

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION)	CASE NO.
FOR A GENERAL ADJUSTMENT IN RATES SUPPORTED)	2013-00199
BY FULLY FORECASTED TEST PERIOD)	

ORDER

On June 28, 2013, Big Rivers Electric Corporation (“Big Rivers”) tendered an application requesting approval to increase its wholesale electric rates for service to its three member-owner distribution cooperatives: Jackson Purchase Energy Cooperative (“JPEC”); Kenergy Corp. (“Kenergy”); and Meade County Rural Electric Cooperative Corporation (“Meade County”). Big Rivers proposed to increase its base rates in order to increase its base-rate revenues by \$70,396,884¹ annually, or 26.5 percent, effective July 28, 2013, based on a forecasted test year covering the period from February 2014 through January 2015. The Commission found that an investigation was necessary to determine the reasonableness of Big Rivers’ proposed increase in rates and suspended the proposed rates for six months, up to and including January 27, 2014, pursuant to KRS 278.190(2).²

¹ Based on changes occurring subsequent to submitting its application, primarily the issuance of our October 29, 2013 Order in Case No. 2012-00535, *Application of Big River Electric Corporation for a General Adjustment of Rates* (Ky. PSC Oct. 29, 2013) (“535 Rate Order”), and correcting certain errors in the application, as reflected in its November 12, 2013 updated Response to Item 1 of Commission Staff’s Third Request for Information, Big Rivers revised its calculated revenue deficiency to \$72,433,271. In its December 17, 2013 rebuttal testimony, Big Rivers further revised its calculated revenue deficiency to \$71,227,047.

² See Commission Order entered July 18, 2013.

Intervenors in this proceeding are: the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“AG”); Kentucky Industrial Utility Customers, Inc. (“KIUC”); Ben Taylor and the Sierra Club (“Sierra Club”); JPEC; Kenergy; and Meade County. A procedural schedule was established that provided for discovery, intervenor testimony, and rebuttal testimony by Big Rivers. The AG, KIUC, the Sierra Club, and Commission Staff (“Staff”) issued data requests to Big Rivers. The AG, KIUC, and the Sierra Club filed testimony on which Big Rivers and Staff issued data requests. The Commission held public meetings in the city of Henderson, Kentucky, on December 16, 2013, and in the cities of Brandenburg, Owensboro, and Paducah, Kentucky, on January 8, 2014, to allow members of the public to comment on the proposed rate increase.³

An evidentiary hearing on Big Rivers’ proposed rate adjustment was held on January 7, 8, and 9, 2014, at the Commission’s offices in Frankfort, Kentucky. Individual post-hearing briefs were submitted by Big Rivers and the AG. KIUC and Sierra Club filed a joint brief, as did JPEC, Kenergy, and Meade County. All the information requested at the evidentiary hearing has been filed with the Commission, and the case now stands submitted for a decision. As discussed more thoroughly throughout the remainder of this Order, the Commission is granting Big Rivers a base

³ The January 8, 2014 public meetings in Brandenburg, Owensboro, and Paducah were held with the Commission via video conference prior to commencing the second day of the evidentiary hearing.

rate increase of \$36,159,928, or 14.1 percent, which is approximately 51.5 percent of Big Rivers' originally requested revenue increase of \$70,396,884.⁴

BACKGROUND

Big Rivers is a member-owned rural electric generation and transmission cooperative organized pursuant to KRS Chapter 279. Its three member-owners sell electricity to approximately 112,000 retail customers in 26 western Kentucky counties. For much of its existence, Big Rivers has supplied electricity to two aluminum smelters served by Kenergy. Under the terms of the 2009 contracts under which they received power from Big Rivers, the smelters had the right to terminate their agreements upon providing Big Rivers a one-year notice of termination.

On January 31, 2013, Rio Tinto Alcan ("Alcan"), owner of the smelter located in Sebree, Kentucky, provided Big Rivers its one-year termination notice. Subsequent to that notice, Alcan sold the Sebree smelter to Century Aluminum of Kentucky General Partnership ("Century").⁵ The Sebree smelter represented roughly 35 percent of Big Rivers' native load and accounted for roughly 30 percent of Big Rivers' annual revenue when both it and the smelter located in Hawesville, Kentucky, were operated at or near capacity. Alcan's announced termination, which Century was legally bound to honor, was identified by Big Rivers as the reason it decided to file the instant rate application.

⁴ On January 29, 2014, pursuant to KRS 278.190(2), Big Rivers notified the Commission of its intent to put its proposed rates into effect for service rendered on and after February 1, 2014. The Commission's Order of February 4, 2014 acknowledged Big Rivers' compliance with the statutory provisions for placing its rates into effect and required that Big Rivers maintain its records so that amounts to be refunded and to whom the refunds should be provided could be determined in the event refunds were ultimately required.

⁵ The sale took place in June, 2013. Century already owned the other smelter taking power from Big Rivers, the Hawesville smelter. Its August 20, 2012 notice of termination of its 2009 contract with Big Rivers and Kenergy precipitated Big Rivers filing its rate application in Case No. 2012-00535 (Ky. PSC filed Jan. 15, 2013).

With the Sebree smelter's decision to terminate its power agreement with Big Rivers, demand on Big Rivers' system would be reduced by roughly 400 megawatts ("MW"), or about 90 percent of the capacity of Big Rivers' Wilson Generating Station ("Wilson"). In conjunction with this proceeding, Big Rivers intended to idle Wilson as a means of reducing its operating costs in response to the termination.⁶

After receiving Century's termination notice for the Hawesville smelter, Big Rivers entered into negotiations with Century to attempt to reach agreement on terms and conditions under which the smelter could continue to operate while purchasing market-based power at prices that were potentially less than the rates Century had been paying based on Big Rivers' cost of service. The agreements reached by Big Rivers, Kenergy and Century for such service to the Hawesville smelter were approved by the Commission in Case No. 2013-00221 in August of 2013.⁷ After the conclusion of Case No. 2013-00221, and Alcan's sale of the Sebree smelter to Century, Big Rivers and Century negotiated similar agreements for service to the Sebree smelter. The Sebree smelter agreements were approved in January of 2014 in Case No. 2013-00413.⁸

TEST PERIOD

Big Rivers proposed the 12 months ending January 31, 2015, as its forecasted test period to determine the reasonableness of its proposed rates. None of the intervenors offered objections to the proposed test period or suggested an alternative test period. However, the AG stated that "BREC's forecasted filing and related

⁶ The idling of Big Rivers' Coleman Generating Station was recognized in the 535 Rate Order.

