

SULLIVAN, MOUNTJOY, STAINBACK & MILLER, PSC  
ATTORNEYS AT LAW

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PUBLIC SERVICE  
COMMISSION

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Jesse T. Mountjoy  
Frank Stainback  
James M. Miller  
Michael A. Fiorella  
Allen W. Holbrook  
R. Michael Sullivan  
Bryan R. Reynolds\*  
Tyson A. Kamuf  
Mark W. Starnes  
C. Ellsworth Mountjoy

May 14, 2013

Via Federal Express

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

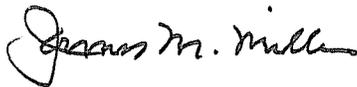
\*Also Licensed in Indiana

*RE: In the Matter of: The Application of Big Rivers Electric  
Corporation for Approval to Issue Evidences of Indebtedness  
PSC Case No. 2013-00125*

Dear Mr. Derouen:

Enclosed on behalf of Big Rivers Electric Corporation are an original and ten copies of a Verified Motion to Supplement Filing. I certify that on this date copies of the motion and this letter were served on each of the persons on the attached service list by first class mail, postage prepaid.

Sincerely yours,



James M. Miller

JMM/ej  
Enclosures

cc: Billie Richert  
Service List

Telephone (270) 926-4000  
Telecopier (270) 683-6694

100 St. Ann Building  
PO Box 727  
Owensboro, Kentucky  
42302-0727

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Service List  
PSC Case No. 2013-00125

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Jennifer B. Hans  
Lawrence W. Cook  
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Assistant Attorneys General  
1024 Capital Center Dr.  
Suite 200  
Frankfort, KY 40601

1 COMMONWEALTH OF KENTUCKY

2 BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

3 In the Matter of:

4 THE APPLICATION OF BIG RIVERS )  
5 ELECTRIC CORPORATION FOR APPROVAL ) CASE NO. 2013-00125  
6 TO ISSUE EVIDENCES OF INDEBTEDNESS )  
7

8 **VERIFIED MOTION TO SUPPLEMENT FILING**

9 Big Rivers Electric Corporation (“*Big Rivers*”) filed the Application in this  
10 matter on March 27, 2013, in which it noted that documents related to the proposed  
11 issuances of evidences of indebtedness were being provided in “substantially  
12 complete form.” For the reasons stated below, Big Rivers moves that it be permitted  
13 to supplement that filing by substituting the page attached as Exhibit A for the  
14 page of corresponding number in the proposed Amended and Restated Revolving  
15 Line of Credit Agreement (“*Amended CFC Revolver*”), which is attached as Exhibit 3  
16 to the Application. A version of that page showing the changes to the language on  
17 that page is attached to this motion as Exhibit B.

18 The changes to Section 6.01m(iii) shown in Exhibits A and B assure that  
19 termination of a wholesale power contract related to electric service to an aluminum  
20 smelter in connection with the exercise by a smelter of voluntary termination rights  
21 under any electric service arrangements, entered into with a smelter following  
22 termination of the current wholesale power contracts for smelter service, will not be  
23 an Event of Default under the Amended CFC Revolver. This exemption from the  
24 Section 6.01m(iii) Event of Default already existed as to current smelter contracts.

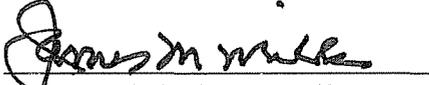
1 The supplemental language added by Exhibit A to this motion extends that  
2 exemption to any new smelter contracts.

3 Wherefore, Big Rivers requests that the Public Service Commission enter an  
4 order allowing Big Rivers to substitute the page attached hereto as Exhibit A for  
5 the corresponding page 16 in the Amended CFC Revolver attached as Exhibit 3 to  
6 the Application, and for all other relief to which it may appear entitled.

7 This 14<sup>th</sup> day of May, 2013.

8 Respectfully submitted,

9 Sullivan, Mountjoy, Stainback & Miller,  
10 PSC

11  
12  
13  
14 By:   
15 James M. Miller (jmillier@smsmlaw.com)  
16 Tyson Kamuf (tkamuf@smsmlaw.com)  
17 100 St. Ann Street  
18 P.O. Box 727  
19 Owensboro, Kentucky 42302-0727  
20 Telephone No. (270) 926-4000  
21 Facsimile No. (270) 683-6694

22  
23 Counsel for Big Rivers Electric Corporation  
24

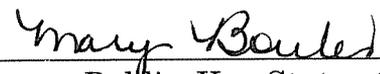
1  
2  
3 **VERIFICATION**

4 I, Billie J. Richert, Vice President Accounting, Rates and Chief Financial Officer  
5 for Big Rivers Electric Corporation, hereby state that I have read the foregoing  
6 Verified Motion to Substitute Filing, and that the statements contained therein are  
7 true and correct to the best of my knowledge and belief, on this the 14<sup>th</sup> day of May,  
8 2013.

