obligations of Century and Century Parent shall not be deemed to unreasonably increase costs to Century under the Tax Indemnity Agreement.~~

D. Definitive Documents:

The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, (iv) a Tax Indemnity Agreement between Kenergy and Century; (v) a Parent Guarantee of Century Parent, and (vi) a Security and Lockbox Agreement among Kenergy, Big Rivers and Century.

E. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO. ~~If such change results in additional costs to Century then Big Rivers or Kenergy, as applicable, shall reimburse Century for such costs provided further, that the Hawesville Node may remain in MISO if (i) requested by Century and; (ii) permitted by the RTOs, (iii) Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO, and (iv) the request does not result in any material adverse effect on Big Rivers or Kenergy, as applicable, or the ability to join or become a member of the RTO.~~ In such case, any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such

other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents. ~~Century shall be responsible for any costs incurred by Big Rivers or Kenergy solely due to Century's operation in connection with Kenergy or Big Rivers transitioning to an RTO other than MISO relating to or arising out of Century's load, and (ii) with respect to the Hawesville Node remaining in MISO if requested by Century.~~

#### IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity, ~~electric capacity~~ and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. ~~Capacity will be purchased in the applicable MISO market. In the future, Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to with the financial security arrangements and the terms and conditions of such bilateral contracts.~~

B. Scheduling, Load and Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than ~~two[xx]~~ hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to ~~arbitrage or resell electricity or related services in the Real Time Market;~~ *provided, this does not preclude Century may offer and sell from providing and selling interruption* ~~interruption and demand reduction~~ *bility*

services.] [Kenergy evaluating potential tax consequences of sales.]

C. Charges to Century:

Charges to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. An adder amount (per kWh) equal to Kenergy's actual administrative costs in implementing the Transaction but not to exceed the Retail Fee in § 4.12 of the current contract while Big Rivers or another entity is the Market Participant, provided if Kenergy becomes the Market Participant the adder shall and, thereafter, amounts to reflect actual costs incurred by Kenergy in connection with the performance of their obligations of the Market Participant. Century shall have to right to audit such costs relating to the Transaction, plus margin;
3. ~~To the extent not covered under clause (1) above, charges to Kenergy from Big Rivers under the Arrangement Agreement or from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract entry into which was agreed to by Century;~~
4. ~~Monthly charges, whether positive or negative, with respect to the items set forth in paragraph V. hereof; and~~
5. ~~Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D. below.~~

~~Payment obligations under the Electric Service Agreement will survive termination of the agreement, including if Kenergy or Big Rivers incurred or became committed to pay such amount during the Service Period.~~

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph IV.C. above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

E. Performance by Kenergy:

To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has a obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.

F. Term:

The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.

G. Billing; Payment:

Kenergy shall invoice Century each [ ] on or before the [ ] business day of [ ]. Century shall pay Kenergy all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 14 percent. The security for such payments is described in paragraph VIII. ~~[Note: same as under current contract,] payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.~~

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in Section EX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. ~~By Kenergy if the Arrangement Agreement is not~~



~~in effect on the commencement of the Service Period;~~

4. By a non-defaulting party following an Event of Default; or ~~[Note: Cure periods present in the definitions of Events of Default in the next section address the issue raised.]~~
5. By Century in its sole discretion on twelve months~~one year's~~ prior written notice to Kenergy.

I. Events of Default:

Events of default under the Electric Service Agreement ~~shall be:~~ will cover customary matters, including:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services when due within 3 business days after receipt of written notice;
2. Failure to maintain the security arrangements described in paragraph VIII within 3 business days after receipt of written notice;
3. ~~Failure to pay any other amounts due within 3 business days following written notice;~~
4. ~~Failure to perform a material non-payment obligation within 30 days following written notice;~~
5. ~~The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;~~
6. ~~Assignment of the agreement other than as permitted thereunder; or~~
6. ~~Certain bankruptcy or insolvency events.~~
- 7.

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J. FTR/AAR MISO Rights:

Century shall have the rights to all FTRs or ARRs resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and AARs, and shall retain all revenues from such FTRs or ARRs.

K. Power Factor:

Century shall use commercially reasonable efforts to

maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.

- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Kenergy, in its sole discretion, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will not be unreasonably withheld, be granted in its sole discretion.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph VIII hereof.
- O. Other Matters:
1. The Electric Service Agreement will provide service only relate to service to Century's Hawesville, Kentucky smelter facility. Any other service arrangements required from Kenergy or Big Rivers must be set forth in other contractual arrangements among the parties.
  2. Century will acknowledge and agree that except as provided herein Big Rivers has no obligation to serve or supply power from its generating resources or under contract to Kenergy for the benefit of Century's Hawesville smelter, or its affiliates, spin-offs or successors during the Service Period or thereafter.
  3. Century will acknowledge and agree that Kenergy

will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter, or its affiliates or spin-offs following termination of the Service Period.

4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business~~(—)~~ days prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof. ~~{Note remains under consideration in connection with security and payment terms.}~~
5. ~~—~~ If Kentucky law changes to permit retail consumers to directly purchase electricity, electric capacity or electricity-related ancillary services, the parties shall negotiate in good faith to modify the agreement to mitigate or eliminate risks and costs to Kenergy and Century in connection with the Transaction.
- 6.5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof as long as Big Rivers is the Market Participant. ~~Century has outstanding obligations to Big Rivers under the Definitive Documents.~~

#### V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General: The following items shall be an adjustment, positive or negative, to the amounts payable under the Electric Service Agreement or, if applicable, the Arrangement Agreement:

1. Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville Node or any other Big Rivers' Node which are solely and directly related to the requirement to operate associated with the must-run condition of the Coleman Generating Station for reliability of transmission of electricity to Century under the Transaction., including

~~operations and maintenance expenses and capital costs, including capital expenditures relating to compliance with applicable environmental laws; plus~~

2. ~~All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, incurred by or allocated by MISO to Kenergy or Big Rivers to the Hawesville Node extent such costs are costs incurred solely due to Century's operation, including all costs relating to the Midwest ISO Transmission Expansion Plan ("MTEP"), or Multi-Value Projects ("MVP") under the MISO Tariff, or similar programs of any applicable RTO; plus~~
3. ~~Charges by of MISO to incurred solely due to service to Century, including maintaining the Hawesville Node; less plus~~
4. ~~Any revenue of Century resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J. relating to the load of the Hawesville facility; plus~~
5. ~~Additional costs or charges of ACES, incurred solely due to Century's operation, to settle bills; plus~~
6. ~~The proportion of costs proportionate share by load (MWh) of costs incurred by of Kenergy or Big Rivers to comply with state or federal renewable energy portfolio or similar standards or environmental laws or regulations to the extent such costs are costs incurred solely due to Century's operation; provided Century may self comply by purchasing its proportionate share of renewable energy. Parties acknowledge that there are not aware of any such costs as of the effective date; plus~~
7. ~~Any costs associated with any other entity or person other than Big Rivers serving as Market Participant; less in MISO under the Definitive Documents; plus~~
8. ~~Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act to the extent such costs are costs incurred solely~~

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~~due to Century's operation; plus~~

- ~~9. Costs of a 0.5 FTE employee of Big Rivers if it is serving as the Market Participant; plus~~
- ~~10. Other direct costs of Kenergy or Big Rivers to the extent incurred or committed to by Kenergy or Big Rivers solely due to Century's operations; less~~
- ~~11.8. Charges or costs paid by Century, directly or indirectly, for transmission services under the MISO tariff or the Big Rivers tariff and any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff, plus to Century for network-integrated transmission service; less~~
- ~~12.9. Costs of 0.25 FTE employee of Big Rivers if Big Rivers is the Market Participant. Other charges paid by Century to Kenergy or Big Rivers, without duplication, for direct costs which Kenergy or Big Rivers would incur if Century ceased smelting operations at the Hawcsville facility.~~

~~With respect to any of the foregoing amounts constituting capital expenditures, Kenergy or Big Rivers, as applicable may require Century to prepay any such capital expenditures reasonably expected to be incurred in the following 30 days:~~

- B. Proportionate Cost Sharing: The parties will establish a procedure to permit Century to recover capital expenditures paid by it under this paragraph V, in proportion to the use of the related facilities by Kenergy or Big Rivers, as applicable.
- C. Dispute Resolution: If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter to the KPSC for binding arbitration resolution under AAA rules for three judge arbitration with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for

rehearing. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.

## VI. ARRANGEMENT AGREEMENT

- A. General: The electricity, ~~electric capacity~~ and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, including up to 10 MW above the Maximum Load, obtained in the Real Time Market for resale to Kenergy for service to Century. Upon a Capacity will be purchased in the applicable MISO market. Century may request that ~~Century request to Kenergy and Big Rivers,~~ the electricity, capacity and ancillary services ~~to Century~~ will be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial ~~with the security arrangements and the terms and conditions of such bilateral contracts,~~ in each case, in its sole discretion.
- B. Scheduling, Load and Load Factor: Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than ~~two~~ ~~hour~~ hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed the Maximum Load without the prior consent of Big Rivers.
- C. Delivery Point: Before March 15 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.
- D. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- E. Charges to Kenergy: Charges to Kenergy shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
2. Charges for transmission service;
3. Any other amounts due and owing to Big Rivers under the ~~Direct Agreement~~ Definitive Documents or bilateral contract entry into which was agreed to by Century.

~~Payment obligations under the Arrangement Agreement will survive termination of the agreement.~~

F. Performance by Kenergy:

To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century. [Note: This language parallels the 2009 agreement.]

G. Term:

The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement ~~shall be for the Service Period~~, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

H. Billing; Payment:

Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph VIII. ~~[Note: same as under current contract Payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.]~~

I. Termination:

The Arrangement Agreement may be terminated in the following circumstances; provided the Agreement shall not terminate until another Market Participant is in place under

the Agreements:

1. By either party if the conditions precedent in section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement;
5. By either party if Big Rivers is no longer the Market Participant; or
6. All Definitive Documents shall terminate if If Century terminates the Electric Service Agreement with Kenergy.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement ~~shall be~~ will cover customary matters, including:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph VIII;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the



Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;

6. Assignment of the agreement other than as permitted thereunder; or

7. Certain bankruptcy or insolvency events.

7.

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## VII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

- A. Responsibility for Certain Costs: Under the ~~Definitive Documents~~, Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Arrangement Agreement, without duplication:
1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction; and
  2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century.
- B. Acknowledgments: Century will acknowledge and agree that:
1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 19, 2013 other than pursuant to a new rate or contract approved by the KPSC;
  2. Subject to III. E., Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
  3. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter; and
  4. ~~If Kentucky law changes to permit retail consumers~~

~~to directly purchase electricity, electric capacity or electricity-related ancillary services the parties shall negotiate in good faith to modify the agreement to mitigate or eliminate risks and costs to Big Rivers, Kenergy and Century.~~

C. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers in its sole discretion that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will not be unreasonably withheld, be granted in its sole discretion.

D. MISO Processes Matters:

~~Big Rivers will (i) advise Century regarding the status of negotiations with MISO regarding transmission costs or the must-run status of Coleman, and (ii) to the extent practical, consult with Century prior to responding to MISO requests for information (e.g., inputs or assumptions) which are reasonably expected to increase amounts payable by Big Rivers or Kenergy for which Century has a reimbursement obligation for under the Definitive Documents. In any MISO process or negotiation to determine the SSR Status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Century shall be a party to such negotiations and processes; Big Rivers and, if applicable, Kenergy shall provide Century with an opportunity to review and comment on all information, proposals and submittals to MISO in such processes and negotiations; Big Rivers and, if applicable, Kenergy shall propose only such actions that minimize the SSR costs, recognizing that Century's interest in Coleman is only for the SSR period; and Big Rivers and, if applicable, Kenergy will seek to delay incurring any capital costs until after the end of the entire expected SSR period. Big Rivers acknowledges that any capital costs shall be allocated and~~

recovered over the remaining life of Coleman Big Rivers and, if applicable, Kenergy shall not agree, with regard to Coleman, to any SSR status, SSR periods, net SSR cost determination methodology or specific amounts, or allocation of net SSR costs amounts, nor enter into any SSR contract with MISO without Century's consent.

E. KPSC Proceedings: Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

F. Survival: ~~Termination of the Electric Service Agreement or expiration of the Service Period will not terminate or limit the foregoing obligations or acknowledgements of Century. Payment obligations shall survive termination of the Definitive Documents. Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those costs.~~

#### VIII. TAX INDEMNITY AGREEMENT

A. General: ~~Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for all direct or indirect costs, expenses, liabilities, claims, etc. relating to or arising out of the Transaction, including failure of Kenergy to maintain its status as an entity exempt from federal income taxation in consequence of the Transaction, the costs of any ruling request desired by Kenergy and costs related to any reapplication for tax exempt status by Kenergy.~~

#### IX. CREDIT

A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX.D., in the form of the following at Big Rivers's and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other

assurance shall be in an amount at least equal to the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period of two months;
2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months;
3. ~~The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and~~
4. ~~3. Other amounts projected by Kenergy or Big Rivers to become payable to either of them by Century.~~

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, ~~provided that such withdrawals, draws or other actions shall not relieve Century of the obligation to pay any such overdue amounts together with interest at the Prime Rate plus 4 percent from the due date.~~

~~**{Note: Payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.}**~~

- |    |                      |  |
|----|----------------------|--|
| B. | Century Guarantee:   | Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.  |
| C. | [Lockbox Agreement:] | <del>{Century, Kenergy and Big Rivers will enter into lockbox arrangements for the Transaction similar to those currently in place.} {Note: Subject to resolution of payment terms and security arrangements.}</del>     |
| D. | MISO Credit:         | Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century. |

E. **Bilateral Power Supply Arrangements Credit Support:** Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

X. **CONDITIONS TO THE EFFECTIVE DATE**

- A. **General:** In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:
1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
  2. All representations and warranties of the parties are true and correct in all material respects;
  3. ~~All approvals by the Big Rivers board; the three Members boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the Commission of governmental agencies and lenders required for consummation of the Transaction by Kenergy, Big Rivers, any Member, Century or Century Parent, will have been obtained and all notices to and filings with governmental agencies that are necessary or appropriate to be made prior to the Effective Date in connection with the consummation of the Transaction shall have been given to (in the case of notices), or filed with and accepted by, the applicable governmental agencies, without objection by the governmental agency or initiation of an adverse proceeding;~~
  4. ~~All contemplated consents, releases or discharges from any entity in connection with the Transaction shall be obtained;~~
  5. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and

6. ~~All other conditions precedent to the obligations of the parties to enter into the Transaction shall have been satisfied;~~

7. ~~Big Rivers' Members shall each have consented to the Transaction; and~~

8-7. All Transaction documents have been executed and delivered by the parties thereto.