⁷ Case No. 2013-00221, *Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order* (Ky. PSC Aug. 14, 2013)

⁸ Case No. 2013-00413, *Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order* (Ky. PSC Jan. 30, 2014).

processes lack the necessary credibility to justify its \$70.4 million proposed rate increase.”⁹ The AG claimed that in order for a forecast to have the necessary credibility, it must be supported by an underlying formal user’s manual. Because Big Rivers has no formal User’s Manual, the AG argued that Big Rivers’ assumptions for “projections are subject to BREC’s discretion . . . and this means that the underlying assumptions can be very volatile, subjective, subject to manipulation, and may not have a proper correlation to the amounts being projected.”¹⁰

The AG, citing generic issues involving forecasted test periods, stated that “reliance on a forecasted test period can weaken the incentive of utility companies to manage their operations and make prudent decisions because they can attempt to resolve bad management decisions through increased and accelerated rate relief.”¹¹ Further, the AG asserted that he did “not believe that fair, just and reasonable rates are achievable under BREC’s fully forecasted revenue requirement.”¹²

On rebuttal, Big Rivers stated that it met the requirements associated with the use of a fully forecasted test period for setting rates, adequately supported the forecast, and performed all required analyses.¹³ It further stated that it relied upon reasonable forecasts of market prices, fuel costs, headcount, and other factors that were available or could otherwise be developed for its forecast in the short period between January 31, 2013, (when it received the Alcan termination notice) and June 28, 2013, (when it

⁹ Direct Testimony of Bion C. Ostrander (“Ostrander Testimony”) at 15.

¹⁰ *Id.* at 16.

¹¹ *Id.* at 18.

¹² *Id.* at 20.

¹³ Rebuttal Testimony of John Wolfram (“Wolfram Rebuttal”) at 5.

needed to file its application in order for new rates to be effective concurrent with that termination).¹⁴ Big Rivers explained that it provided a thorough description in its direct case of its budget development process, along with details on various components of that process.¹⁵ Big Rivers stated that it provided documentation for its financial model, which forms the basis for its forecast, in response to an AG data request, and that said documentation describes the function of each worksheet in the model, inputs and outputs of the model, and the checks to ensure its accuracy.¹⁶

The Commission finds Big Rivers' use of a forecasted test year to be reasonable. The AG had sufficient opportunity to conduct discovery for the purpose of analyzing Big Rivers' proposed test period, the components of Big Rivers' forecasts, and the workings of Big Rivers' Financial Model. We find that Big Rivers adequately described its internal budgeting process and the aforementioned Financial Model both in testimony and in responses to numerous data requests.

VALUATION

Rate Base

Big Rivers proposed a net investment rate base of \$1,207,390,889¹⁷ based on the test-year-average value of plant in service and construction work in progress; the 13-month average balances for fuel stock, materials and supplies, and prepayments; plus a cash working capital allowance, minus the adjusted accumulated depreciation balance. While they asserted that there would be unneeded generating capacity on Big

¹⁴ *Id.*

¹⁵ *Id.* at 23.

¹⁶ *Id.* at 27.

¹⁷ Big Rivers' Application, Volume 4, Tab 45.

Rivers' system after the Sebree smelter termination became effective, none of the opposing intervenors specifically addressed Big Rivers' proposed rate base.

The Commission concurs with Big Rivers' proposed rate base, except that working capital has been adjusted to reflect the pro forma adjustments found reasonable herein. Based on this adjustment, Big Rivers' net investment rate base which the Commission finds reasonable for rate-making purposes is as follows:

Utility Plant in Service	\$ 2,088,328,253
Construction Work In Progress	<u>67,635,870</u>
Total Utility Plant	\$ 2,155,964,123
ADD:	
Fuel Stock	\$ 19,304,615
Materials and Supplies	26,553,805
Prepayments	2,254,680
Working Capital	<u>19,895,327</u>
Subtotal	\$ <u>68,008,427</u>
DEDUCT:	
Accumulated Depreciation	\$ <u>1,019,449,358</u>
 NET INVESTMENT RATE BASE	 <u>\$ 1,204,523,192</u>

Capitalization and Capital Structure

Big Rivers' test-year-average capitalization is \$1,309,736,603¹⁸ and consists of \$412,256,033 in equity and margins and \$897,480,570 in long-term debt. Using this capital structure, Big River's equity to total capitalization ratio is 31.48 percent. None of the intervenors addressed Big Rivers' proposed capitalization. The Commission finds Big Rivers' test-year-average capitalization of \$1,309,736,603 to be reasonable and will accept it for ratemaking purposes.

¹⁸ *Id.*, Volume 1, Tab 20.

REVENUES AND EXPENSES

Big Rivers' operating statement for the test period is based on its internal budgets for calendar years 2014 and 2015. As required by 807 KAR 5:001, Section 16(a), the test period ending January 31, 2015 was presented by Big Rivers in the form of pro forma adjustments to its base period, the 12 months ending September 30, 2013.¹⁹ In its application, Big Rivers stated that 100 percent of its requested increase was due to the loss of the Sebree smelter load. Based on that loss and other assumptions factored into its budgets, Big Rivers calculated its test-year operating revenues and cost of service, amended with its December 17, 2013 rebuttal testimony, to be \$256,872,753 and \$322,132,495, respectively.²⁰ It also recognized interest income of \$1,797,086 and other capital credits and patronage dividends of \$2,739,448.²¹

Based on the adjusted amounts stated above, Big Rivers' reported test-period net margins of (\$60,723,209).²² Based on interest on long-term debt of \$43,765,994 and a proposed Times Interest Earned Ratio ("TIER") of 1.24, Big Rivers' calculated its updated revenue deficiency to be \$71,227,047.²³

Implications of Sebree Termination

In the event that one or both of the smelters terminated its power agreement, Big Rivers developed a mitigation plan in which it established parameters and specific

¹⁹ *Id.*, Tab 16.

²⁰ Wolfram Rebuttal, Exhibit Wolfram-2.2, at p. 1 of 15.

²¹ *Id.*

²² *Id.*

²³ *Id.*

actions it planned to undertake to mitigate the financial impact of no longer supplying the power required to serve the loads of the smelters. One specific action included in the mitigation plan was to idle, or shut down, generating facilities.

The effective idling of Big Rivers' Coleman Generating Station ("Coleman") was recognized in the 535 Rate Order. In its application in this proceeding, Big Rivers intended to recognize the idling of Wilson, and the effects thereof, in conjunction with the date, January 31, 2014, the Sebree termination was to take effect.

Statement of the Intervenors' Positions

The approach taken, generally, by the intervenors in their direct testimony in this matter was to address specific issues concerning Big Rivers' forecasted revenues and expenses and its resulting revenue requirement.²⁴ This Order discusses the intervenors' positions, related recommendations, Big Rivers' rebuttal to the intervenors and then the Commission's analyses and findings on the opposing positions.