9  
10   
11 \_\_\_\_\_  
12 Billie J. Richert  
13 Vice President Accounting, Rates  
14 and Chief Financial Officer  
15 Big Rivers Electric Corporation

16  
17 COMMONWEALTH OF KENTUCKY )  
18 COUNTY OF HENDERSON )  
19

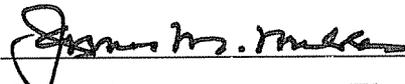
20 The foregoing verification statement was SUBSCRIBED AND SWORN to before  
21 me by Billie J. Richert, Vice President Accounting, Rates and Chief Financial  
22 Officer of Big Rivers Electric Corporation, on this the 14<sup>th</sup> day of May, 2013.

23  
24   
25 \_\_\_\_\_  
26 Notary Public, Ky., State at Large  
27 My commission expires: 8-8-2016  
28

29  
30 **CERTIFICATE OF SERVICE**  
31

32 I certify that, on the date this motion was filed with the Kentucky Public  
33 Service Commission, a true and accurate copy of the foregoing was served by  
34 regular U.S. Postal Service upon the persons listed on the service list that  
35 accompanies this motion.

36 On this the 14<sup>th</sup> day of May, 2013.  
37

38  
39   
40 \_\_\_\_\_  
41 Counsel for Big Rivers Electric  
42 Corporation

- (i) Any one or more members of the Borrower shall default in the performance of any payment obligations under its or their wholesale power contracts with the Borrower where the aggregate principal amount of such default or defaults exceeds \$10,000,000.
- (ii) Any one or more members of the Borrower shall contest the validity or enforceability of its or their wholesale power contracts with the Borrower by filing any official judicial or regulatory filing seeking as a remedy the declaration of the unenforceability or the material modification of its or their wholesale power contracts
- (iii) One or more of the Borrower's wholesale power contracts with its distribution cooperative members which, individually or in the aggregate, represent more than 10% of Borrowers' total gross revenue shall for any reason be terminated prior to the expiration of their term, other than (a) Borrower's existing wholesale power contracts with Kenergy Corp. relating to Century Aluminum Company ("Century") and Rio Tinto Alcan ("Alcan"), respectively, but only with respect to the voluntary termination rights of such parties under such wholesale power contracts (i.e., if a termination of either of such wholesale power contracts occurs for any other reason, then any such termination shall be considered for purposes of this Section 6.01.M(iii), provided, that if either Century or Alcan purports to exercise the voluntary termination provisions under their respective contracts and Borrower contests the validity of such exercise, such purported voluntary termination shall not be considered for purposes of this Section 6.01M(iii) so long as Century and/or Alcan, as the case may be, continue to perform as required under their respective contracts through the actual date of termination associated with the purported exercise of such voluntary termination provisions) or (b) any of Borrower's wholesale power contracts with Kenergy Corp. relating to service to an aluminum smelter currently operated by either Century or Alcan entered into following the termination of the existing wholesale power contracts referred to in clause (a) herein, but subject to the same terms and provisions set forth in clause (a) above.

**N. Indenture Obligations.** An "Event of Default," as defined in the Indenture, shall have occurred and be continuing, provided such "Event of Default" has not been waived or cured as provided for under the terms of the Indenture.

## ARTICLE VII

### REMEDIES

**Section 7.01** If any of the Events of Default listed in Article VI hereof shall occur after the date of this Agreement and shall not have been remedied within the applicable grace periods specified therein, then CFC may:

- (a) cease making Advances hereunder other than Advances made pursuant to Section 3.04.H hereof;
- (b) terminate the Line of Credit;
- (c) cease issuing Letters of Credit hereunder;
- (d) exercise rights of setoff or recoupment and apply any and all amounts held, or hereby held, by CFC or owed to the Borrower or for the credit or account of the

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- (d) exercise rights of setoff or recoupment and apply any and all amounts held, or hereby held, by CFC or owed to the Borrower or for the credit or account of the