XI. OTHER

XI:

A. Preparation of Definitive Documents:

The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.

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B. Schedule Governing Law:

Term sheet will be signed on or before March 1 2013; Definitive Documents will be signed not later than 10 days thereafter; all board approvals obtained no later than 10 days after Definitive Documents signed; Definitive Documents filed with the Commission for approval no later than 20 days after all board approvals obtained; all creditor approvals obtained no later than 60 days after the Definitive Documents signed; and all parties will request the Commission to issue an order approving the Definitive Documents no later than 45 days after filing.

C. Support for Approval Parties agree to publicly endorse the Agreements and to support the filing at the Commission and to oppose any changes to the Agreements. Century shall be allowed to attend and participate in any meetings with the Big Rivers board, the three Members boards or with creditors at with approval of the Agreements is requested.

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D. Legislation. The term sheet shall be subject to the parties reaching a mutually agreeable resolution of HB 211 and SB 71 and other post-execution activities.

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E. Reimbursement Agreement Century's obligation under

the Reimbursement Agreement shall include only costs through the date that the Term Sheet is signed

F. Governing law Commonwealth of Kentucky

Commonwealth of Kentucky

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Wednesday, April 24, 2013 2:59 PM  
**To:** Bob Berry; Drefke, Kyle W.; Jim Miller; David Hamilton; Chris Hopgood  
**Cc:** DeZee, John  
**Subject:** Revised term sheet  
**Attachments:** \_Century Term Sheet 042413.docx

See attached revised term sheet

Sorry for the delay as I was a victim of the sequestration although the airline claimed weather

We are still available for the call today at 5:30 Eastern but if you need to delay until later today or tomorrow, let me know

Thanks

Michael



SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Base Load: The maximum amount (MW) that can be reliably delivered to the Hawesville node, as determined by MISO prior to the Effective Date, with the Coleman Generation Station closed; provided such amount (i) shall be increased if Big Rivers commences operation of one or more units at the Coleman Generation Station for its own purposes and MISO determines the increase will not create a reliability issue; and (ii) may not exceed 482 MW with or without any Curtailable Load. On request by Century, Big Rivers will

request MISO to determine whether the Base Load may be increased if one or more units of Coleman are operated as other than must-run units.

- D. Capacitor Additions: The amount of capacitors (MVARs) that are needed to provide voltage support for the Base Load or, if applicable, for the Base Load plus Curtailable Load with the Coleman Generation Station idled.
- E. Capacitor Agreement: An agreement entered into by Big Rivers, Century and Century Parent relating to obligations for the design, development, purchase, installation, operation and maintenance of the Capacitor Additions and the Protective Relays and risk allocation relating thereto.
- F. Capacitor Costs: The costs to design, develop, purchase, install and operate and maintain the Capacitor Additions.
- G. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- H. Costs related to Century's operation: In the context of the specific costs referenced, this shall mean those costs of Big Rivers or Kenergy to the extent that such costs relate to the operation of Century. For the avoidance of doubt, this definition includes (i) a proportionate share of costs that are incurred to serve Century and other loads, and (ii) costs that relate only to Century's operation. The parties ~~shall~~ may provide examples in the applicable Definitive Documents of specific costs, types of costs, and the bases for determining Century's proportionate share of such costs. ~~particular bases for determining the proportionate share of particular costs in some cases.~~
- I. Curtailable Load: The maximum amount of additional load (MW) at the Hawesville node above the Base Load that can be served, as determined by MISO, with the installation of Protective Relays at the Hawesville Smelter, up to 482 MW.
- J. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- K. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities,

defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.

Definitive Documents shall include:

- a) Electric Service Agreement;
- b) Arrangement Agreement;
- c) Direct Agreement;
- d) Capacitor Agreement;
- e) Protective Relays Agreement;
- f) Tax Indemnity Agreement between Kenergy and Century; and
- g) Parent Guarantee of Century Parent.

- L. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- M. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- N. Effective Date: The date on which the conditions set forth in paragraph XII below are satisfied; *provided* that the Capacitor and Relay Agreement may be entered into and performance by the parties of their obligations thereunder may commence prior to the Effective Date.
- O. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- P. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- Q. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- R. KPSC: Kentucky Public Service Commission
- S. Maximum Load: 482 megawatts.

- T. MW: Megawatts
- U. MISO: The Midwest Independent Transmission System Operator, Inc.
- V. MISO Tariff: The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
- W Must Run Cost or SSR Cost: Means the net costs, as determined by MISO, if Big Rivers is required by MISO to operate any Coleman unit as a condition for reliability of delivery of market power to Century above the Base Load and, if applicable, the Curtailable Load.
- X. Paid by Century: Means paid directly or indirectly by Century for transmission services under the Electric Service Agreement to the extent received by Big Rivers.
- Y. Protective Relays Agreement: An agreement entered into by Big Rivers, Century and Century Parent relating to obligations for the design, development, purchase, installation, operation and maintenance of the Protective Relays and risk allocation relating thereto.
- Z. Protective Relays: Protective relays installed pursuant to the Capacitor and Relay Agreement
- AA. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- BB. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
- CC. RTO: Regional transmission organization
- DD. SERC SERC Corporation
- EE. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 19, 2013, through December 31, 2023, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof, provided that the Service Period automatically shall be extended for additional one year

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Definitive Documents.

D. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. The Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTO, (iii) Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO, and (iv) Big Rivers is not unreasonably precluded by the request from ~~does not practically preclude Big Rivers leaving MISO and joining or becoming a member of another RTO.~~ In such case any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

Big Rivers will (i) provide Century one year's notice before leaving MISO; (ii) provide Century with notice of a Big Rivers' management's recommendation to Big Rivers' board of directors that Big Rivers terminate its membership in MISO (subject to confidentiality provisions of the agreement); (iii) if not publicly available, provide Century with a copy of the annual notices required by the KPSC regarding the cost to Big Rivers of being a member in MISO; and (iv) allow Century to participate in meetings or conference calls with MISO regarding matters affecting amounts payable by Century under this paragraph III(D).

IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to

Kenergy associated with such bilateral contracts.

B. Scheduling, Load and Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule, as applicable, the Base Load or the Base Load plus the Curtailable Load or the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than 8:00 a.m. on the day for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed, as applicable, the Base Load, the Base Load plus the Curtailable Load or the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed.

C. Charges to Century:

Charges and Credits to Century for the Base Load amount and, if applicable, the Curtailable Load amount or Maximum Load amount shall include, without duplication:

1. On a pass-through basis, the market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services to the Hawesville Node, and any other services, required to be purchased by Kenergy to serve Century;
2. A credit for any revenue resulting from the ownership, sale or trade of ARRs or FTRs under paragraph IV(J);
3. An amount equal to Kenergy's internal and direct costs incurred in serving Century, including KPSC fees and a nominal net margin roughly equivalent to Kenergy's historical net margin attributable to service to Century, provided Century shall have the right to audit such costs;
4. Costs associated with any entity or person other than Big Rivers serving as Market Participant, including charges by MISO to establish or maintain



the Hawesville Node if Kenergy is the Market Participant;

5. Costs related to Century's operation, incurred by Kenergy to comply with (i) state or federal renewable energy portfolio or similar standards or (ii) environmental laws or regulations. For avoidance of doubt, such costs of Kenergy to comply with environmental laws and regulation would include, because Century does not use any Kenergy-owned facilities, only charges or requirements imposed based on sales or number of customers. To the extent permitted by applicable law, Century may self-comply by purchasing its proportionate share of renewable energy. The parties acknowledge that they are not aware of any such costs as of the effective date;
6. Charges to Kenergy for MISO Transmission Expansion Plan (MTEP) or Multi-Value Projects (MVP) costs that relate solely and directly to Century's operation;
7. To the extent not covered under clause (1) above, charges to Kenergy from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract which Century has approved;
8. Costs related to Century's operation incurred by Kenergy to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act;
9. Monthly charges with respect to items charged to Kenergy under the Arrangement Agreement;
10. An excess reactive demand charge equal to the product of \$0.1433 and the amount, expressed in kilovars, of the difference, if positive, of (a) the maximum metered reactive demand of Century during any billing month, minus (b) the amount of kilovars equal to the product of 0.3287 times the maximum hourly demand during the billing month, expressed in kilowatts, plus 74,005 kilovars, period; [Subject to adjustment for 0.95 requirement];
11. Other direct costs of Kenergy incurred or committed to by Kenergy related to Century's

operation; and

12. Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D below and applicable taxes.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph IV.C above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

E. Performance by Kenergy:

To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.

F. Term:

The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate at the end of the Service Period, unless terminated earlier pursuant to terms thereof.

G. Billing; Payment:

Kenergy shall invoice Century with the same periodicity as the Market Participant invoices Kenergy. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph XI.

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in paragraph XI herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on

August 19, 2013;

2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on 60 days prior written notice to Kenergy of such termination; provided, that if Century requests to purchase energy from Kenergy to serve its non-smelter load, then such service will be provided under the separate service agreement attached hereto which shall be approved, if necessary, by the KPSC and RUS as part of the Definitive Documents, and confirming that either (i) Century will not receive any electric services from Kenergy subsequent to termination, or (ii) all required approvals have been obtained, and are final and not subject to rehearing or appeal, for any electric services to be provided by Kenergy to Century subsequent to the termination;

Termination of the Electric Service Agreement will also terminate all other Definitive Documents and the parties' obligations under all Definitive Agreements will terminate, except as provided in paragraph XIII. B.

I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services;
2. Failure to maintain the security arrangements described in paragraph XI for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive

Document;

6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

With respect to Kenergy's remedies following an Event of Default, Kenergy may not terminate the Electric Service Agreement as a result of Century's failure to make a scheduled payment if Century cures such default before the third business day following such payment default.

- J. FTR/ARR Rights: Century shall have the rights to all FTRs or ARR's resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARR's and shall retain all revenues from such FTRs or ARR's.
- K. Power Factor: Century shall use commercially reasonable efforts, including use of capacitors installed under the Capacitor Agreement, to maintain a power factor at the Delivery Point that is as nearly as practicable ~~between~~ between to unity and but not less than 0.95.
- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions (i) customary for a transaction of this type, and (ii) clarifying that Century

shall be responsible for all costs, liabilities, claims or similar consequences relating to the Protective Relays or the Capacitor Additions. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph XI hereof.

O. Other Matters:

1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. Century will not be entitled to service under any tariff of Kenergy.
2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or, except as provided herein, under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Big Rivers with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Kenergy with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

- P. **Third Party Beneficiary:** Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof during the period of any survival of obligations to it under paragraph XIII(B) below.

V. **ARRANGEMENT AGREEMENT**

- A. **General:** The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market, and imbalance energy will be purchased or sold in the Real Time Market, for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements and elimination of risk to Big Rivers of such bilateral contracts.
- B. **Delivery Point:** Before March 15, 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.
- C. **Designation:** Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- D. **Scheduling, Load and Load Factor:** Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule, as applicable, the Base Load, Base Load plus Curtailable Load or the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than 8:00 a.m. on the day for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed, as applicable, the Base Load or Base Load plus Curtailable Load or the Maximum Load without the prior consent of Big Rivers.

E. Charges to Kenergy:

Charges to Kenergy for the Base Load amount and, if applicable, the Curtailable Load amount or Maximum amount shall be, without duplication:

1. On a pass-through basis, the market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
2. Charges for transmission service to the Hawesville Node;
3. Costs related to Century's operation incurred by Big Rivers to comply with (i) state or federal renewable energy portfolio or similar standards, or (ii) environmental laws or regulations. For the avoidance of doubt, such costs to comply with environmental laws and regulation do not include compliance costs at Big River's generation (other than applicable SSR costs associated with the must-run condition at Coleman under Rider I). To the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy. The parties acknowledge that there are not aware of any such costs as of the effective date; The parties acknowledge that there are not aware of any such costs as of the effective date;
4. Charges by MISO to establish or maintain the Hawesville Node;
5. Charges to Big Rivers for MISO MTEP or MVP costs that relate solely and directly to Century's operation;
6. Costs related to Century's operation incurred by Big Rivers to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act;
7. Costs or charges of ACES, or similar service provider, related to Century's operation, for scheduling, awards and settlements;
8. Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market Participant;
9. A credit for any revenue resulting from the ownership, sale or trade of ARRs or FTRs under

paragraph IV(J); and

10. Any other amounts due and owing to Big Rivers under the Definitive Documents, including applicable taxes. The parties acknowledge that there are not aware of any such taxes as of the effective date;

- F. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.
- G. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.
- H. Billing; Payment: Big Rivers shall invoice Kenergy with respect to services provided by MISO based on how Big Rivers is invoiced by MISO for those services and monthly for other amounts due to Big Rivers. For such other amounts, Big Rivers will invoice Kenergy on or before the 10<sup>th</sup> business day of Each month. Kenergy shall pay Big Rivers all amounts due and owing under such invoices on the 24<sup>th</sup> calendar month. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph XI.
- I. Termination: The Arrangement Agreement may be, or shall be, as provided herein, terminated in the following circumstances:
1. By either party if the conditions precedent in paragraph XII herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
  2. By either party if the KPSC final order relating to



the Transactions disapproves or changes material terms or conditions of the Definitive Documents;

3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement; provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement; and
5. The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant.

Big Rivers will provide Kenergy and Century not less than 3 business days' prior notice of an election to terminate the Arrangement Agreement as a result of an Event of Default.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services, including transmission services;
2. Failure to maintain the security arrangements described in paragraph XI for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as

permitted thereunder; or

7. Certain bankruptcy or insolvency events.

## VI. DIRECT AGREEMENT

### A. Responsibility for Certain Costs:

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;
2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century; and
3. ~~Costs under Rider I, if applicable; and~~
4. ~~3.~~ Any other amounts due and owing to Big Rivers under the Definitive Documents.

### B. Other Charges and Credits to Century

Charges and Credits to Century will include ~~for any billing period,~~ without duplication:

1. The sum, if positive, of (a) monthly costs or charges to Big Rivers, as determined and allocated by MISO, at the Hawesville Node or any other Big Rivers' Node resulting from the must-run condition of the Coleman generation station under Rider I if elected by Century, less (b) revenues received by Big Rivers or Kenergy for transmission services paid by Century under the MISO tariff or Big Rivers' tariff, provided that if the monthly sum is negative, then this credit will be carried forward and netted against any charges under this subpart in subsequent months; provided further, that if there is a remaining positive credit after the last billing month in the SSR period under Rider I, then such credit will be set to zero, no amounts under clause (b) will be carried over from one billing period to another; a mechanic for recovery of these costs if Kenergy is the Market Participant will be included

in the Definitive Documents);

2. All electrical transmission capital costs related to Century's operation, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to the Hawesville Node; and
3. Other third-party, out of pocket costs of Big Rivers incurred or committed to by Big Rivers related to Century's operation.