The intervenors also raised a number of issues that do not specifically relate to the determination of Big Rivers' revenue requirement. To the extent the Commission deems such issues relevant to its overall decision herein, this Order will address those issues as well. Lack of discussion of an issue indicates that the Commission did not find it relevant to its overall decision in this matter.²⁵

²⁴ The AG's Option 2 reflects this approach. Based on Big Rivers' statement that 100 percent of its requested increase was due to the loss of the Sebree smelter load, the AG's Option 1 reflected his position that the remaining customers should bear none of the costs of excess capacity related to losing this load and effectively eliminated all such costs while recommending no increase in Big Rivers' rates.

²⁵ For the most part, this Order will refer to the position of KIUC/Sierra Club based on their joint brief. However, in some instances the reference will be to KIUC or Sierra Club individually due to the differences between the positions taken in direct testimony and the position taken in the joint brief.

TEST-YEAR REVENUES

As stated earlier, Big Rivers' reflected adjusted test-period operating revenues of \$256,872,753 in its rebuttal testimony and exhibits. The intervenors expressed their beliefs that these revenues were understated due to the omission of the transmission revenues Big Rivers would receive during the test period for delivering power to the smelters under the market-based pricing contracts entered into in conjunction with and approved in Case Nos. 2013-00221 and 2013-00413.

Smelter Transmission and Ancillary Service Revenues

KIUC argued that Big Rivers' revenues should be increased by \$12,781,175 to reflect the transmission revenues it will receive from the two smelters.²⁶ Alternatively, based on the position taken by Big Rivers in rebuttal, KIUC/Sierra Club supported using the transmission revenues to supplement Big Rivers' Economic Reserve ("ER") fund.²⁷

The AG initially proposed increasing Big Rivers' test-year revenues \$13,248,779 to recognize the annual transmission revenues it would receive from both smelters.²⁸ He later increased this amount to \$15,792,051 to reflect an increase from 368 MW to 385 MW in the Sebree load and the inclusion of ancillary service revenues.²⁹ While stating that he preferred that they directly reduce Big Rivers' revenue requirement, the AG stated that placing the smelter transmission and ancillary service revenues in the ER fund, as proposed by Big Rivers on rebuttal, was also reasonable.³⁰

²⁶ Direct Testimony and Exhibits of Lane Kollen ("Kollen Testimony") at 63-64.

²⁷ KIUC/Sierra Club Post-Hearing Brief at 60-61.

²⁸ Direct Testimony of Larry W. Holloway at 22-24.

²⁹ AG Post-Hearing Brief at 56.

³⁰ *Id.* at 57.

Big Rivers did not originally recognize transmission or ancillary service revenues from the smelters in its test year in any way. On rebuttal, it asserted that the Hawesville smelter will be required to reduce load at times pursuant to the determination of the MidContinent Independent System Operator, Inc. ("MISO"), the Regional Transmission Organization, of which Big Rivers is a member.³¹ Big Rivers stated that MISO had not made a final determination that the Sebree smelter would be able to operate with Wilson idled.³²

With respect to both smelters, Big Rivers averred that there continued to be uncertainty as to when it would receive transmission revenues. However, to ensure that its members would benefit from any potential transmission revenues in connection with the operation of the two smelters, it proposed to use such revenues to replenish the ER fund.³³

In analyzing this issue, the Commission finds that it would be doing a disservice to Big Rivers' members and their retail customers if it did not recognize some smelter transmission revenues in determining Big Rivers' revenue requirement. Using these revenues to replenish the ER fund is an option, but doing so will not alleviate the impact of a second significant increase in those customers' electric rates once the ER and Rural Economic Reserve ("RER") funds are depleted. We also recognize Big Rivers' concerns in the event these revenues do not materialize. In order to provide some balance to this issue, we find the circumstances regarding the ongoing operation of the

³¹ Rebuttal Testimony of Robert W. Berry ("Berry Rebuttal") at 22. Big Rivers also noted that it would only receive revenues from the Hawesville smelter after Century had installed additional equipment that would allow the smelter to operate with Coleman idled.

³² *Id.* at 23.

³³ *Id.*

Hawesville smelter create greater uncertainty than those of the Sebree smelter concerning the amount and reliability of the revenues Big Rivers will receive. Therefore, we find that the projected transmission and ancillary service revenues from the Sebree smelter of \$6,984,110³⁴ should be included in the test-year determination of Big Rivers' revenue requirement, while the similar revenues of \$8,807,941³⁵ from the Hawesville smelter should be used to replenish the ER fund. This "split" of the revenues to be realized from providing service to the smelters gives ratemaking recognition to slightly less than one-half of the potential amount of such revenues, which is to the ratepayers' benefit, compared with recognizing none of these revenues in determining Big Rivers' revenue requirement. This split also reduces the risk to which Big Rivers could be subjected in the event some portion of the potential revenues does not materialize, compared with the alternative of a Commission decision all to recognize the potential revenues of \$15,792,051 in determining Big Rivers' revenue requirement.

Margins on Off-System Sales Revenues

Big Rivers included off-system sales margins of less than \$2.0 million in the test year, or less than half of the \$4.4 million it included in its test year in Case No. 2012-00535,³⁶ even though the same seven months – February 2014 through August 2014 – were included in both test years. In that rate proceeding, the Commission recognized Big Rivers' actual off-system sales margins of approximately \$7.2 million in its base

³⁴ Exhibit Berry Rebuttal-5, as corrected by Robert W. Berry during the Evidentiary Hearing.

³⁵ *Id.*

³⁶ 535 Rate Order at 38.

period, the 12 months ended April 30, 2013, as the appropriate amount to use for ratemaking purposes.³⁷

In this proceeding, Big Rivers' base period is the 12 months ending September 30, 2013, a period in which it realized off-system sales margins of \$9,559,026. With the improvement in its off-system sales margins for this more recent period, the record does not support Big Rivers' test-year forecasted amount. Accordingly, as in the prior rate case, the Commission finds that Big Rivers' test period should be adjusted to reflect the actual results realized during its base period. This results in an adjustment to increase revenues to \$9,559,026, the amount of Big Rivers' base-period off-system sales margins.

IMPACTS OF IDLING COLEMAN AND WILSON

Depreciation Expense

In its application, Big Rivers included full depreciation on both Coleman and Wilson in its forecasted test year. In response to our 535 Rate Order, Big Rivers made a number of adjustments to its application, one of which recognized the deferral of the Coleman depreciation beginning in September 2013 to recognize the effective idling of that generating station concurrent with the start of the period in which Coleman would be operated as a System Support Resource ("SSR") under MISO's functional control and not be part of Big Rivers' generation portfolio.

In their direct testimonies, KIUC and the Sierra Club stated that, with Big Rivers' plan to idle Wilson concurrent with the effective date of the Sebree termination, no

³⁷ *Id.* at 39.

depreciation on Wilson should be recognized for ratemaking purposes.³⁸ KIUC stated that the Rural Utilities Services' Uniform System of Accounts required that Big Rivers cease depreciation on a plant after it is shutdown.³⁹ In their joint post-hearing brief, KIUC/Sierra Club acknowledged Big Rivers' having temporarily delayed its idling of Wilson in order to make off-system sales through March 2014, but stated that this did not change the fact that Wilson represents excess capacity with regard to Big Rivers' remaining non-smelter customers.⁴⁰ KIUC/Sierra Club asserted that depreciation on Wilson should be removed for ratemaking purposes and that Big Rivers should be required to defer that expense for possible recovery at a future date.⁴¹ KIUC/Sierra Club argued that Big Rivers' current and projected cash reserves would negate any cash-flow reductions resulting from eliminating the Wilson depreciation as a ratemaking expense.⁴² Hence, they proposed deferring the Wilson depreciation expense in the amount of \$20.177 million.

In its rebuttal testimony, Big Rivers acknowledged the Commission's decision that deferral of depreciation on Coleman, as was required in the 535 Rate Order, would not jeopardize its ability to meet its debt-service requirements, but argued that deferring the Wilson depreciation of approximately \$21 million annually would have a much

³⁸ Kollen Testimony at 45-46 and Direct Testimony of Frank Ackerman at 25-26. The AG did not propose a specific depreciation adjustment, but included depreciation as one of several fixed costs of Coleman and Wilson that he believed should be eliminated for ratemaking purposes.

³⁹ Kollen Testimony at 45.

⁴⁰ KIUC/Sierra Club Post-Hearing Brief at 56.

⁴¹ *Id.* at 55.

⁴² *Id.* at 58.

greater impact on its cash flow.⁴³ Big Rivers also claimed that not having all of the Wilson depreciation expense in base rates would place it at a “distinct disadvantage in collecting the cash flows necessary to meet its debt obligations and in internally financing its capital expenditures.”⁴⁴ Big Rivers claimed that this could jeopardize its ability to regain investment-grade ratings and to access credit markets, and could undermine its ongoing financial viability.⁴⁵ Big Rivers also stated that, even in its idled status, Wilson would continue to provide benefits to its member cooperatives and their ratepayers.⁴⁶

The Commission recognizes that since post-hearing briefs were filed in this matter, Big Rivers has announced additional power sales, through February 2015, which have postponed the actual physical idling of the Wilson station. However, we agree with KIUC/Sierra Club that this does not change Wilson’s status as it relates to the customers on the Big Rivers system. From a practical standpoint, Wilson is not needed to serve those customers and, therefore, represents excess capacity. As such, based on the amount of excess capacity on Big Rivers’ system due to the loss of the smelter loads, and the impact on customers of a rate increase of the magnitude sought by Big Rivers not only in this case but in Case No. 2012-00535, the Commission finds it

⁴³ Rebuttal Testimony of Billie J. Richert (“Richert Rebuttal”) at 12-13.

⁴⁴ *Id.* at 18.

⁴⁵ *Id.*

⁴⁶ *Id.* at 15.

reasonable to require the depreciation on Wilson to be recorded in a regulatory asset account and excluded from rate recovery at this time.⁴⁷

The Commission recognizes that this treatment will reduce Big Rivers' cash flow. However, we also recognize that Big Rivers has maintained cash balances in excess of \$100 million,⁴⁸ which it may use to supplement its annual cash flow. The Commission has further considered, in making this decision, that Big Rivers has no borrowing needs in the test year⁴⁹ and no plans for capital expenditures related to the federal Mercury Air Toxic Standard ("MATS") for Coleman or Wilson during the test year.⁵⁰ Therefore, the use of its cash flow should be largely, or entirely, to make its debt-service payments. While the amount of such payments in the test year was identified as \$20.1 million, Big Rivers test-year depreciation expense, without the Coleman and Wilson depreciation and based on its new depreciation rates, is more than \$22.5 million.^{51 52}

Based on the above discussion, Big Rivers will be required to record its test-year depreciation on the Wilson Station of \$20,175,771 as a deferred asset rather than as an expense. It should offset its debits to the deferred asset with a credit to its reserve for accumulated depreciation, as it would if the depreciation were being charged to

⁴⁷ Treating the depreciation in this manner allows for the depreciation expense to be considered for recovery in rates at a future point in time.

⁴⁸ Cross-examination of Billie J. Richert, January 7, 2014 Evidentiary Hearing at 18:13:11 – 18:13:27, and Big Rivers' January 2014 Monthly Budget Variance Report, p. 30, filed March 28, 2014.

⁴⁹ Vice-Chairman Gardner's questioning of Billie J. Richert, January 8, 2014 Evidentiary Hearing at 12:59:10 – 12:59:28.

⁵⁰ *Id.* at 13:00:43 – 13:00:55, and Richert Rebuttal at 14.

⁵¹ Total test year depreciation = \$49,189,590 per Big Rivers' Response to Staff's Fourth Request for Information, Item 1. Test year depreciation on Coleman and Wilson = \$26,660,949 per Big Rivers' Response to Staff's Second Request for Information, Item 37. \$49,189,590 - \$26,660,949 = \$22,528,641.

⁵² In addition to being able to draw on its cash balances, Big Rivers will be afforded a modest increase in its cash flow with the higher Times Interest Earned Ratio ("TIER") being awarded herein.

expense. This treatment results in a reduction in Big Rivers' test-year depreciation expense. To match the test year, Big Rivers should recognize this accounting treatment beginning in February of 2014.

Excess Capacity Adjustment

Based on the amount it identified as excess generating capacity on the Big Rivers system after the loss of the smelters, KIUC proposed that the costs of that capacity be shared by customers on the Big Rivers system and by Big Rivers' creditors.⁵³ KIUC calculated 31.3 percent as the portion of excess capacity-related costs that should be borne by customers and recommended that the remaining 68.7 percent of those costs be borne by Big Rivers' creditors. Based on these percentages, KIUC claimed that Big Rivers' revenue requirement should be reduced by \$18.786 million to reflect KIUC's recommended treatment of the costs of Big Rivers' excess capacity.⁵⁴ In their post-hearing brief, KIUC/Sierra Club modified the original KIUC proposal by calculating the excess capacity adjustment at \$23.121 million rather than \$18.786 million.

In its rebuttal, Big Rivers averred that KIUC's proposal was not realistic and would have serious negative consequences.⁵⁵ It claimed that KIUC's proposal would have the Commission direct Big Rivers to require that its creditors write off a portion of its debt, which would seriously impact Big Rivers' ability to attract capital in the future.⁵⁶ Big Rivers asserted that it was not aware of a single cooperative financial institution that

⁵³ Kollen Testimony at 71.

⁵⁴ *Id.* at 72.

⁵⁵ Rebuttal Testimony of Daniel M. Walker ("Walker Rebuttal") at 10.