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3:

- C. Transmission Customer Century (through Kenergy or the Market Participant) shall be entitled to and Big Rivers will provide to Century transmission service, directly or indirectly, on the same rates, terms and conditions as other transmission customers.
- D. Coleman Forced Restart Must-Run Costs If Century increases its load above the Base Load amount plus Curtailable Load amount (other than as provided in section II.C) and, as a consequence, MISO orders Big Rivers to restart the Coleman Generation Station, then unless Century reduces its load to the Base Load and, if applicable, the Curtailable Load, Century shall be responsible for the resulting must-run costs, including capital costs incurred after the date of such restart, charged by MISO, as if Century had requested an SSR Agreement.

## VII. CAPACITOR AGREEMENT

- A. Capacitor Additions: Century will design, develop, purchase and install the Capacitor Additions, subject to Big Rivers' right to review the specifications relating to the design, installation and operation and maintenance of the Capacitor Additions. At the request of Big Rivers, received by phone, Century shall switch out one of the banks in the Capacitor Additions. Century will maintain a person available to receive from Big Rivers the communication referenced in the preceding sentence.

- B. **Parties; Effectiveness; Timing:** Big Rivers, Century and Century Parent will enter into the Capacitor Agreement. The agreement will become effective prior to Closing Date. The parties acknowledge that the goal of the agreement will be to have the Capacitor Additions installed and operational by commencement date of the Electric Service Agreement. The agreement will contain protections for Big Rivers relating to any risks, financial or otherwise, including claims, relating to the Capacitor Additions, including entry into the agreement prior to the Effective Date and the consequences if the conditions to the Effective Date are not satisfied (other than as a result of willful misconduct).
- C. **Ownership; Reimbursement of Costs:** Century shall own the Capacitor Additions and directly pay for their design, development, installation and operation or maintenance. Century shall reimburse Big Rivers for any costs incurred by it relating to the Capacitor Additions.
- D. **Guarantee:** Century Parent will guarantee all obligations of Century arising out of or relating to the payment or performance its obligations under the Capacitor Agreement.
- E. **Location:** All Capacitor Additions shall be located on property of Century. Neither Big Rivers nor Kenergy shall have any obligation to provide access to real estate or otherwise make available to Century space for the location of the Capacitor Additions.

#### VIII. PROTECTIVE RELAYS AGREEMENT

- A. **Parties; Effectiveness; Timing:** Big Rivers, Century and Century Parent will enter into the Protective Relays Agreement. The agreement will become effective prior to Closing Date. The parties acknowledge that the goal of the agreement will be to have the Protective Relays installed and operational by commencement date of the Electric Service Agreement. The agreement will contain protections for Big Rivers relating to any risks, financial or otherwise, including claims, relating to the Protective Relays, including entry into the agreement prior to the Effective Date and the consequences if the conditions to the Effective Date are not satisfied; subject to a willful misconduct exclusion.
- B. **Century Obligations:** Century will design, develop, purchase and install the Protective Relays, subject to Big Rivers' right to review the specifications relating to the design, installation and operation and maintenance of the Protective Relays.

- C. **Big Rivers' Obligations**      Big Rivers shall provide Century with notice of any request from MISO or any reliability authority of a direction to activate the Protective Relays and shall establish and maintain, at Century's cost, communication equipment necessary to provide such notice.
- D. **Request to MISO:**      Century and Big Rivers shall request MISO and SERC to allow Century to operate above the Base Load to the maximum extent allowable based on Protective Relays that would allow MISO to curtail load at Century above the Base Load when/if certain defined contingencies occur.
- E. **Cooperation:**      Big Rivers and Kenergy will reasonably cooperate and support their request; *provided*, any confidential information provided by either party will be subject to customary confidentiality provisions to be included in the Protective Relays Agreement.
- F. **Location of Protective Relays:**      The Protective Relays will be located behind Century's meter and will be operated as required by MISO and/or SERC. At Century's cost, Big Rivers will install communication equipment as required by MISO or SERC necessary to implement the Protective Relays.
- G. **Reimbursement of Costs:**      Century shall reimburse Big Rivers for any costs incurred by it relating to the Protective Relays.
- H. **Guarantee:**      Century Parent will guarantee all obligations of Century arising out of or relating to the payment or performance its obligations under the Protective Relays Agreement.

**IX. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS**

- A. **Acknowledgments:**      Century will acknowledge and agree that:
  1.      Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 19, 2013 other than pursuant to a new rate or contract approved by the KPSC;
  2.      Subject to paragraph III(D), Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
  3.      Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century,

or its affiliates, spin-offs or successors during the term of the agreement or thereafter.

- B. Assignment of Definitive Documents: For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will be granted in its sole discretion.
- C. KPSC Proceedings: Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

#### X. TAX INDEMNITY AGREEMENT

- A. General: Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for costs relating to the failure of Kenergy to maintain its status as an entity exempt from federal income taxation solely in consequence of the Transaction. Century will have subrogation rights in any tax proceeding relating to this indemnity and Kenergy will fully cooperate in the defense of any such claim.

Kenergy may seek a tax ruling on any impact of the Transaction on Kenergy's tax exempt status at Century's sole cost and expense following consultation with Century; provided that Kenergy will obtain an opinion from tax counsel before it seeks to become the Market Participant and shall provide a copy of such opinion to Century.

#### XI. CREDIT

- A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under

paragraph IX(C), in the form of the following at Big Rivers' and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount not to exceed the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than the payment terms required by each supplier to Kenergy;
2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months. For amounts under the Direct Agreement, then no longer than the billing period therein;
3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and
4. Other amounts reasonably projected by Kenergy or Big Rivers to become payable to either of them by Century or Century Parent.

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.

- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- D. Bilateral Power Supply: Century shall provide and maintain credit support in the form and in the amount required under any bilateral

Arrangements Credit Support: contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## XII. CONDITIONS TO THE EFFECTIVE DATE

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:
1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
  2. All representations and warranties of the parties are true and correct in all material respects;
  3. All Definitive Documents become effective;
  4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons identified prior to entry into the Definitive Documents will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
  5. An agreement with MISO or SERC regarding Protective Relays, if applicable, satisfactory to each of Kenergy, Big Rivers and Century, in its sole discretion;
  6. If applicable, an SSR Agreement with MISO, satisfactory to each of Kenergy, Big Rivers and Century, in its sole discretion;
  7. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
  8. All Transaction documents have been executed and delivered by the parties thereto.



### XIII. OTHER

- A. **Dispute Resolution:** If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge's distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing and subject to agreed minimum dispute amounts. Each party to the arbitration shall appoint a judge (i) with substantial experience in the electric utility sector, (ii) who has not been employed or been a consultant to such party in the past. The two appointed judges shall select a third judge meeting these criteria. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.
- B. **Preparation of Definitive Documents:** The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.
- C. **Survival of Obligations:** Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use reasonable commercial efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.
- D. **Schedule:** The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Big Rivers and Kenergy will propose a schedule for the distribution of initial drafts of the Definitive Documents, obtainment of all board approvals, filing with the KPSC

for approval of the Transaction, and request to the KPSC to issue an order approving the Definitive Documents on an expedited basis. [BREC to provide specific schedule.]

The parties agree to publicly endorse this Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.

E. Governing Law:

Commonwealth of Kentucky

**Rider I – SSR for Short Term Operation of Coleman**

- A. Purpose: The SSR Agreement will provide for continued operation of one or more units of the Coleman Generating Station after August 19, 2013, until such time as the Capacitor Additions and, at Century's option, the Protective Relays are installed and operational.
- B. Term: The SSR Agreement shall continue month-to-month until terminated by Century on 30 days notice. Big Rivers may terminate on 30 days notice given after April 30, 2014. The agreement shall terminate if Big Rivers commences operation of the Coleman Generation Station for its own purposes. Termination by Century or by Big Rivers, other than to operate Coleman for its own purposes, will require Century to reduce its load to the Base Load plus, if applicable, the Curtailable Load. If MISO refuses to accept termination of the SSR Agreement, then Century will have no obligations under the SSR Agreement as long as Century reduces its load to the Base Load plus, if applicable, the Curtailable Load.
- C. Power Costs and Credits: Costs relating to the SSR Agreement in the circumstances described in this rider shall be payable pursuant to paragraph VI.B.1. Such costs shall NOT include any capital costs, including any capital costs incurred after the Effective Date.
- D. Major Failure: If there is a major failure at any unit of the Coleman Generating Station during the term of the SSR Agreement, either (i) Century shall become responsible for the lesser of (a) the capital repair costs of the unit, but not to exceed the \$1 million insurance deductible, or (b) if less than 3 units are required, then the restart costs of an idled unit, or (ii) Century shall reduce its load to the Base Load plus, if applicable, the Curtailable Load.
- E. MISO Process on Coleman: In any MISO process or negotiation to determine the SSR status of Coleman for purposes of this Rider I, Big Rivers shall provide Century with a reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes. Big Rivers and Kenergy shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the SSR Agreement. Big Rivers will not agree to an SSR Agreement without Century's consent.

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, May 28, 2013 1:11 PM  
**To:** Jim Miller; Bob Berry  
**Cc:** DeZee, John  
**Subject:** Term sheet data request

Jim

As we discussed, notwithstanding the Non-disclosure agreement among Century and Big Rivers relating to the potential new service arrangements, Century agrees that Big Rivers may produce the term sheet in response to the KIUC data request without seeking a protective order.

Thanks

Michael

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Wednesday, January 30, 2013 8:20 PM  
**To:** Bob Berry; Greg Starheim  
**Cc:** DeZee, John  
**Subject:** Term sheet mark-up  
**Attachments:** BREC term sheet mark up.docx

**Follow Up Flag:** Follow up  
**Due By:** Thursday, January 31, 2013 7:30 AM  
**Flag Status:** Flagged

See attached mark-up of the Term Sheet.

Our basic principle was to pay for those costs that would be incurred by Century if Century had retail access but not those costs that BREC would continue to incur if Century closed. I have left BREC as the market participant, although Century would prefer Kenergy as the market participant, because Kenergy was clear that it would not take on this role. I have also left the tax indemnity on the understanding—which needs to be confirmed-- that there should be no risk if Kenergy is not the market participant because Kenergy would not be doing anything that it is not doing under the current contracts. Among other changes, any Coleman costs, MTEP/MVP costs, FTR & ARR benefits, BREC labor severance costs, etc. are addressed consistent with the principle above and I provided Century with a contract termination right.

I suggest we have the regular call on Friday February 1<sup>st</sup> to discuss costs/progress and, to the extent you are prepared, the term sheet. I understand that we may well need to schedule a later call on the term sheet. We are available Friday at noon to 1pm Pacific or after 2pm Pacific.

SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for

resale to Century under the Electric Service Agreement.

C. Closing Date: The date upon which the Definitive Documents are executed and delivered.

D. Cost incurred solely due to Century's operation: In the context of the specific costs referenced, this shall mean those costs incurred by Big Rivers and/or Kenergy under the Transaction but excluding such costs that would be incurred by Big Rivers and/or Kenergy if Century were to close operations or to purchase its electric power requirement under direct retail access arrangements.

D-E. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.

E-F. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.

F-G. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.

G-H. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.

H-I. Effective Date: The date on which the conditions set forth in paragraph IX below are satisfied.

I-J. Electric Service: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related



Agreement:	ancillary services, including transmission services, by Kenergy to Century.
J.K. FTR:	Financial Transmission Rights as defined in the MISO Tariff.
K.L. KPSC:	Kentucky Public Service Commission
L.M. kWh:	Kilowatt-hour
M.N. Maximum Load:	482 megawatts per hour.
N.O. MISO:	The Midwest Independent Transmission System Operator, Inc.
O.P. MISO Tariff:	The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
P.Q. Prime Rate:	The rate of interest published in <i>The Wall Street Journal</i> from time to time as the "prime rate."
Q.R. Real Time Market:	The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
R.S. RTO:	Regional transmission organization
S.T. Service Period:	The period from the midnight following the Effective Date through December 31, 2032 <sup>3</sup> , subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
T.U. Transaction:	The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

A. General: During the Service Period, Kenergy will use ~~reasonable commercial efforts to acquire an~~ aggregate of up to the Maximum Load from the

Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions. Imbalance requirements, including reasonable amounts above the Maximum Load, will be obtained in the Real Time Market.

B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use ~~reasonable commercial efforts to arrange to~~ purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may, at its election without the necessity of consent or approval of Big Rivers ~~or Century~~, select an alternate Market Participant or become the Market Participant itself with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents.

C. Mitigation of Tax and Credit Risk: The Transaction will be structured in a manner intended to mitigate or eliminate exposure of Kenergy or Big Rivers to adverse tax consequences or potential liability to third parties for risks of non-performance by Century; provided this does not unreasonably increase costs to Century.

D. Definitive Documents: The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, (iv) a Tax Indemnity Agreement between Kenergy and Century, (v) a Parent Guarantee of Century Parent, and (vi) a Security and Lockbox Agreement among

Kenergy, Big Rivers and Century.

E. Election to Join  
Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO. If such an election is made, any terms used herein that relate to MISO or the MISO Tariff shall be deemed amended to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents. ~~Century shall indemnify Kenergy and Big Rivers for any costs associated with transitioning to an RTO other than MISO relating to or arising out of Century's load.~~

IV. ELECTRIC SERVICE AGREEMENT

A. Power Supply:

The electricity, electric capacity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, ~~for the foreseeable future, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. In the future, Century may request, subject to Kenergy's agreement, that electricity, capacity and ancillary services be sourced~~ Kenergy may, at its sole election, ~~source these products~~ through bilateral contracts with third party suppliers.

B. Scheduling, Load and  
Load Factor:

Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; provided that Kenergy will schedule the Maximum Load as the hourly load in the MISO Day Ahead

Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than ~~72~~ xx hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. Century's ~~load schedule~~ may not exceed the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century ~~promptly, and within the MISO scheduling guidelines,~~ shall promptly notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to arbitrage or resell electricity or related services in the Real Time Market; provided, this does not preclude Century from providing and selling interruptibility services.

C. Charges to Century:

Charges to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. ~~—~~ An adder amount (per kWh) equal to Kenergy's administrative costs in implementing the Transaction but not to exceed the Retail Fee in §4.12 of the current contract, plus additional amounts to reflect costs incurred by Kenergy in connection with the performance of its obligations relating to the Transaction, plus margin, including addition of a 0.5 FTE to administer the Definitive Documents and other administrative costs, which amounts shall be subject to adjustment to reflect any increases in Kenergy's cost to administer the Transaction, plus margin; [Kenergy to

~~confirm adder amount~~

- ~~3.2. Charges to Kenergy from Big Rivers under the Arrangement Agreement or from any third party to Kenergy for providing services relating to or incurred in connection with the provision of services to Century under this Agreement and any other costs chargeable to Kenergy arising out of the Transaction;~~
- ~~4.3. All electrical transmission costs allocated to Kenergy associated with the Century load; including all costs relating to the Midwest ISO Transmission Expansion Plan ("MTEP") costs and costs relating to Multi-Value Projects ("MVP") under the MISO Tariff charged to Big Rivers or Kenergy to the extent such costs are cost incurred solely due to Century's operation, and any similar costs chargeable to Kenergy or, if applicable, Big Rivers;~~
- ~~5.4. All operating and maintenance and capital costs allocated to Kenergy or, if applicable, Big Rivers charged to Big Rivers or Kenergy by MISO at the Century node associated with the must-run condition of the Coleman Generating Station less the portion of such costs that would be incurred even if Century did not operate; and less transmission revenues received by Big Rivers associated with Century continued operations; provided such costs shall not exceed the savings associated with laying up Coleman less the savings to Big Rivers associated with laying up Wilson and less the transmission revenues received from Century and~~
- ~~6.5. Any other usual and customary charges and any other amounts due and owing to~~

Kenergy under the Definitive Documents, including pursuant to paragraph IV.D. below.

Payment obligations, except #3 & #4 above, under the Electric Service Agreement will survive termination of the agreement, ~~even if the event giving rise to the payment obligation occurs after the end of the Service Period.~~

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct ~~or indirect~~ costs, expenses, liabilities, claims or similar consequences relating to:

1. Charges of MISO relating to or arising out of service to Century, including maintaining a Node (as defined in the MISO Tariff) at the Delivery Point;
2. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load;
3. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services;
4. ~~Any incremental or marginal cost to Kenergy resulting from electrical related service to Century in connection with the Transaction;~~
5. All electrical transmission capital costs allocated charged to Kenergy or Big Rivers by MISO to serve the Century load to the extent such costs are costs incurred solely due to Century's operation, offset by any benefit such transmission costs provide to Big Rivers or Kenergy;
6. Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act to the extent such

costs are costs incurred solely due to Century's operation, arising out of service by Kenergy to Century;

~~7. The costs related to Big Rivers idling Coleman Generating Station and reactivating Wilson Generation Station following any termination by Century of smelting operations at Century's Hawesville facility; and~~

~~8.7. The proportion of Kenergy's costs of complying with state or federal renewable energy portfolio or similar standards or environmental laws or regulations to the extent such costs are costs incurred solely due to Century's operation, that relate to or arise out of Century's load.~~

E. Performance by Kenergy: To the extent that ~~another~~ an entity other than Big Rivers has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity, Kenergy shall have an obligation to perform under the agreement.

F. Term: The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, ~~2023~~2033, unless terminated earlier pursuant to terms thereof. ~~At least one year prior to the stated expiration of the Electric Service Agreement, Kenergy and Century agree to undertake good faith negotiations for a replacement agreement if such Electric Service Agreement is not terminated prior to such time and requested by either party.~~

G. Billing; Payment: Kenergy shall invoice Century each [ ] on or

before the [ ] business day of [ ]. Century shall pay Kenergy all amounts due and owing to [ ] on the [ ] business day of the following [ ]. ~~If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due.~~ Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. The security for such payments is described in paragraph VIII. *[Note: payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.]* Dispute Resolution?

H. Termination:

The Electric Service Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in Section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By Kenergy if the Arrangement Agreement is not in effect on the commencement of the Service Period; or
4. Upon xx days notice with an opportunity to cure, Bby a non-defaulting party following an Event of Default.
5. By Century on xx days notice to Kenergy.
6. By Century or provided in section IV.O.5

I. Events of Default:

Events of default under the Electric Service Agreement will cover customary matters,



including:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph VIII;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

J. MISO Rights:

~~Kenergy or Big Rivers, as applicable, Century shall have the rights to all FIRs and ARRs associated with service to Century and retain all revenues resulting from such FTRs or ARRs resulting from Kenergy's service to Century.~~

K. Power Factor:

Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range.

L. Assignment and Assumption:

Century will ~~not~~ have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, provided Century demonstrates that the assignee

~~except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the satisfaction of Kenergy in its sole discretion that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor assignee must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.~~

M. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

N. Indemnification; Force Majeure:

The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph VIII hereof.

O. Other Matters:

1. The Electric Service Agreement will only relate to service to Century's Hawesville, Kentucky smelter facility. Any other service arrangements required from Kenergy or Big Rivers must be set forth in other contractual arrangements among the parties.

~~2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or under contract for the benefit of the Members to Kenergy for the benefit of Century, or its affiliates, spin-offs or~~

~~successors during the Service Period or thereafter.~~

3-2. Century will acknowledge and agree that neither Kenergy nor Big Rivers will have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century, or its affiliates or spin-offs following termination of the Service Period.

4-3. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon [ ] hours days prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof. [*Note: remains under consideration in connection with security and payment terms.*]

5-4. If Kentucky law changes to permit retail consumers to directly purchase electricity, electric capacity or electricity-related ancillary services, and ~~Kenergy so requests~~, the parties shall negotiate in good faith to modify the agreement to mitigate or eliminate risks and costs to Kenergy and Century in connection with the Transaction; alternately, Century may terminate the agreement on xx days notice.

6-5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. ~~Third Party Beneficiary:~~

~~Big Rivers will be an express third party beneficiary of the Electric Service Agreement and~~

may enforce the provisions thereof.

## V. ARRANGEMENT AGREEMENT

- A. General: The electricity, electric capacity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, ~~for the foreseeable future,~~ by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, including reasonable amounts above the Maximum Load, obtained in the Real Time Market for resale to Kenergy for service to Century. ~~If mutually agreed by Big Rivers, Kenergy and Century,~~ Big Rivers may source these products under bilateral contracts with third party suppliers for resale to Kenergy for service to Century.
- B. Scheduling, Load and Load Factor: Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than ~~72~~ xx hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff. ~~This load schedule~~ may not exceed the Maximum Load without the prior consent of Big Rivers.
- C. Delivery Point: (needs to be in Electric Service Agreement as well) ~~Big Rivers will apply for a specific Node at the Delivery Point, which Delivery Point shall be owned by Big Rivers Century; provided that Century will assign such node to the applicable for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.~~

D. Designation:

Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.

E. Charges to Kenergy:

Charges to Kenergy shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
2. ~~All electrical transmission cost allocated to Big Rivers associated with the Century load, including all MTEP and MVP costs under the MISO tariff charged to Big Rivers and Kenergy to the extent such costs are costs incurred solely due to Century's operation; and any similar costs chargeable to Kenergy or, if applicable, Big Rivers;~~
3. ~~All transmission capital charged costs allocated to Big Rivers to the extent such costs are costs incurred solely due to Century's operation, or Kenergy by MISO to serve the Century load less any benefit provided to Big Rivers or Kenergy by such costs;~~
4. ~~Additional amounts reflecting administrative costs incurred in connection with performance by Big Rivers of its obligations under the agreement, including all incremental ACES fees to settle MISO bills;~~
5. ~~All operating and maintenance and capital Costs allocated charged to Big Rivers or Kenergy from by MISO at the Century node associated with the must-run condition of the Coleman Generating~~

Station less the portion of such costs that would be incurred even if Century did not operate; and less transmission revenues received by Big Rivers associated with Century's continued operations; provided such costs shall not exceed the savings to Big Rivers associated with laying up Coleman less the savings associated with laying up Wilson and less the transmission revenue received from Century; and

6. ~~Any other usual and customary charges and any other amounts due and owing to Big Rivers under the Definitive Documents.~~

Payment obligations except #5 above under the Arrangement Agreement will survive termination of the agreement.

F. Performance by Kenergy: To the extent that Kenergy has an obligation to Century, Century's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Kenergy's performance of its obligation. To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation.

G. Term: ~~Subject to Kenergy's right to change who is the Market Participant, T~~he obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement will terminate on December 31, 20323, unless terminated earlier pursuant to terms thereof or the terms of the Arrangement Agreement.

H. Billing; Payment: Big Rivers shall invoice Kenergy each [\_\_\_] on or before the [\_\_\_] business day of [\_\_\_]. Kenergy shall pay Big Rivers all amounts due and owing to

[ ] on the [ ] business day of the following [ ]. ~~If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due.~~ Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph VIII. [*Note: Payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.*]

I. Termination:

The Arrangement Agreement may be terminated in the following circumstances:

1. By either party if the conditions precedent in section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default; or
4. By either party upon termination of the Electric Service Agreement.
- 4.5. Agreement will terminate if Century terminates the Electric Service Agreement with Kenergy.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event

Majeure: provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default: Events of default under the Arrangement Agreement will cover customary matters, including:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph VIII;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

## VI. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

A. Responsibility for Certain Costs: Under the Definitive Documents, Century will hold Big Rivers harmless from all direct or indirect costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Arrangement Agreement, without duplication:

1. ~~Procuring~~ Purchasing and transmitting electricity, electric capacity or electrical



ancillary services to the Delivery Point;

2. ~~Establishment and Maintenance of a specific Node at the Delivery Point or pursuant to the tariff of any other RTO;~~
3. ~~Any ARR or FTR revenues lost by Big Rivers as a result Big River's entry into the Transaction or the performance of its obligations as Market Participant in connection with the Transaction;~~
4. ~~Any incremental or marginal cost to Big Rivers resulting from electrical-related service by Kenergy to Century in connection with the Transaction;~~
- 5.3. Claims of bilateral power suppliers for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century;
- 6.4. ~~Costs, including environmental costs, to Big Rivers or the Members of construction, ownership, operation or maintenance of any electrical generation or transmission facility required as a result of or arising out of procuring electricity, electric capacity or electricity-related ancillary services for resale to Century from the MISO Market or similar market for the purchase of such products;~~
- 7.5. ~~All transmission cost allocated to Big Rivers associated with the Century load, including all MTEP and MVP costs under the MISO tariff charged to Big Rivers or Kenergy to the extent such costs are costs incurred solely due to Century's operation, and any similar costs chargeable to Big Rivers;~~
- 8.6. ~~All electrical Transmission capital costs charged to Big Rivers by MISO to the~~

extent such costs are costs, incurred solely due to Century's operation, to serve the Century

9.7. Any security costs for a third party supplier to provide electrical capacity or electricity to Big Rivers to resale to Century;

10.8. Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act arising out of service by Kenergy to Century;

11.9. All operating and maintenance and capital costs allocated charged to Big Rivers from or Kenergy by MISO at the Century node associated with the must-run condition of the Coleman Generating Station less the portion of such costs that would be incurred even if Century did not operate and less transmission revenues received by Big Rivers associated with Century's continued operations; provided such costs shall not exceed the savings to Big Rivers associated with laying up Coleman less the savings associated with laying up Wilson and less the transmission revenues received from Century;

12. ~~Costs related to the severance program of Big Rivers with respect to employees located at any facility that are terminated or offered early retirement in connection with ceasing of commercial operation of such facility as a result of or arising out of the Transaction;~~

13.10. ~~The costs related to Big Rivers idling Coleman Generating Station and reactivating Wilson Generation Station following any termination by Century of smelting operations at the Hawesville~~

facility;

~~14.11.~~ Any costs associated with any other entity or person serving as Market Participant in MISO under the Definitive Documents; and

~~15.12.~~ The proportion of Big Rivers's costs of complying with state or federal renewable energy portfolio or similar standards or environmental laws or regulations to the extent such costs are costs incurred solely due to Century's cooperation that relate to or arise out of Century's load. Parties acknowledge that there are no such costs as of the effective date.

B. Acknowledgments:

Century will acknowledge and agree that:

1. Kenergy may not provide Century electric service on and after August 23, 2013 other than pursuant to a rate or contract approved by the KPSC;
2. Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
- ~~3. Century has no standing in Big Rivers cases before the KPSC;~~
- ~~4. Big Rivers has no obligation to serve Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during after the term of the agreement or thereafter; and~~
- ~~5.3.~~ If Kentucky law changes to permit retail consumers to directly purchase electricity, electric capacity or electricity-related ancillary services and Big Rivers so requests, the parties shall negotiate in good faith to modify the agreement to mitigate or

eliminate risks and costs to Big Rivers, Kenergy and Century, unless Century terminates the Electric Service Agreement.

C. Assignment of Definitive Documents:

~~For so long as Century has obligations to Big Rivers under the Definitive Documents, Century may will not have the right to assign its rights or and obligations under the Definitive Documents without the consent of Big Rivers, provided Century demonstrated that the assignee except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the satisfaction of Big Rivers in its sole discretion that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor assignee must agree to assume all rights and obligations of the assignor Century under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers; which consent will be granted in its sole discretion.~~

D. Survival:

Termination of the Electric Service Agreement or expiration of the Service Period will not terminate or limit the foregoing obligations or acknowledgements of Century. Payment obligations shall survive termination of the Definitive Documents.

## VII. TAX INDEMNITY AGREEMENT

A. General:

Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for all direct or indirect costs, expenses, liabilities, claims, etc. relating to or arising out of the Transaction, including failure of

Kenergy to maintain its status as an entity exempt from federal income taxation in consequence of the Transaction, ~~the costs of any ruling request desired by Kenergy and costs related to any reapplication for tax-exempt status by Kenergy.~~

## VIII. CREDIT

### A. Security Arrangements:

~~Same as Credit Requirement specified by MISO~~  
Century shall provide and maintain credit support in the form of the following at Big Rivers's and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers. Such cash collateral, letter of credit or other assurance shall be in an amount at least equal to the sum of:

- ~~1. The amounts estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period of two months;~~
- ~~2. The amounts estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months;~~
- ~~3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and~~
- ~~4.1. Other amounts projected by Kenergy or Big Rivers to become payable to either of them by Century.~~

~~Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access~~

~~the collateral provided to pay amounts due and owing under the Definitive Documents, provided that such withdrawals, draws or other actions shall not relieve Century of the obligation to pay any such overdue amounts together with interest at the Prime Rate plus 4 percent from the due date.~~

***[Note: Payment terms and security arrangements continue to be under consideration by Kenergy and Big Rivers.]***

- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. [Lockbox Agreement:] [Century, Kenergy and Big Rivers will enter into lockbox arrangements for the Transaction similar to those currently in place.] ***[Note: Subject to resolution of payment terms and security arrangements.]***
- D. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.
- E. Bilateral Power Supply Arrangements Credit Support: Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## IX. CONDITIONS TO THE EFFECTIVE DATE

- A. General: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for

a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:

1. The Delivery Point becomes a specific Node;
2. All representations and warranties of the parties are true and correct in all material respects;
3. All approvals of governmental agencies and lenders required for consummation of the Transaction by Kenergy, Big Rivers, any Member, Century or Century Parent, will have been obtained and all notices to and filings with governmental agencies that are necessary or appropriate to be made prior to the Effective Date in connection with the consummation of the Transaction shall have been given to (in the case of notices), or filed with and accepted by, the applicable governmental agencies, without objection by the governmental agency or initiation of an adverse proceeding;
4. All contemplated consents, releases or discharges from any entity in connection with the Transaction shall be obtained;
5. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived;
6. All other conditions precedent to the obligations of the parties to enter into the Transaction shall have been satisfied;
7. ~~Big Rivers' Members shall each have consented to the Transaction;~~

8.7. All Transaction documents have been executed and delivered by the parties thereto; and

9.8. ~~No other industrial customer of a Member is seeking to enter into similar arrangements.~~

X. OTHER

A. Preparation of Definitive Documents:

The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.