⁵⁶ *Id.*

would agree to advance funds if it believed it would experience a loss of principal as a result.⁵⁷ Big Rivers noted that two of the major credit rating agencies, Moody's and Standard and Poor's, had recently acknowledged the Commission's regulatory support of the credit profile of Kentucky electric cooperatives and that adopting KIUC's proposal would be viewed as reversing the Commission's current positive support.⁵⁸

The Commission is mindful of the concerns expressed by KIUC/Sierra Club as to both the magnitude of Big Rivers' requested increase and the appropriateness of asking the remaining customers on the Big Rivers system to pay the fixed costs of capacity that is no longer required to serve those customers. It is for that reason that we are requiring the deferral of the Wilson depreciation along with the deferral of the Coleman depreciation, as discussed earlier in this Order. At this time, however, we are not prepared to impose an "excess capacity adjustment" of the type advocated by KIUC/Sierra Club. It is the Commission's intent to permit sufficient rate relief to allow Big Rivers to adequately fund its operations, while minimizing the impact on ratepayers. However, it is not the Commission's intent, either explicitly or implicitly, to undermine Big Rivers' financial integrity or force Big Rivers to take actions that would thwart its ability to improve its financial and credit standings. Therefore, we will not adopt the excess capacity adjustment recommended by KIUC/Sierra Club.

Total Fixed Costs

Unlike KIUC and the Sierra Club, the AG chose not to address the Coleman and Wilson depreciation. However, he opted to address all fixed costs of the two generating

⁵⁷ *Id.*

⁵⁸ *Id.* at 12.

stations and recommended that those costs be eliminated for ratemaking purposes. For both stations, the AG recommended that depreciation, property insurance, property taxes, interest expense, labor and overheads, and fixed department expense be eliminated for ratemaking purposes.⁵⁹ The total adjustment recommended by the AG reduced Big Rivers' test-year expenses by approximately \$67.3 million.⁶⁰

As with the KIUC/Sierra Club depreciation proposal, Big Rivers opposed the AG's recommendation.⁶¹ Big Rivers claimed that the AG's proposal ignores the service and financial obligations it must manage. It pointed to the value of Coleman and Wilson for system reliability, economic-development efforts, and for compliance with potential environmental regulations.⁶²

The Commission is not persuaded to adopt the AG's recommendation. We have recognized the depreciation component of his adjustment for ratemaking purposes as stated elsewhere in this Order. However, depreciation is a non-cash item, the removal of which does not result in a utility's generating less revenue than it needs to pay its suppliers, employees, and other parties with whom it does business. On page 18 of the instant Order, in the section addressing the excess capacity adjustment proposed by KIUC, we state:

It is the Commission's intent to permit sufficient rate relief to allow Big Rivers to adequately fund its operations, while minimizing the impact on ratepayers. However, it is not the Commission's intent, either explicitly or implicitly, to

⁵⁹ Direct Testimony of David Brevitz at 45-46.

⁶⁰ *Id.* at 46.

⁶¹ Berry Rebuttal at 20-21.

⁶² *Id.*

undermine Big Rivers' financial integrity or force Big Rivers to take actions that would thwart its ability to improve its financial and credit standings.

The Commission finds that it is not in the best interests of Big Rivers, its member cooperatives, or their retail customers to impose the type of financial and economic limits on Big Rivers that would result from adopting the AG's recommendation. Hence, we will not adopt it.

Test-Period Payroll Costs

The AG proposed to reduce Big Rivers' test-period expenses by removing \$3.5 million in payroll costs.⁶³ The AG stated that this adjustment was needed to accurately reflect the impact of reducing Big Rivers' employee headcount from 611 at the end of the base period to 431 at the end of the test period.⁶⁴ He claimed that Big Rivers did not provide supporting documentation to demonstrate how, or if, it calculated the specific impacts of: (1) the idling of Coleman and Wilson; (2) the reduction of employment at Big Rivers since the previous rate case; (3) an employee turnover factor; and (4) a determination of the amount of overtime expense.⁶⁵ The AG asserted that discrepancies between the numbers of hours worked in the first six months of the base period and the second six months of the base period were not explained by Big

⁶³ The AG later revised the amount of the adjustment to \$3.1 million.

⁶⁴ Ostrander Testimony at 31.

⁶⁵ *Id.*

Rivers.⁶⁶ He also indicated that he had significant concerns that Big Rivers budgets payroll by using average pay rates rather than pay rates for individual employees.⁶⁷

In response, Big Rivers stated that the AG's calculation failed to recognize the pro forma adjustment Big Rivers had made to remove non-recurring labor and labor overhead costs from the revenue requirement. Big Rivers also noted that, due to the idling of Coleman and Wilson, it was capitalizing less labor cost in the test period compared with the base period, meaning a greater percentage of its labor cost would be charged to expense.⁶⁸ Big Rivers explained that it had corrected its calculation of the number of hours worked in the first six months of the base period in its August 29, 2013 update to its application.⁶⁹ Big Rivers further explained that it is common practice to use average payroll cost per employee to determine labor costs for budgeting purposes. This is done because an employer cannot predict with certainty which employees will perform which work, which employees will work overtime, which employees will depart, which new employees will be hired, and at what pay rates.⁷⁰

After reviewing the AG's argument and Big Rivers' opposing argument, the Commission is not inclined to adopt the AG's position. While he arrived at a different result than Big Rivers, the AG did not satisfactorily establish that his was the correct adjustment. Big Rivers, on the other hand, provided and adequately explained the

⁶⁶ *Id.* at 32.

⁶⁷ *Id.* at 35.

⁶⁸ Rebuttal Testimony of Thomas W. Davis ("Davis Rebuttal") at 4-5.

⁶⁹ *Id.* at 6. The Commission takes note that this update was submitted for the record two months prior to the filing of intervenor testimony.

⁷⁰ *Id.* at 9.

principle reasons for much of the discrepancy between its calculations and the AG's calculations of test period payroll costs. Based on the reasoning in Big Rivers' rebuttal to the AG, we find that Big Rivers' calculation of payroll costs is reasonable and the AG's proposed adjustment to test period payroll costs should be denied.

Planned Pay Raises

The AG proposed an adjustment to reduce Big Rivers' test-period expenses by \$748,616 in order to eliminate planned pay increases.⁷¹ The AG claimed that the increases for (1) non-bargaining employees, (2) bargaining-generation employees, and (3) bargaining-transmission employees are not known and measurable in terms of the percent and amount to be awarded. He also stated that Big Rivers provided no detailed calculations to support the amount of the pay raises.⁷²

On rebuttal, Big Rivers stated that, pursuant to our finding in the 535 Rate Order, it had included an adjustment of \$450,000 to remove the increases for non-bargaining employees in response to a Staff request for information.⁷³ It asserted that the AG's position on the pay raises not being known and measurable was misplaced within the context of a forecasted-test-period rate case. Big Rivers explained that, "when the entire test period is based on a forecast, the values are not, and cannot be, 'known and measurable' in the same way or to the same extent that would be applicable to a historic test period."⁷⁴ Big Rivers noted that the pay raises for both its generation and transmission bargaining employees were set out in the collective bargaining agreement

⁷¹ Ostrander Testimony at 37.