B. Governing Law:

Commonwealth of Kentucky



**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, April 16, 2013 9:56 PM  
**To:** Bob Berry; Drefke, Kyle W.; Jim Miller; Chris Hopgood; David Hamilton  
**Cc:** DeZee, John  
**Subject:** Term Sheet  
**Attachments:** Term Sheet 4.15.13.docx

See attached revised term sheet.

Let us know what time you want to meet tomorrow

Thanks

Michael

SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Base Load: The maximum amount (MW) that can be reliably delivered to the Hawesville node, as determined by MISO prior to the Effective Date, with the Coleman Generation Station closed; provided such amount [(i) shall be increased if Big Rivers decides to operate the Coleman Generation Station for its own purposes; and (ii)] may not exceed 482 MW with or without any Curtailable Load. ~~{BREC/Kenergy to confirm acceptability of the proviso.}~~

- D. Capacitor Additions: The amount of capacitors (MVARs) that are needed to provide voltage support for the Base Load or, if applicable, for the Base Load plus Curtailable Load with the Coleman Generation Station ~~not in commercial operation~~idled.
- E. Capacitor and Relay Agreement: An agreement entered into by Big Rivers, Century and Century Parent relating to obligations for the design, development, purchase, installation, and operation and maintenance of the Capacitor Additions and the Protective Relays and risk allocation relating thereto.
- F. Capacitor Costs: The costs to design, develop, purchase, install and operate and maintain the Capacitor Additions.
- G. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- H. Cost related to Century's operation: In the context of the specific costs referenced, this shall mean those costs of Big Rivers or Kenergy to the extent that such costs relate to the operation of Century. For the avoidance of doubt, this definition includes ~~(i) costs which Big Rivers or Kenergy incur in preparation for the effectiveness of the Definitive Documents, or (ii) enhancements of costs otherwise incurred by Big Rivers or Kenergy as a result of the existence of the Transaction~~ proportionate share of costs that are incurred to serve Century and other loads.
- I. Curtailable Load: The maximum amount of additional load (MW) at the Hawesville node above the Base Load that can be served, as determined by MISO, with the installation of Protective Relays at the Hawesville Smelter, up to the ~~Maximum Load~~482MW.
- J. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- K. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.

Definitive Documents shall include:

- a) Electric Service Agreement for the Base Load and for additional amounts under Riders 1 or 3, if separately agreed to;
  - b) Arrangement Agreement for the Base Load and for additional amounts under Riders 1 or 3, if separately agreed to;
  - c) Direct Agreement;
  - d) Capacitor and Relay Agreement;
  - e) Tax Indemnity Agreement between Kenergy and Century; and
  - f) Parent Guarantee of Century Parent.
- L. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- M. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- N. Effective Date: The date on which the conditions set forth in paragraph XII below are satisfied; *provided* that the Capacitor and Relay Agreement may be entered into and performance by the parties of their obligations thereunder may commence prior to the Effective Date.
- O. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- P. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- Q. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- R. KPSC: Kentucky Public Service Commission
- S. kWh: Kilowatt-hour
- T. Maximum Load: 482 megawatts during periods when all three units at the Coleman Generating Facility are commercially operational.

U.	MW:	Megawatts
V.	MISO:	The Midwest Independent Transmission System Operator, Inc.
W.	MISO Tariff:	The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
X.	"Paid by Century"	Means paid directly or indirectly.
X-Y.	Protective Relays:	Protective relays installed pursuant to the Capacitor and Relay Agreement
Y-Z.	Prime Rate:	The rate of interest published in <i>The Wall Street Journal</i> from time to time as the "prime rate."
Z-AA.	Real Time Market:	The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
AA-BB.	RTO:	Regional transmission organization
BB-CC.	Service Period:	The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 2012, 2013, through December 31, 2023, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof, provided that the Service Period automatically shall be extended for additional one year periods on each December 31" following December 31, 2023 if neither party to the Electric Service Agreement gives at least one year's prior notice to the other party of its election not to extend the Service Period.
CC-DD.	Transaction:	The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General:
- During the Service Period, Kenergy will use reasonable commercial efforts to acquire, as applicable, the Base Load or the Base Load plus the Curtailable Load, or the Maximum Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions, if any. Imbalance requirements, including up to 10 MW above the

~~Maximum Load during periods when the Maximum Load may be scheduled, Base Load, Base Load plus Curtailable Load or Maximum Load, as applicable, will be obtained in the Real Time Market.~~

B. MISO Market Participant:

At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity, electricity-related ancillary services and any other services required and invoiced by MISO on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may elect, subject to the consent and approval of Century in its sole discretion, to become the Market Participant itself at the Hawesville Node with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant (other than Kenergy) ~~which Kenergy shall accept, provided Kenergy is satisfied, in its sole discretion, only as to the financial security arrangements and elimination of risk to Kenergy relating to such alternative Market Participants~~ subject to Kenergy's Consent which shall not be unreasonably withheld. Century shall give Kenergy and, if the Arrangement Agreement is in effect, Big Rivers not less than 120 days' prior written notice of the appointment of a new Market Participant. ~~{Subject to confirmation by Kenergy.}~~

C. Definitive Documents:

The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents.

D. Election to Join Alternative RTO:

Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. The Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTO, (iii) Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO, and (iv) the request does not ~~result in any material adverse effect~~ enpreclude Big Rivers from leaving MISO and joining another RTO. Big Rivers or Kenergy, as applicable, or the ability of Big Rivers or Kenergy, as applicable, to join or become a member of the RTO. In such case any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other

RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.

Big Rivers give Century one year's notice before leaving MISO; will regularly provide Century with updates of potential costs if Big Rivers were to leave MISO; will provide Century with notice if it is considering withdrawing from MISO; and will allow Century to participate in any negotiations with MISO and the alternative RTO on any "exit fee" to leave MISO.

#### IV. ELECTRIC SERVICE AGREEMENT

- A. Power Supply: The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to Kenergy associated with such bilateral contracts.
- B. Scheduling, Load and Load Factor: Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule, as applicable, the Base Load or the Base Load plus the Curtailable Load or the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than 8:00 a.m. on the day for submitting such schedule to MISO pursuant to MISO Tariff. Century's schedule may not exceed, as applicable, the Base Load, the Base Load plus the Curtailable Load or the Maximum Load without the prior consent of Kenergy and, if the Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes



in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed.

C. Charges to Century:

Charges and Credits to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services ~~and any other services~~, required to be purchased by Kenergy to serve Century;
2. A credit for any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV.J
3. ~~A credit, to the extent of any SSR costs paid by Century with respect to the Coleman Generating Station, for~~ (a) revenues received by Big Rivers for transmission services under the MISO tariff or under the Big Rivers tariff and (b) any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff;
4. An amount equal to Kenergy's internal and direct costs incurred in serving Century, including KPSC fees and a nominal net margin roughly equivalent to Kenergy's historical net margin attributable to service to Century, provided Century shall have the right to audit such costs;
5. Costs associated with any entity or person other than Big Rivers serving as Market Participant;
6. To the extent not covered under clause (1) above, charges to Kenergy from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract which Century has approved;
7. Monthly charges with respect to the items set forth in paragraph V hereof and charged to Kenergy under the Arrangement Agreement; and
8. Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D below and applicable

taxes.

- D. Responsibility for Certain Costs: Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph IV.C above:
1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
  2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.
- E. Performance by Kenergy: To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.
- F. Term: The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate at the end of the Service Period, unless terminated earlier pursuant to terms thereof.
- G. Billing; Payment: Kenergy shall invoice Century with the same periodicity as the Market Participant invoices Kenergy. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph XI.
- H. Termination: The Electric Service Agreement may be terminated in the following circumstances:
1. By either party if the conditions precedent in Section XI herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 2012, 2013;
  2. By either party if the KPSC final order relating to the Transactions disapproves or changes material

terms or conditions of the Definitive Documents;

3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on twelve months prior written notice to Kenergy.

Termination of the Electric Service Agreement will also terminate all other Definitive Documents and the parties' obligations under all Definitive Agreements will terminate, except as provided in section XIII. B.

I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services;
2. Failure to maintain the security arrangements described in paragraph XI for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

With respect to Kenergy's remedies following an Event of Default, Kenergy may not terminate the Electric Service Agreement as a result of Century's failure to make a scheduled payment until if Century cures such default before the third business day following such payment default.

J. FTR/ARR Rights:

Century shall have the rights to all FTRs or ARR's resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and

ARRs and shall retain all revenues from such FTRs or ARR.

K. Power Factor:

Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor deviating from such range. (See current contract)

L. Assignment and Assumption:

Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.

M. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

N. Indemnification; Force Majeure:

The Electric Service Agreement will contain mutual indemnification and force majeure provisions (i) customary for a transaction of this type, and (ii) clarifying that Century shall be responsible for all costs, liabilities, claims or similar consequences relating to ~~the existence of Century's failure to perform under~~ the Protective Relays or the Capacitor Additions. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph XI hereof.

O. Other Matters:

1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. Century will not be entitled to service under any tariff of Kenergy.
2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or, except as provided herein,

under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter, provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Big Rivers with respect to the Sebree smelter if it is acquired by Century or Century's Parent.

3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Kenergy with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof during the period of any survival of obligations to it under paragraph XIII.B below.

#### V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General: The following items shall be an adjustment to the amounts payable under the Arrangement Agreement or the Direct Agreement, without duplication, including charges for transmission services under the Electric Service Agreement:

1. ~~The sum, if positive, of (a) costs or charges to Big Rivers or Kenergy, as determined and allocated by~~

MISO, at the Hawesville Node or any other Big Rivers' Node resulting from any must-run condition of a Big Rivers' generation facility as a result of the Transaction, including operations and maintenance expenses and capital costs, less (b) charges or costs received by Big Rivers for transmission services under the MISO tariff or Big Rivers' tariff and any other revenues received by Big Rivers from Century under the MISO tariff or Big Rivers' tariff, plus (c) any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J.; *plus*

2. All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to Hawesville Node or, with respect to transmission capital costs associated with a project intended to eliminate the must-run condition of a generation facility of Big Rivers as a result of the Transaction, Big Rivers or Kenergy to the extent such costs relate to Century's operation, including all such costs relating to the Midwest ISO Transmission Expansion Plan ("MTEP"), or Multi-Value Projects ("MVP") under the MISO Tariff, or similar programs of any applicable RTO applicable to such nodes; *plus*
- 3.1. Charges by MISO to establish or maintain the Hawesville Node; *less*
- 4.2. A credit for any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J.; *plus*
- 5.3. Additional costs or charges of ACES, or similar service provider, incurred solely due to Century's operation, for scheduling, awards and settlements; *plus*
- 6.4. The proportionate share of costs incurred to serve Century by Kenergy or Big Rivers to comply with (i) state or federal renewable energy portfolio or similar standards, or (ii) environmental laws or regulations not related to capital expenditures for the Coleman Station, in each case, to the extent such costs are related to Century's operation; provided, to the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy. The

parties acknowledge that there are not aware of any such costs as of the effective date; *plus*

~~7.5.~~ Any costs associated with any entity or person other than Big Rivers serving as Market Participant; *plus* ~~{BREG confirming}~~

~~8.6.~~ Costs relating to compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act to the extent such costs are costs incurred solely due to Century's operation;

~~9.7.~~ Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market Participant; and

~~8.~~ Other direct costs of Kenergy or Big Rivers incurred or committed to by Kenergy or Big Rivers related to Century's operation.

~~10.9.~~ MISO Transmission Expansion Plan (MTEP) or Multi-Value Projects (MVP) costs that are solely related to service to Century.

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B. Dispute Resolution:

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge's distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing and subject to agreed minimum dispute amounts. Each party to the arbitration shall appoint a judge (i) with substantial experience in the electric utility sector, (ii) who has not been employed or been a consultant to such party in the past. The two appointed judges shall select a third judge meeting these criteria. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm.

## VI. ARRANGEMENT AGREEMENT

- A. General: The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market, and imbalance energy will be purchased or sold in or, as applicable, the Real Time Market, for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements and elimination of risk to Big Rivers of such bilateral contracts.
- B. Delivery Point: Before March 15, 2013, Big Rivers will apply for Hawesville Node, which Deliver Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents.
- C. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- D. Scheduling, Load and Load Factor: Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule, as applicable, the Base Load, Base Load plus Curtailable Load or the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than 8:00 a.m. on the day for submitting such schedule to MISO pursuant to MISO Tariff. This schedule may not exceed, as applicable, the Base Load or Base Load plus Curtailable Load or the Maximum Load without the prior consent of Big Rivers.
- E. Charges to Kenergy: Charges to Kenergy shall be, without duplication:
1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the



benefit of Century;

2. Charges for transmission service to the Hawesville Node; and
3. The charges under section V to the extent not charged to Century under the Arrangement Agreement or Electric Service Agreement.

F. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.

G. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.

H. Billing; Payment: Big Rivers shall invoice Kenergy with respect to services provided by MISO based on how Big Rivers is invoiced by MISO for those services and monthly for other amounts due to Big Rivers. For such other amounts, Big Rivers will invoice Kenergy on or before the 10<sup>th</sup> business day of Each month. Kenergy shall pay Big Rivers all amounts due and owing under such invoices on the 24<sup>th</sup> calendar month. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph XI.

I. Termination: The Arrangement Agreement may be, or shall be, as provided herein, terminated in the following circumstances:

1. By either party if the conditions precedent in section XII herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 20, 2013;

2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement; provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement;
5. The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant;

Big Rivers will provide Kenergy and Century not less than 3 business days' prior notice of an election to terminate the Arrangement Agreement as a result of an Event of Default.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph XI for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as

permitted thereunder; or

- 7. Certain bankruptcy or insolvency events.

**VII. DIRECT AGREEMENT**

**A. Responsibility for Certain Costs:**

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

- 1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;
- 2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century;
- 3. Costs under Riders 1, 2, or 3 if applicable; and
- 4. Protective Relays, including fines or penalties from any reliability authority relating to the Protective Relays; provided Century shall not be liable for such costs due to willful misconduct of Big Rivers.

**B. Protective Relays:**

The sole obligation of Big Rivers with respect to the Protective Relays shall consist of advising Century of notice to Big Rivers from MISO or any reliability authority of a direction to pull the Protective Relays. (Under discussion)

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**B-C. Transmission Customer**

Century (through Kenergy or the Market Participant) shall be entitled to transmission service, directly or indirectly, on the same rates, terms and conditions as other transmission customers.

**VIII. CAPACITOR AND RELAY AGREEMENT**

**A. Capacitor Additions:**

Century will design, develop, purchase and install the Capacitor Additions, subject to prior approval by Big Rivers of right to review the specifications relating to the design, installation and operation and maintenance of the Capacitor Additions. Big Rivers will provide Century with

real time system information necessary to allow operation of the Capacitor Additions. Big Rivers shall maintain the Capacitor Additions.

- B. Parties; Effectiveness; Timing: Big Rivers, Century and Century Parent will enter into the Capacitor and Relay Agreement. The agreement will become effective prior to Closing Date. The parties acknowledge that the goal of the agreement will be to have the Capacitor Additions and Relay Protections installed and operational by commencement date of the Electric Service Agreement. The agreement will contain protections for Big Rivers relating to any risks, financial or otherwise, relating to the obligations of the parties under the agreement, including entry into the agreement prior to the Effective Date and the consequences if the conditions to the Effective Date are not satisfied; subject to willful misconduct exclusion.
- C. Ownership; Reimbursement  
Capacitor Costs: Century shall own the Capacitor Additions and Relay Protections and directly pay for their design, development, installation and operation or maintenance. Century shall reimburse Big Rivers for any costs incurred by it relating to the Capacitor Additions or Relay Protections.
- D. Guarantee: Century Parent will guarantee all obligations of Century arising out of or relating to the payment or performance its obligations under the Capacitor and Relay Agreement.
- E. Location: {All Capacitor Additions shall be located on property of Century.} ~~{Confirm.}~~ Neither Big Rivers nor Kenergy shall have any obligation to provide access to real estate or otherwise make available to Century space for the location of the Capacitor Additions.

## IX. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

- A. Acknowledgments: Century will acknowledge and agree that:
1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 2019, 2013 other than pursuant to a new rate or contract approved by the KPSC;
  2. Subject to section III. D., Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
  3. Big Rivers has no obligation other than pursuant to

the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter.

B. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will be granted in its sole discretion.

C. KPSC Proceedings:

Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

X. TAX INDEMNITY AGREEMENT

A. General:

Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for costs relating to the failure of Kenergy to maintain its status as an entity exempt from federal income taxation solely in consequence of the Transaction. Subject to Century's consent in its sole discretion, Kenergy may seek a ruling on the impact of the transaction on its tax exempt status; Century shall reimburse Kenergy for the costs of obtaining the ruling including the costs of any ruling request desired by Kenergy and costs related to any reapplication for tax-exempt status by Kenergy.

**XI. CREDIT**

- A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. C., in the form of the following at Big Rivers' and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount not to exceed the sum of:
1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement, and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than the payment terms required by each supplier to Kenergy; ~~{Subject to confirmation.}~~
  2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months. For amounts under the Direct Agreement, then no longer than the billing period therein;
  3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and
  4. Other amounts reasonably projected by Kenergy or Big Rivers to become payable to either of them by Century or Century Parent.
- Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.
- B. Century Guarantee: Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.
- C. MISO Credit: Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical

ancillary services for resale to Century.

- D. **Bilateral Power Supply Arrangements Credit Support:** Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract counterparty.

## XII. CONDITIONS TO THE EFFECTIVE DATE

- A. **General:** In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:
1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
  2. All representations and warranties of the parties are true and correct in all material respects;
  3. All Definitive Documents become effective;
  4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons identified prior to entry into the Definitive Documents will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
  5. ~~An signed SSR agreement with MISO and/or SERC regarding Protective Relays under Rider 1, if applicable, satisfactory to Century in its sole discretion.~~
  - 5-6. ~~If requested by Century, an SSR Agreement with MISO under Rider 2 and/or Rider 3.~~
  - 6-7. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and

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7.8. All Transaction documents have been executed and delivered by the parties thereto.

### XIII. OTHER

- A. Preparation of Definitive Documents: The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.
- B. Survival of Obligations: Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use reasonable commercial efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.
- C. Schedule: The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Big Rivers and Kenergy will propose a schedule for the distribution of initial drafts of the Definitive Documents, obtainment of all board approvals, filing with the KPSC for approval of the Transaction, and request to the KPSC to issue an order approving the Definitive Documents on an expedited basis. [BREC to provide specific schedule.]
- The parties agree to publicly endorse this Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.
- D. Governing Law: Commonwealth of Kentucky



**Rider I – Protective Relays**

- A. Request to MISO: Century and Big Rivers shall request MISO and SERC to agree to an SSR Agreement that will allow Century to operate above the Base Load to the maximum extent allowable based on Protective Relays that would allow MISO to curtail load at Century above the Base Load when/if certain defined contingencies occur.
- B. Cooperation: Big Rivers and Kenergy will reasonably cooperate and support their request; ~~provided, that neither party shall be obligated to disclose information it deems confidential or proprietary.~~
- C. Power Costs: The applicable rate for Base Energy will apply to Curtailable Energy. ~~{BREG to confirm.}~~
- D. Location: The Protective Relays will be located behind Century's meter and will be operated by Century as required by MISO and/or SERC. Big Rivers will install communication equipment as required by MISO and/or SERC necessary to implement the protective relays.

**Rider II – SSR for Short Term Operation of Coleman**

**A. Purpose:**

This SSR Agreement will provide for continued operation of one or more units of the Coleman Generating Station after August 19, 2013, until such time as the Capacitor Additions and, at Century's option, the Protective Relays are installed and operational.

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**B. Term:**

Agreement shall continue month-to-month until terminated by Century on 30 days notice; provided Big Rivers may terminate on 30 days notice given after xx 2014.

**C. Power Costs:**

In addition to the costs for Base Energy, Century shall be responsible for the costs or charges to Big Rivers, as determined and allocated by MISO, at the Hawesville node to the Big Rivers' system node which are solely and directly related to the requirement to operate the Coleman Generating Station for reliability of transmission of electricity to Century under the Electric Service Agreement; provided such costs shall NOT include any capital costs beyond those incurred prior to the Effective Date and such costs will be determined as if recovered over the useful life of the assets.

**Rider III – SSR for Long Term Operation of Coleman**

**A. Century Option:**

At Century's request, given on or before xx, Big Rivers will seek an SSR Agreement with MISO to operate the Coleman Generating Station to the extent necessary to reliably deliver the Maximum Load to the Hawesville Node.

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**B. Power Costs:**

In addition to the costs for Base Energy, Century shall be responsible for the following costs:

1. Costs or charges to Big Rivers, as determined and allocated by MISO, at the Hawesville node or the Big Rivers' system node, which are solely and directly related to the requirement to operate the Coleman Generating Station for reliability of transmission of electricity to Century under the Electric Service Agreement; plus
2. All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs and allocated by MISO to the Hawesville node, to relieve the SSR condition at the Coleman Generation Station; plus

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**C. MISO Process on Coleman:**

In any MISO process or negotiation to determine the SSR status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Big Rivers and, if applicable, Kenergy shall provide Century with a reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes. Big Rivers acknowledges that any capital costs shall be allocated over the life of the applicable asset and recovered from Century only during any SSR periods; provided that only the carrying costs on such capital shall be allocated and recovered from Century during any SSR period before the asset requiring such capital investment is required to become operational, and is used and useful. Big Rivers and Kenergy shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the SSR Agreement and will actively support Century's direct participation in all such negotiations and processes. Big Rivers will not agree to an SSR Agreement without Century's consent.

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D. Term:

Century may terminate the SSR Agreement on xx days notice. The SSR Agreement will terminate if Big Rivers elects to operate one or more units of Coleman for its own purposes.

**Barbara Harwood**

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Tuesday, February 26, 2013 6:28 PM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Attachments:** Century Term Sheet 2 26.docx

Attached is Century's mark-up of the term sheet based on today's meeting.

As we agreed, I have "bracketed" the sections that address the remaining material disputes—including both BREC/Kenergy's proposed language and Century's proposed language. I believe other outstanding issues can be resolved.

As we are all aware, time is of the essence in this process. Century would like to meet tomorrow morning at 8 am. If not then, please advise us when is the earliest that BREC/Kenergy can meet?

Michael

*Draft 2/26/13*

SUMMARY  
OF  
TERMS AND CONDITIONS  
FOR  
POST-TERMINATION  
POWER SUPPLY ARRANGEMENTS  
INVOLVING  
KENERGY CORPORATION,  
CENTURY ALUMINUM COMPANY,  
CENTURY ALUMINUM OF KENTUCKY  
GENERAL PARTNERSHIP,  
and  
BIG RIVERS ELECTRIC CORPORATION

OHSUSA:752513424.14

## SUMMARY OF TERMS AND CONDITIONS

*The following summary of terms and conditions is intended for discussion purposes only, and nothing herein shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties involved under any existing agreements. This summary of terms and conditions is not intended to constitute an agreement or offer to enter into any agreement. No obligation of Kenergy, Big Rivers, Century or Century Parent shall be created or inferred from this summary or any communication among the parties, oral or written, concerning the subject matter of this summary other than the confidentiality arrangements among the parties and their advisors entered into in connection with the parties' consideration of the proposed transaction, each of which shall continue in full force and effect. Any other binding obligation of the parties with respect to a transaction shall be set forth in Definitive Documents as defined below.*

### I. PARTIES AND INTERESTED PERSONS

- A. Kenergy: Kenergy Corp., a Kentucky cooperative corporation
- B. Big Rivers: Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative
- C. Century: Century Aluminum of Kentucky General Partnership
- D. Century Parent: Century Aluminum Company
- E. Members:
  - 1. Kenergy;
  - 2. Jackson Purchase Energy Corporation; and
  - 3. Meade County Rural Electric Cooperative Corporation.

### II. DEFINITIONS

- A. ARR: Auction revenue rights as defined in the MISO Tariff.
- B. Arrangement Agreement: The power arrangement and procurement agreement entered into between Big Rivers and Kenergy pursuant to which Big Rivers arranges and procures electricity, electric capacity and electricity-related ancillary services for Kenergy for resale to Century under the Electric Service Agreement.
- C. Closing Date: The date upon which the Definitive Documents are executed and delivered.
- D. Cost incurred solely due to Century's operation: [BREC] In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy to the extent that such costs are directly related to the operation of Century. For the avoidance of doubt, this definition includes (i) costs for which Big Rivers and/or Kenergy has a contractual obligation to incur during the term of the

Definitive Documents, or (ii) incurs in preparation therefor]

[Century: In the context of the specific costs referenced, this shall mean those costs of Big Rivers and/or Kenergy to the extent that such costs are solely and directly related to the operation of Century.]

- E. Day Ahead Market: The Day Ahead Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity and electricity-related ancillary services.
- F. Definitive Documents: Documents mutually satisfactory to Kenergy, Big Rivers and Century, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties, indemnities, defaults and closing conditions of the types described or referred to in this Summary of Terms and Conditions.
- G. Delivery Point: The meters serving Century's Hawesville smelter facility or other delivery point mutually agreeable to Kenergy, Big Rivers and Century.
- H. Direct Agreement: An agreement between Big Rivers and Century relating to direct, bilateral obligations to each other in connection with the Transaction.
- I. Effective Date: The date on which the conditions set forth in paragraph IX below are satisfied.
- J. Electric Service Agreement: A retail electric service agreement for the sale of electricity, electric capacity and electricity-related ancillary services, including transmission services, by Kenergy to Century.
- K. FTR: Financial Transmission Rights as defined in the MISO Tariff.
- L. Hawesville Node: A Node (as defined in the MISO Tariff) located at the Delivery Point and used solely for delivery and sale of electricity under the Transaction for the benefit of Century.
- M. KPSC: Kentucky Public Service Commission
- N. kWh: Kilowatt-hour
- O. Maximum Load: 482 megawatts per hour.



- P. MW Megawatts
- Q. MISO: The Midwest Independent Transmission System Operator, Inc.
- R. MISO Tariff: The MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended and in effect from time to time.
- S. Prime Rate: The rate of interest published in *The Wall Street Journal* from time to time as the "prime rate."
- T. Real Time Market: The Real Time Energy and Operating Reserve Market established under the MISO Tariff for the purchase of electricity.
- U. RTO: Regional transmission organization
- V. Service Period: The period from the midnight following the later of the Effective Date and 12:00:00 a.m. on August 20, 2013, through December 31, 2033, subject to earlier termination of the Electric Service Agreement in accordance with the provisions thereof.
- W. Transaction: The transactions contemplated by this Summary of Terms and Conditions pursuant to the Definitive Documents.

### III. STRUCTURE

- A. General: During the Service Period, Kenergy will use reasonable commercial efforts to acquire an aggregate of no more than the Maximum Load from the Day Ahead Market for use in operation of Century's Hawesville, Kentucky smelter facility at the Delivery Point, upon the request of Century specifying (i) the amount and duration of electricity desired, and (ii) other material terms and conditions, if any. Imbalance requirements, including up to 10 MW above the Maximum Load, will be obtained in the Real Time Market.
- B. MISO Market Participant: At least initially, Big Rivers will act as the Market Participant (as defined in the MISO Tariff) and, under the Arrangement Agreement, will use reasonable commercial efforts to arrange to purchase the electricity, electric capacity and electricity-related ancillary services on behalf of Kenergy for resale to Century under the Electric Service Agreement. In the future, Kenergy may elect, subject to the consent and approval of Century in its sole discretion, to become the Market Participant itself at the Hawesville.

Node with respect to electrical service to Century, subject to terms and conditions specified in the Definitive Documents. Further, Century may propose an alternative Market Participant (other than Kenergy) which Kenergy shall accept, *provided* Kenergy is satisfied, in its sole discretion, with the financial security arrangements and elimination of risk to Kenergy terms and conditions relating to such alternative Market Participant. Century shall give Kenergy and, if the Arrangement Agreement is in effect, Big Rivers not less than 120 days' prior written notice of the appointment of a new Market Participant.