⁷² *Id.*

⁷³ Wolfram Rebuttal at 32-33.

⁷⁴ *Id.* at 24.

currently in effect for each bargaining employee group and that those agreements are effective until the fall of 2015 (generation group) and the fall of 2016 (transmission group).⁷⁵

For the aforementioned reasons set forth in Big Rivers' rebuttal testimony, the Commission finds Big Rivers' planned pay increases to be reasonable. There is no valid basis to adopt the AG's proposal and, accordingly, the AG's proposed adjustment for planned pay raises should be denied.

Severance Costs

Based on its intent at the time it filed its application to idle both Coleman and Wilson during its forecasted test period, Big Rivers calculated a reduction in labor costs to reflect the layoff of employees at both generating stations. In conjunction with these layoffs, Big Rivers projected that it would incur \$8,313,299 in severance costs for the employees of both generating stations, which it planned to defer and amortize over 60 months.⁷⁶ Deferral of this amount over 60 months would result in an annual expense of approximately \$1,663,000.⁷⁷

In its rebuttal testimony Big Rivers indicated that, in conjunction with its auditor, KPMG, it had determined that it was appropriate under generally accepted accounting principles ("GAAP") to accrue its severance costs during calendar year 2013.⁷⁸ At the evidentiary hearing in this matter, Big Rivers confirmed that it would charge these

⁷⁵ Davis Rebuttal at 10.

⁷⁶ Direct Testimony of Jeffrey R. Williams at 14 cites Coleman severance costs of \$3.7 million and refers to Wilson severance costs related to Case No. 2012-00535, stated at \$76,667 per month.

⁷⁷ $[\$8,313,299 / 60] \times 12 = \$1,662,659$.

⁷⁸ Richert Rebuttal at 5.

severance costs to expense in December of 2013 in conjunction with its year-end audit.⁷⁹ Big Rivers explained that while it would expense the severance costs in 2013 for accounting purposes, it still sought rate recovery based on a 60-month amortization period.⁸⁰

In their joint post-hearing brief, KIUC/Sierra Club asserted that amortization of these severance costs should not be included in Big Rivers' revenue requirement. KIUC/Sierra Club stated that since Big Rivers was expensing the costs on its books in 2013, prior to the test year, it was not appropriate to amortize them for ratemaking purposes.⁸¹ Citing Big Rivers' reported margins of more than \$24.2 million for January through November of 2013, KIUC/Sierra Club opined that Big Rivers would be able to absorb these one-time severance costs.⁸²

The Commission concurs with KIUC/Sierra Club's position as stated in their post-hearing brief. Given that Big Rivers and its auditor determined that it was acceptable under GAAP to charge its severance costs to expense in conjunction with its year-end audit, and that Big Rivers' margins for calendar year 2013 were sufficient to permit it to expense those costs, there is no longer a test-year cost that requires amortization for ratemaking purposes. Particularly in light of the magnitude of the increases it sought in Case No. 2012-00535 and in this proceeding, the Commission finds it unreasonable to expect ratepayers to pay for an amortization expense for five years after the accounting

⁷⁹ Cross-examination of Billie J. Richert, January 8, 2014 Evidentiary Hearing at 12:14:12.

⁸⁰ *Id.* at 12:14:48 – 12:15:41.

⁸¹ KIUC/Sierra Club Post-Hearing Brief at 63.

⁸² *Id.*

period, calendar year 2013, in which the underlying cost was expensed. Accordingly, we will reduce Big Rivers' test-year expenses by \$1,662,659 to remove the amortization expense and eliminate it from the determination of Big Rivers' revenue requirement.

Dues, Fees, Property Taxes and Insurance

The intervenors offered adjustments reducing these costs as related to amounts that Big Rivers will not incur due to the loss of revenues it previously received from supplying the smelter loads.⁸³ Due to the timing of Case Nos. 2013-00221 and 2013-00413 relative to this proceeding, the amount of reductions Big Rivers will eventually realize has been something of a moving target.⁸⁴

On rebuttal, Big Rivers acknowledged that the total amount by which its revenue requirement would be reduced upon receiving Commission approval of the smelter agreements, which were the subjects of Case Nos. 2013-00221 and 2013-00413, was \$2,324,624.⁸⁵

Based on our review of the record evidence, as well as post-hearing briefs, the Commission finds it reasonable to reflect the \$2,324,624 decrease in the determination of Big Rivers' revenue requirement. Accordingly, relative to Big Rivers' calculation of its revised revenue deficiency submitted with its rebuttal testimony (which incorporated the reduction related to the Hawesville smelter of \$1,221,475), we have made an

⁸³ The AG proposed an adjustment to eliminate fees of ACES Power Marketing ("ACES") of \$783,000 to reflect the loss of the Hawesville smelter load, while KIUC proposed to eliminate \$1.3 million in ACES fees to reflect the loss of both the Hawesville and Sebree smelter loads.

⁸⁴ On rebuttal, Big Rivers recognized a reduction of \$1.2 million to reflect the impact of losing the Hawesville smelter load on ACES fees, dues to three national or regional industry organizations, the PSC assessment, and property taxes and insurance. However, because the Commission's decision in Case No. 2013-00413 on the new Sebree smelter contracts was still pending at that time, it did not recognize an additional \$1.1 million reduction related to losing that smelter load. Wolfram Rebuttal at 33-34.

⁸⁵ Berry Rebuttal at 24 and Exhibit Berry Rebuttal-6. KIUC/Sierra Club recognized this amount, approximately, in their Post-Hearing Brief at 63, although attributing the entire amount to ACES fees.

adjustment to reduce Big Rivers' expenses by an additional \$1,103,149 to reflect the impact of the loss of the Sebree smelter load.