C. Definitive Documents:

The transactions contemplated in this Summary of Terms and Conditions will be effectuated pursuant to the Definitive Documents, including (i) an Electric Service Agreement between Kenergy and Century, (ii) an Arrangement Agreement between Big Rivers and Kenergy, (iii) a Direct Agreement between Big Rivers and Century, (iv) a Tax Indemnity Agreement between Kenergy and Century, and (v) a Parent Guarantee of Century Parent.

D. Election to Join Alternative RTO:

[BREC: Big Rivers or Kenergy, as applicable, may, in its sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. The Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTOs, (iii) Century is responsible for any additional costs resulting from the Hawesville Node remaining in MISO, and (iv) the request does not result in any material adverse effect on Big Rivers or Kenergy, as applicable, or the ability of Big Rivers or Kenergy, as applicable, to join or become a member of the RTO. If Big Rivers or Kenergy, as applicable, joins another RTO, any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents. [Note: (1) Paragraph V. will net any additional transmission revenue to Big Rivers against Century's obligations under that section, and (2) we believe this election is highly unlikely during the term of the SSR.]]

[Century: Big Rivers or Kenergy, as applicable, may, in its

sole discretion, elect to join or become a member of an RTO other than MISO or elect to withdraw as a member of MISO. If such change results in additional cost to Century then Big Rivers or Kenergy as applicable, shall reimburse Century for such costs; provided that the Hawesville Node may remain in MISO if (i) requested by Century, and (ii) permitted by the RTO. In such case any terms used herein that relate to MISO, the MISO Tariff or the terms therein shall be deemed amended, as applicable, to incorporate the correlative terms with respect to such other RTO or such other RTO's applicable tariff. If necessary, the parties agree to modify in good faith the terms and provisions of the Definitive Documents to conform them to the requirements of such other RTO and otherwise amend them in the manner necessary to preserve the purposes and intent of the Definitive Documents.]

#### IV. ELECTRIC SERVICE AGREEMENT

- A. Power Supply: The electricity and electricity-related ancillary services acquired by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases in the Day Ahead Market or with imbalance requirements obtained in the Real Time Market. Capacity will be purchased through the Market Participant at the request of Century in the applicable MISO market. Century may request that electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Kenergy's satisfaction, in its sole discretion, only as to the financial security arrangements for and the elimination of risk to Kenergy associated with such bilateral contracts.
- B. Scheduling, Load and Load Factor: Pursuant to the MISO Tariff, Century shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Kenergy or its designee; *provided* that Kenergy will schedule the Maximum Load as the hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Kenergy of an alternative schedule not less than ~~two~~24 hours' prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff, ~~provided that, if an unscheduled maintenance event at the Hawesville facility has occurred and is continuing, Century may modify a schedule up to 2 hours prior to the MISO deadline.~~ Century's schedule may not exceed the Maximum Load without the prior consent of Kenergy and, if the

Arrangement Agreement is in effect, Big Rivers. In addition, Century promptly, and within the MISO scheduling guidelines, shall notify Kenergy and, if applicable, Big Rivers of any anticipated changes in load factor or any material changes in load. Century may not reduce its load to resell electricity or related services in the Real Time Market; *provided*, Century may offer and sell interruption and demand reduction services in any manner allowed.

C. Charges to Century:

Charges to Century shall include, without duplication:

1. Market cost of all electricity, electric capacity and electricity-related ancillary services, including transmission services, required to be purchased by Kenergy to serve Century;
2. An amount equal to Kenergy's internal and direct costs incurred in serving Century, including KPSC fees and a nominal net margin roughly equivalent to Kenergy's historical net margin attributable to service to Century. Century shall have the right to audit such costs.;
3. To the extent not covered under clause (1) above, charges to Kenergy from any third party to Kenergy for providing services to Century and any other costs chargeable to Kenergy arising out of any bilateral contract which Century has approved;
4. Monthly charges, whether positive or negative, with respect to the items set forth in paragraph V. hereof and charged to Kenergy under the Arrangement Agreement; provided if the Arrangement Agreement is terminated then applicable costs and revenues under section V are charged directly to Century under the Direct Agreements; provided if the Arrangement Agreement is terminated, then any costs thereunder applicable to Kenergy ; and
5. Any other amounts due and owing to Kenergy under the Definitive Documents, including pursuant to paragraph IV.D. below and applicable taxes.

D. Responsibility for Certain Costs:

Century will hold Kenergy harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to, without duplication of amounts due under paragraph

IV.C. above:

1. Security requirements to a third party for the purchase of electricity or electrical ancillary services to supply the Century load; and
2. Claims of bilateral power suppliers for electricity, electric capacity or electrical ancillary services for resale to Century under the Transaction.

- E. Performance by Kenergy: To the extent that another entity has an obligation to Kenergy for the provision of service to Century, Kenergy's performance of its obligation is subject to and conditioned upon the performance by such entity to Kenergy of its corresponding or related obligation. Subject only to performance by Big Rivers or such other entity that has an obligation to Kenergy, Kenergy shall have an obligation to Century to perform under this agreement.
- F. Term: The obligation of Kenergy to supply electricity, electric capacity and electricity-related ancillary services to Century pursuant to the Electric Service Agreement will terminate on December 31, 2033, unless terminated earlier pursuant to terms thereof.
- G. Billing; Payment: Kenergy shall invoice Century each [ ] on or before the [ ] business day of [ ]. Century shall pay Kenergy all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Century, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 1 percent. The security for such payments is described in paragraph X. [Note: Big Rivers and Kenergy confirming mechanics of Century's request given that MISO bills weekly.]
- H. Termination: The Electric Service Agreement may be terminated in the following circumstances:
1. By either party if the conditions precedent in Section X herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
  2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;

3. By a non-defaulting party following an Event of Default; or
4. By Century in its sole discretion on twelve months prior written notice to Kenergy.

Termination of the Electric Service Agreement will also terminate all other Definitive Documents and the parties' obligations under all Definitive Agreements will terminate, except as provided in section XII. B, below with respect to the survival of certain obligations of the parties.

I. Events of Default:

Events of default under the Electric Service Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services;
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;
3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Arrangement Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

J. FTR/ARR Rights:

Century shall have the rights to all FTRs or ARRs resulting from Big Rivers' and/or Kenergy's service to Century; Century shall have the right to direct the Market Participant to request, schedule, and sell such FTRs and ARRs and shall retain all revenues from such FTRs or ARRs.

K. Power Factor:

Century shall use commercially reasonable efforts to maintain a power factor at the Delivery Point that is as nearly as practicable to unity and that is, in any event, between 0.95 to 1.00. Century shall be responsible for all costs and expenses resulting from the power factor

deviating from such range.

- L. Assignment and Assumption: Century will not have the right to assign its rights or obligations under the Electric Service Agreement without the consent of Kenergy, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates, to the reasonable satisfaction of Kenergy, that it has adequate financial capacity to perform Century's obligations under the agreement. Any such successor must agree to assume all rights and obligations of the assignor under such Electric Service Agreement. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to an Electric Service Agreement or other obligations under the Definitive Documents without the consent of Kenergy, which consent will be granted in its sole discretion.
- M. Representations and Warranties: The parties will make customary representations and warranties as of the Closing Date and the Effective Date.
- N. Indemnification; Force Majeure: The Electric Service Agreement will contain mutual indemnification and force majeure provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds, a decline in credit ratings or Century's failure to maintain the security described in paragraph X hereof.
- O. Other Matters:
1. The Electric Service Agreement will provide service only to Century's Hawesville, Kentucky smelter facility. Century will not be entitled to service under any tariff of Kenergy.
  2. Century will acknowledge and agree that Big Rivers has no obligation to serve or supply power from its generating resources or, except as provided herein, under contract to Kenergy for the benefit of Century's Hawesville smelter or its affiliates, spin-offs or successors during the Service Period or thereafter; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Big Rivers with respect to the Sebree smelter if it is acquired by Century or Century's Parent.
  3. Century will acknowledge and agree that Kenergy will not have any contractual obligation to supply electricity, electric capacity or electricity related

ancillary services to Century's Hawesville smelter or its affiliates or spin-offs following termination of the Service Period; provided this agreement will not limit the ability of Century to seek a contractual service arrangement with Kenergy with respect to the Sebree smelter if it is acquired by Century or Century's Parent.

4. Century will acknowledge and agree that Kenergy may discontinue delivery of any or all electricity, electric capacity or electricity-related ancillary services upon three business days' prior notice to Century if Century fails to pay any invoice within the time prescribed for payment thereof.
5. Century will grant Kenergy and its representatives reasonable access to Century's Hawesville smelter facility to the extent reasonably required for the purposes of installing, repairing or testing necessary equipment.

P. Third Party Beneficiary: Big Rivers will be an express third party beneficiary of the Electric Service Agreement and may enforce the provisions thereof during the period of any survival of obligations to it under paragraph XII.B. below.

V. NET COSTS ADJUSTMENT TO MONTHLY INVOICES

A. General:

The following items shall be an adjustment, positive or negative, to the amounts payable under the Arrangement Agreement or the Direct Agreement, without duplication, including charges for transmission services under the Electric Service Agreement:

1. ~~[BREC: Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville Node or any other Big Rivers' Node resulting from the must-run condition of the Coleman Generating Station, including operations and maintenance expenses and capital costs, including capital expenditures relating to compliance with applicable environmental laws; plus]~~

~~1. [Century: Costs or charges to Big Rivers or Kenergy, as determined and allocated by MISO, at the Hawesville node or the Big Rivers' node which are solely and directly related to the~~

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requirement to operate the Coleman Generating Station for reliability of transmission of electricity to Century under the Electric Service Agreement; plus]

2. [BREC: All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to Hawesville Node or, with respect to transmission capital costs associated with a project intended to eliminate the must-run condition of Coleman, Big Rivers or Kenergy to the extent such costs relate to Century's operation, including all such costs relating to the Midwest ISO Transmission Expansion Plan ("MTEP"), or Multi-Value Projects ("MVP") under the MISO Tariff, or similar programs of any applicable RTO applicable to such nodes; plus]

2. [Century: All electrical transmission capital costs, not recovered in the MISO or Big Rivers tariffs, allocated by MISO to the Hawesville Node; plus]

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3. Charges by MISO to establish or maintain the Hawesville Node; *less*
4. Any revenue resulting from the ownership, sale or trade of ARRs or FTRs under section IV. J.; *plus*
5. Additional costs or charges of ACES or similar service provider, incurred solely due to Century's operation, for scheduling, awards and settlements; *plus*
6. The proportionate share of costs incurred by Kenergy or Big Rivers to comply with (i) state or federal renewable energy portfolio or similar standards, or (ii) environmental laws or regulations not related to capital expenditures for the Coleman Station, in each case, to the extent such costs are [solely and ]directly related to Century's operation; provided, to the extent permitted by applicable law, Century may self comply by purchasing its proportionate share of renewable energy. The parties acknowledge that there are not aware of any such costs as of the effective date; *plus*
7. Any costs associated with any entity or person other than Big Rivers serving as Market Participant;

*plus*

8. Costs relating to compliance with the Dodd–Frank Wall Street Reform and Consumer Protection Act to the extent such costs are costs incurred solely due to Century’s operation; *plus*
9. Costs of a 0.25 FTE employee of Big Rivers if it is serving as the Market Participant; *plus*
10. ~~[ BREC: Other direct costs of Kenergy or Big Rivers to the extent incurred or committed to by Kenergy or Big Rivers solely due to Century’s operations; *less*~~
10. ~~[Century: delete]~~
11. Charges or costs paid by Century directly ~~or indirectly~~ for transmission services under the MISO tariff or the Big Rivers tariff and any other revenues received by Kenergy or Big Rivers from Century under the MISO tariff or Big Rivers tariff.

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~~[ BREC: With respect to any of the foregoing amounts constituting capital expenditures, Kenergy or Big Rivers, as applicable may require Century to prepay any such capital expenditures reasonably expected to be incurred in the following 30 days. BREC also includes a provision to reimburse Century for such prepayments, based on the remaining service life of the asset if BREC operates Coleman for its own use]~~

~~[Century: Century does not agree to prepay capital costs]~~

B. Dispute Resolution:

If a dispute arises regarding any net adjustment to charges to Century under the Definitive Documents or otherwise concerning the terms or conditions of the Definitive Documents, the duties or obligations of the parties or the implementation, interpretation or breach thereof, a party may request a meeting among authorized representatives of the parties to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within 10 days or such shorter or longer time as agreed upon by Century, Kenergy and Big Rivers. Absent resolution in this manner, the parties will submit the matter for binding arbitration under AAA rules for three judge’s distribution, with the losing party to pay the fees and costs of the prevailing party, subject to appeal or requests for rehearing and subject to agreed minimum dispute amounts. Each party

to the arbitration shall appoint a judge (i) with substantial experience in the electric utility sector, (ii) who has not been employed or been a consultant to such party in the past. The two appointed judges shall select a third judge meeting these criteria. Any party may however seek injunctive relieve where delay in doing so could result in irreparable harm. [Subject to confirmation.]

## VI. ARRANGEMENT AGREEMENT

- A. General: The electricity and electricity-related ancillary services required by Kenergy for resale to Century under the Electric Service Agreement will be supplied, by purchases by Big Rivers as Market Participant in the Day Ahead Market with imbalance requirements, including up to 10 MW above the Maximum Load, obtained in the Real Time Market for resale to Kenergy for service to Century. Capacity will be purchased in the applicable MISO market. Century may request that the electricity, capacity and ancillary services be sourced through bilateral contracts with third party suppliers selected by Century, subject to Big Rivers' satisfaction, in its sole discretion, only as to the financial security arrangements and elimination of risk to Big Rivers of such bilateral contracts.
- B. Scheduling, Load and Load Factor: Kenergy or its designee shall schedule, on an hourly basis, all required electricity, electric capacity and electricity-related ancillary services with Big Rivers or its designee; provided that Big Rivers will schedule the Maximum Load as an hourly load in the MISO Day Ahead Market unless Century provides notice in a manner acceptable to Big Rivers of an alternative schedule not less than ~~two~~ 24 hours prior to the deadline for submitting such schedule to MISO pursuant to MISO Tariff; ~~provided that, if an unscheduled maintenance event at the Hawesville facility has occurred and is continuing, Century may modify a schedule up to 2 hours prior to the MISO deadline.~~ This schedule may not exceed the Maximum Load without the prior consent of Big Rivers.
- C. Delivery Point: Before March 15 2013, Big Rivers will apply for Hawesville Node, which Delivery Point shall be owned by Big Rivers for so long as it is the Market Participant and transferred to any successor Market Participant under the Transaction Documents if Big Rivers can cancel such application on or before June 1, 2013 and Century pays the costs of such application.