Coleman Lay-up Costs

Big Rivers proposed to reduce test-year expenses of \$2,909,526 by \$1,343,377 to recognize the annual costs associated with the idling, or lay-up, of the Coleman Station of \$1,566,149.⁸⁶ For the test period, Big Rivers projected a total cost of \$2,909,526, to place Coleman in an idled status. On an annual basis thereafter, its projected cost to maintain Coleman in an idled state is \$1,230,305. Big Rivers proposed to reduce the test-year cost to its projected annual post-test-year cost, resulting in a decrease of \$1,679,221. It proposed to amortize this amount over five years, resulting in an increase of \$335,844. These two adjustments result in a net decrease of \$1,343,377 to test-year expenses.⁸⁷

KIUC recommended reducing Big Rivers' test-year expense by \$1.6 million, citing the non-recurring nature of the lay-up costs, and recommending a five-year amortization thereof.⁸⁸ KIUC used Big Rivers' response to an AG information request, which differed somewhat from what was in Big Rivers' application, as the basis for the amount of its recommended reduction.⁸⁹

The Big Rivers and KIUC proposals purport to have the same intent – to recognize the amortization of the nonrecurring test-year costs related to the idling of the Coleman Station. The Commission finds that Big Rivers' proposal, with the level of

⁸⁶ Direct Testimony of John Wolfram ("Wolfram Testimony") at 18, and Exhibit Wolfram-2, p. 14 of 15, Reference Schedule 1.13.

⁸⁷ *Id.*, Reference Schedule 1.13.

⁸⁸ Kollen Testimony at 64-65.

⁸⁹ *Id.* with cite to Big Rivers' Response to AG 2-8.

detail shown in its application and its response to a Staff Request for Information,⁹⁰ is more reliable than KIUC's proposal. Therefore, we will accept and include for ratemaking purposes the adjustment of \$1,343,377 proposed by Big Rivers.

Rate-Case Expenses

Big Rivers estimated that it would incur expenses of \$1,406,105 related to the preparation of its rate application and the prosecution of its case in this proceeding.⁹¹ Consistent with the Commission's normal ratemaking practices, Big Rivers proposed to amortize this amount over three years, resulting in an annual expense of \$468,701, which is the amount incorporated into its test-year O&M expenses.

The AG recommended that Big Rivers' projected rate case expenses for this case be reduced by \$1,027,929,⁹² resulting in a reduction of \$342,643 in the amortized expense included in Big Rivers' projected test period. According to the AG, the basis for his recommendation was that: (1) much of the amount Big Rivers had estimated was unspent at the time of his testimony; (2) some of the rate case costs are duplicative and lack any substantive savings or economies of scale from the previous Big Rivers rate case, Case No. 2012-00535; (3) the unspent amounts are not known and measurable and are also not supported by actual documentation such as invoices; and (4) some of the hourly rates for legal services were excessive, and Big Rivers had not provided documentation to show that highly compensated legal counsel was needed for

⁹⁰ Response to 27 of Commission Staff's Second Request for Information.

⁹¹ Wolfram Testimony at 14-15.

⁹² Ostrander Testimony at 40.

specific tasks, as required by the Commission's rehearing order in Case No. 2011-00036.⁹³

On rebuttal, Big Rivers stated that the AG ignored Commission precedent in his proposal to disallow unspent legal fees associated with this rate case, noting that it has been the Commission's practice to allow recovery of reasonable rate case expenses incurred through the month of the hearing in a rate case.⁹⁴ Big Rivers asserted that its use of outside professionals in rate cases has been found reasonable in the past and continues to be the most reasonable and prudent way for it to engage in the regulatory process.⁹⁵ Big Rivers stated that it was required to respond to a greater number of data requests in this case than in Case No. 2012-00535 and that responses to requests in this case which were duplicative of requests in that prior case had to be recreated and updated, since the two cases had different test periods and base periods.⁹⁶ Big Rivers pointed out that the level of rate-case expenses budgeted for this case were 13 percent less than the amount it budgeted in the previous rate case.⁹⁷

The Commission is not persuaded by the AG's argument and finds that Big Rivers has adequately documented its rate-case expenses. We recognize that a significant portion of the rate-case expenses a utility has estimated at the time it files its application will not have been spent by the time intervenor testimony is filed. For reasons similar to those expressed in our 535 Rate Order, it is clear why Big Rivers

⁹³ *Id.* at 45.

⁹⁴ Rebuttal Testimony of DeAnna M. Speed at 12.

⁹⁵ *Id.* at 8.

⁹⁶ *Id.* at 9.

⁹⁷ *Id.* at 10.

relies upon outside professionals in rate cases. Moreover, there appears to be no support in the record for the AG's allegations concerning duplication of the work required on the part of Big Rivers in conjunction with this proceeding.

The Commission finds that Big Rivers has justified its rate-case expenses, and we will not adopt the AG's proposal to reduce those expenses. Consistent with our typical ratemaking practice, we will recognize and allow the rate-case expenses incurred by Big Rivers up through and including the month of the hearing in this case. In its eighth updated response to Item 54 of Staff's initial request for information, Big Rivers reported total rate-case expense of \$1,345,394. This amount results in annual amortization expense of \$448,464, which is the amount the Commission will allow for Big Rivers' rate expenses related to this case.

PRO FORMA ADJUSTMENTS SUMMARY

The effect of the accepted adjustments on Big Rivers' net income is as follows:

	<u>Forecasted Test Period</u>	<u>Commission Adjustments</u>	<u>Adjusted Test Period</u>
Operating Revenues	\$256,872,753	\$ 14,751,498	\$ 271,624,251
Operating Expenses	<u>278,366,501</u>	<u>(22,941,580)</u>	<u>255,424,921</u>
Net Operating Income	(21,493,748)	37,693,078	16,199,330
Interest on Long-Term Debt	43,765,994	0	43,765,994
Total – Non-Operating Items	<u>4,536,534</u>	<u>0</u>	<u>4,536,534</u>
Net Income	<u>\$ (60,723,208)</u>	<u>\$ 37,693,078</u>	<u>\$ (23,030,130)</u>

REVENUE REQUIREMENTS

Big Rivers' test-year rate of return on the net investment rate base found reasonable herein before reflecting an increase in rates is 1.35 percent, while its TIER before reflecting any rate increase is (0.44X). Big Rivers based its revenue requirement determination on the maximum Contract TIER of 1.24X as permitted under the terms of

the now-terminated smelter agreements, both of which were still in effect when it filed its application.⁹⁸ This is the same TIER Big Rivers had requested in its two recent base-rate applications.⁹⁹

The AG argued against using the 1.24X TIER to determine Big Rivers' revenue requirement on the basis that the smelters have left Big Rivers' system, thus, making the 1.24X "contract TIER" no longer applicable.¹⁰⁰ The AG proposed that a 1.10X TIER be used to derive Big Rivers' revenue requirement, which is the annual minimum TIER Big Rivers must achieve under its loan covenants.¹⁰¹ He claimed that a higher TIER would be of little benefit in improving Big Rivers' substantive and deep-seated financial problems.¹⁰² The AG stated that Big Rivers' use of other generation and transmission cooperatives' achieved TIERs for comparison purposes was inappropriate because those TIERs were just "snapshots in time" and because Big Rivers had not provided detailed analysis or comparison of its financial data and that of the cooperatives it had cited.¹⁰³

On rebuttal, Big Rivers strongly disagreed with the AG's proposal, stating that an authorized TIER of 1.10X would greatly harm its ability to repair its debt rating and

⁹⁸ Based on Big Rivers' adjusted test-year level of Interest on Long-Term Debt of \$43,765,994, a 1.24X TIER results in margins of \$10,503,839.