- D. Designation: Kenergy will designate Big Rivers to act as the scheduling agent for the electricity, electric capacity and electricity-related ancillary services required under the Electric Service Agreement during the term of the Arrangement Agreement.
- E. Charges to Kenergy: Charges to Kenergy shall be, without duplication:
1. Market cost of all electricity, electric capacity and electricity-related ancillary services, required to be purchased by Big Rivers to serve Kenergy for the benefit of Century;
  2. Charges for transmission service to the Hawesville Node; and
  3. The charges, revenues, and offsets under section V to the extent not charged to Century under the Direct Agreement; provided, that during the term of the Arrangement Agreement, section V charges that are recoverable under the Direct Agreement will be recovered under the Arrangement Agreement.
- F. Performance by Kenergy: To the extent that Century has an obligation to Kenergy, Kenergy's performance of a corresponding or related obligation to Big Rivers is subject to and conditioned upon Century's performance of its obligation. Subject only to performance by Kenergy or persons with an obligation to Big Rivers, Big Rivers shall have an obligation to Kenergy to perform under the Agreement for the benefit of Century.
- G. Term: The obligation of Big Rivers to procure electricity, electric capacity or electricity-related ancillary services to Kenergy for resale to Century pursuant to the Electric Service Agreement shall be for the Service Period, unless terminated earlier pursuant to the terms of the Arrangement Agreement.
- H. Billing; Payment: Big Rivers shall invoice Kenergy each [ ] on or before the [ ] business day of [ ]. Kenergy shall pay Big Rivers all amounts due and owing to [ ] on the [ ] business day of the following [ ]. If any portion of any invoice is disputed by Kenergy, the disputed amount must be paid, under protest, when due. Late payments or refunded amounts will bear interest at the Prime Rate plus 4 percent. Any costs associated with Big Rivers paying MISO on a period/cycle more frequent than the above

shall be considered a MISO fee, payable by Century. The security for such payments is described in paragraph X. [Note: See above comment.]

I. Termination:

The Arrangement Agreement may be, or shall be, as provided herein, terminated in the following circumstances:

1. By either party if the conditions precedent in section IX herein to the effectiveness of the agreement are not satisfied by 11:59:59 p.m. on August 19, 2013;
2. By either party if the KPSC final order relating to the Transactions disapproves or changes material terms or conditions of the Definitive Documents;
3. By a non-defaulting party following an Event of Default;
4. By either party upon termination of the Electric Service Agreement; provided the Arrangement Agreement shall terminate if Century terminates the Electric Service Agreement;
5. The Arrangement Agreement shall terminate if Big Rivers is no longer the Market Participant;

Big Rivers will provide Kenergy and Century not less than 3 business days' prior notice of an election to terminate the Arrangement Agreement as a result of an Event of Default.

J. Representations and Warranties:

The parties will make customary representations and warranties as of the Closing Date and the Effective Date.

K. Indemnification; Force Majeure:

The Arrangement Agreement will contain mutual indemnification and Force Majeure Event provisions customary for a transaction of this type. The definition of force majeure will not include an insufficiency of funds or decline in credit ratings.

L. Events of Default:

Century shall receive notice of events of default. Events of default under the Arrangement Agreement shall be:

1. Failure to make a scheduled payment for electricity or electricity-related ancillary services
2. Failure to maintain the security arrangements described in paragraph X for 3 business days;

3. Failure to pay any other amounts due within 3 business days following written notice;
4. Failure to perform a material non-payment obligation within 30 days following written notice;
5. The occurrence of an event of default under the Electric Service Agreement, the Direct Agreement or the Tax Indemnity Agreement or other Definitive Document;
6. Assignment of the agreement other than as permitted thereunder; or
7. Certain bankruptcy or insolvency events.

## VII. DIRECT AGREEMENT

### A. Responsibility for Certain Costs:

Century will hold Big Rivers harmless from all direct costs, expenses, liabilities, claims or similar consequences relating to the following to the extent not recovered under the Electrical Service Agreement, without duplication:

1. Purchasing and transmitting electricity, electric capacity or electrical ancillary services to the Delivery Point for resale to Century under the Transaction;
2. Claims of bilateral power suppliers under contracts to which Century has agreed for electricity, electric capacity or electricity-related ancillary services purchased for resale to Century; and
3. Net costs or revenues Charges under paragraph V.A.1, 2, 4, 10 and 11+0; provided for clarity if such net is a net cost then such amount shall be billed and paid monthly by Century and if such net is a revenue then such amount shall be paid to Century monthly by Big Rivers:

## VIII. ADDITIONAL OBLIGATIONS AND ACKNOWLEDGEMENTS

### A. Acknowledgments:

Century will acknowledge and agree that:

1. Kenergy may not provide Century electric service on and after 11:59:59 p.m. on August 19, 2013 other than pursuant to a new rate or contract

approved by the KPSC;

2. [Century; Subject to section III. D.] Big Rivers may cease to be a member of MISO, may join another RTO, or may not be a member of any RTO;
3. Big Rivers has no obligation other than pursuant to the Arrangement Agreement to serve or supply power from its generation resources or under contract with Kenergy for the benefit of Century, or its affiliates, spin-offs or successors during the term of the agreement or thereafter.

B. Assignment of Definitive Documents:

For so long as Century has obligations to Big Rivers under the Definitive Documents, Century will not have the right to assign its rights or obligations under the Definitive Documents without the consent of Big Rivers, except to a successor. A successor shall be an entity that acquires all or substantially all of the assets or equity of the assigning entity or that merges with such assigning entity and which demonstrates to the reasonable satisfaction of Big Rivers that it has adequate financial capacity to perform Century's obligations under the agreements. Any such successor must agree to assume all rights and obligations of the assignor under the Definitive Documents. Any assignment will not relieve an assignor or guarantor of its obligations under or with respect to the Definitive Documents without the consent of Big Rivers, which consent will be granted in its sole discretion.

C. MISO Processes:

[BREC; In any MISO process or negotiation to determine the SSR Status of Coleman, the net costs due to such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Big Rivers and, if applicable, Kenergy shall provide Century with a reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes but Big Rivers may respond within the time required. Big Rivers acknowledges that any capital costs shall be allocated and recovered over the life of the asset if those capital costs are initially funded by Century. Big Rivers and Kenergy shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the Definitive Documents.]

[Century; In any MISO process or negotiation to determine the SSR Status of Coleman, the net costs due to

such SSR status, the allocation of such costs, or any transmission upgrade or expansion whose effect is, in whole or in part, to relieve such SSR status, Big Rivers and, if applicable, Kenergy shall provide Century with a reasonable opportunity to review and comment on all material information, proposals and submittals to MISO in such processes. Big Rivers acknowledges that any capital costs shall be allocated over the life of the the Coleman Generating Station and recovered from Century only during any SSR periods; provided that only the carrying costs on such capital shall be allocated and recovered from Century during any SSR period before the asset requiring such capital investment is required, becomes operational, and is used and useful. Big Rivers and Kenergy shall not limit or prohibit Century's ability to discuss or engage with MISO regarding issues arising under the Definitive Documents and will actively support Century's direct participation in all such negotiations and processes. Big Rivers will not agree to an SSR Agreement on Coleman without Century's consent.

- D. KPSC Proceedings: Century, Kenergy and Big Rivers will request the KPSC approve the Transaction on an expedited basis.

**IX. TAX INDEMNITY AGREEMENT**

- A. General: Century and Century Parent will enter into a tax indemnification agreement with Kenergy. Under the agreement, Century and Century Parent will jointly and severally hold Kenergy harmless on an after-tax basis for all direct or indirect costs, expenses, liabilities, claims, etc. relating to or arising out of the Transaction, including failure of Kenergy to maintain its status as an entity exempt from federal income taxation in consequence of the Transaction, the costs of any ruling request desired by Kenergy and costs related to any reapplication for tax-exempt status by Kenergy.

**X. CREDIT**

- A. Security Arrangements: Century shall provide and maintain credit support, to the extent not duplicative of the credit support under section IX. C., in the form of the following at Big Rivers' and Kenergy's election: a cash-funded account subject to customary security or custody arrangements, a letter of credit from a bank rated "A+" or better, or other assurances acceptable to Kenergy and Big Rivers in their



sole discretion. Such cash collateral, letter of credit or other assurance shall be in an amount not to exceed the sum of:

1. The amounts reasonably estimated by Kenergy and Big Rivers to be due with respect to Century's obligations under the Electric Service Agreement and Kenergy's obligations under the Arrangement Agreement, without duplication, for a period not longer than the payment terms required by each supplier to Kenergy of two months;
2. The amounts reasonably estimated by Big Rivers to be due with respect to Century's additional obligations to Big Rivers for a period of two months (If these are under the Direct Agreement, then no longer than the billing period therein which is not specified);
3. The amounts estimated by Kenergy to be due with respect to Century's obligations under the Tax Indemnity Agreement; and
4. ~~[BREC: Other amounts reasonably projected by Kenergy or Big Rivers to become payable to either of them by Century.] [Century: unnecessary]~~

Kenergy or Big Rivers, as applicable, may apply amounts on deposit in such cash-funded account, draw upon such letter of credit or otherwise access the collateral provided to pay amounts due and owing under the Definitive Documents, plus applicable interest. Any withdrawal or draw on security shall not relieve Century's obligation to replenish collateral to the amount required.

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|--|--|
| B. Century Guarantee:                                  | Century Parent will guarantee to Kenergy and Big Rivers the payment and performance of all obligations of Century under the Definitive Documents.  |
| C. MISO Credit:  | Century shall provide and maintain credit support in the form and in the amount required by MISO with respect to the provision of electricity, electric capacity or electrical ancillary services for resale to Century.   |
| D. Bilateral Power Supply Arrangements Credit Support: | Century shall provide and maintain credit support in the form and in the amount required under any bilateral contract for the purchase of electricity, electric capacity or electricity-related ancillary services for resale to Century, without the requirement for Kenergy or Big Rivers to provide credit support or be liable to the bilateral contract |

counterparty.

## XI. CONDITIONS TO THE EFFECTIVE DATE

### A. General:

In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, releases, the condition to the obligations of Kenergy and Big Rivers to commence service under the Definitive Documents shall include:

1. The Delivery Point becomes a specific Node (as defined in the MISO Tariff);
2. All representations and warranties of the parties are true and correct in all material respects;
3. All Definitive Documents become effective;
4. Approvals by the Big Rivers' board; the three Members' boards; the Century and Century Parent boards; the RUS, CoBank, and CFC; and the KPSC and other applicable persons identified prior to entry into the Definitive Documents will have been obtained prior to the Effective Date and any conditions thereto satisfied or waived;
5. ~~[BREC: A signed SSR agreement regarding Coleman with MISO shall be in effect and satisfactory to Century, in its sole discretion.]~~  
[Century: depends on resolution of section VIII. C.]
6. All conditions of MISO to the effectiveness of the Transaction shall have been satisfied or waived; and
7. All Transaction documents have been executed and delivered by the parties thereto.

## XII. OTHER

### A. Preparation of Definitive Documents:

The initial drafts of documents proposed as the Definitive Documents for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by counsel to Kenergy or Big Rivers.

B. Survival of Obligations:

[BREC: Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under the Definitive Documents and any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use reasonable efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.]

[Century: Upon termination of the Electric Service Agreement, Century shall be obligated to pay for all energy, capacity, ancillary services and transmission services provided prior to the effective date of termination. In addition Century shall pay for any costs under any bilateral contracts that extend beyond the effective date of termination; provided Big Rivers and/or Kenergy shall use best efforts to mitigate those costs. The Parent Guarantee and all obligations customarily surviving termination, e.g., payment and indemnification obligations, shall survive termination of the Definitive Documents.]

C. Schedule

The parties agree to use expeditious efforts to finalize the Definitive Documents and to seek, obtain and satisfy any required approvals or conditions to effectiveness. Big Rivers and Kenergy will propose a schedule for the distribution of initial drafts of the Definitive Documents, obtainment of all board approvals, filing with the KPSC for approval of the Transaction, and request to the KPSC to issue an order approving the Definitive Documents on an expedited basis. BREC to provide specific schedule.

The parties agree to publicly endorse this Term Sheet and the Definitive Documents and to support the filing of an application at the KPSC to approve the Definitive Documents in the form presented. Century shall be allowed to make a presentation at a board meeting of Big Rivers and Kenergy prior to or in connection with the approval of the Definitive Documents. The CEOs of Big Rivers and Kenergy will request to other Members that Century have similar opportunities to present to their board of directors if desired.

D. Governing Law

Commonwealth of Kentucky

[Century: Legislative Fallback. The parties would agree to

support passage of HB 211 and SB 71 with a sunset provision.] [BREC: opposes]

## Barbara Harwood

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**From:** Early, Michael <MEarly@centuryca.com>  
**Sent:** Tuesday, February 26, 2013 9:34 PM  
**To:** Bob Berry  
**Subject:** Wednesday meeting

Ok Made the request for a room and will let you know tomorrow am

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**From:** Bob Berry [mailto:Bob.Berry@bigrivers.com]  
**Sent:** Tuesday, February 26, 2013 7:02 PM  
**To:** Early, Michael; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:** RE:

Michael,  
Big Rivers and Kenergy can be available to meet at 11:00 a.m. eastern time on Wednesday February 27. Can you please secure a room and email us the room number? Look forward to seeing you tomorrow.

Regards  
Bob

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**From:** Early, Michael [mailto:MEarly@centuryca.com]  
**Sent:** Tuesday, February 26, 2013 6:28 PM  
**To:** Bob Berry; Greg Starheim; Jim Miller; Drefke, Kyle W.; Chris Hopgood; David Hamilton  
**Cc:** Hoerner, John; DeZee, John  
**Subject:**

Attached is Century's mark-up of the term sheet based on today's meeting.

As we agreed, I have "bracketed" the sections that address the remaining material disputes—including both BREC/Kenergy's proposed language and Century's proposed language. I believe other outstanding issues can be resolved.

As we are all aware, time is of the essence in this process. Century would like to meet tomorrow morning at 8 am. If not then, please advise us when is the earliest that BREC/Kenergy can meet?

Michael

**Barbara Harwood**

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**From:** Early, Michael <Michael.Early@centuryaluminum.com>  
**Sent:** Tuesday, March 05, 2013 6:52 AM  
**To:** Bob Berry  
**Subject:** Y2 study

Did you receive the Y2 study from MISO?