⁹⁹ Case No. 2011-00036, *Application of Big Rivers Electric Corporation for a General Adjustment in Rates* (Ky. PSC filed Mar. 1, 2011); and Case No. 2012-00535, *Application of Big Rivers Electric Corporation for an Adjustment of Rates* (Ky. PSC filed Jan. 15, 2013).

¹⁰⁰ Ostrander Testimony at 10.

¹⁰¹ *Id.*

¹⁰² *Id.* at 11.

¹⁰³ *Id.* at 11-12.

would be an impediment to improving its financial position.¹⁰⁴ Big Rivers asserted that the AG was in error in his position that a higher TIER would be of little benefit in improving its financial health.¹⁰⁵ Big Rivers pointed out that Moody's, one of three major credit-rating agencies in the country, assigns financial performance, or metrics, 40 percent of the total weight of the factors it considers in the rating process.¹⁰⁶ Big Rivers argued that that the AG had provided no evidence that an allowed TIER of 1.10X would sustain or improve its financial performance or allow it to attract capital.¹⁰⁷

The Commission finds the AG's proposal for setting Big Rivers' TIER to be unreasonable. It is inappropriate to base a cooperative's revenue requirement on the minimum TIER it is required to achieve in order to be in compliance with its mortgage or other controlling loan agreement. The AG acknowledged that a 1.10X TIER is required by Big Rivers' loan covenants, but he did not explain why the minimum level Big Rivers must achieve on an annual basis was reasonable for ratemaking purposes. As we stated in the 535 Rate Order, the use of a minimum coverage ratio will provide no "cushion" in the event of an unexpected decline in revenues or unavoidable increase in expenses. Absent sound reasoning to support using the minimum coverage ratio required of Big Rivers to calculate its revenue requirement, the Commission will not adopt the AG's recommendation on this issue.

Under its indenture with U.S. Bank National Association, Big Rivers must achieve a minimum coverage ratio of 1.10 annually. The requirement to meet a minimum ratio

¹⁰⁴ Walker Rebuttal at 4.

¹⁰⁵ *Id.* at 6.

¹⁰⁶ *Id.* at 7.

¹⁰⁷ *Id.* at 9.

annually increases the need to use a ratio that will produce margins above the minimum requirement so that an unexpected event, such as a decrease in projected revenues or an increase in expenses, does not result in a default.

As the Commission stated in its 535 Rate Order, we believe that the use of TIER is the most reasonable approach to determine Big Rivers' revenue requirement. In this case, considering our decision that depreciation on Wilson be deferred, we find that a somewhat higher TIER than that proposed by Big Rivers should be awarded. However, in light of the extent of Big Rivers' positive financial results in 2013 and early 2014,¹⁰⁸ the Commission finds that the increase in TIER above that requested should be modest. Accordingly, we find that a TIER of 1.30X is reasonable and appropriate at this time. Based upon the adjustments found reasonable herein, the Commission has determined that, in order to produce a TIER of 1.30X, Big Rivers requires an increase in revenues of \$36,159,928. Such an increase should produce operating income of \$47,790,230, resulting in a 3.97 percent return on the net investment rate base of \$1,204,523,192 found reasonable herein. Based on a 1.30X TIER, the interest on long-term debt found reasonable herein of \$43,765,994, and the positive non-operating items of \$4,536,534, the resulting net margins are \$13,129,798.

PRICING AND TARIFF ISSUES

Cost-of-Service Study and Revenue Allocation

Big Rivers filed a fully allocated cost-of-service study ("COSS") which used a 12 coincident peak ("12 CP") methodology to allocate production and transmission

¹⁰⁸ Ninth Update to Tab 35 of Big Rivers' Application, filed March 28, 2014, at 2.

demand-related costs for ratemaking purposes.¹⁰⁹ The COSS was revised in response to Commission Staff's Third Request for Information and again with the filing of Big Rivers' rebuttal testimony.¹¹⁰ The COSS showed a negative pro forma system rate of return and that the Rural class was subsidizing the Large Industrial class. Big Rivers proposes to allocate the revenue increase so that the rate of return for each rate class will equal the total system rate of return. This proposal would eliminate any existing subsidy between the two classes. In Case No. 2012-00535, Big Rivers proposed, and the Commission approved, a revenue allocation that would eliminate the then-existing subsidy paid to the Rural class. Big Rivers used the same methodology in preparing the COSS in the instant case as it did in Case No. 2012-00535.¹¹¹ None of the intervenors filed a COSS, and there were no objections to Big Rivers' COSS. In addition, none of the intervenors objected to Big Rivers' proposed revenue allocation to equalize the class rates of return.

The Commission has reviewed Big Rivers' COSS and finds it to be acceptable for use as a guide in allocating the revenue increase granted herein. The Commission also finds that the revenue increase should be allocated so that the rate of return for each class equals the system rate of return.

Based on the increase granted herein of \$36,159,928 and equalizing the class rates of return, the Commission finds that the increase should be allocated as follows:

¹⁰⁹ Wolfram Testimony at 18 and 23.

¹¹⁰ Wolfram Rebuttal, Exhibit Wolfram-3.2 and Exhibit Wolfram-4.2.

¹¹¹ Response to Item 28 of Commission Staff's Second Request for Information.

\$28.19 million to the Rural class and \$7.97 million to the Large Industrial class.¹¹² This results in increases of 16.3 percent for the Rural class and 13.7 percent for the Large Industrial class.

Rate Design

Big Rivers proposed to increase the energy charges of both the Rural and Large Industrial classes to \$.0350 per kilowatt hour ("kWh"), with the remainder of its requested revenue increase being allocated to the demand charges of both classes. At the time Big Rivers filed its application, a final rate order had not been issued in Case No. 2012-00535. In the 535 Rate Order, the Commission increased the Rural energy charge to \$.0350 and the Large Industrial energy charge to \$.0300. Therefore, as Big Rivers' proposed energy charge in this proceeding for the Rural class was \$.0350, that proposal would result in the Rural class's increase being achieved entirely by increasing the demand charge. Based on its requested increase of \$71.2 million, Big Rivers' proposal would result in increasing the Rural class demand charge from \$12.914 to \$23.511 per kW and the Large Industrial class demand charge from \$10.715 to \$17.00 per kW.¹¹³ Big Rivers proposed to increase the Large Industrial energy charge from \$.0300 to \$.0350. This proposed rate design would result in significant increases to the demand charges of both classes. None of the parties filed testimony opposing or supporting Big Rivers' proposed rate design. However, when asked their position on

¹¹² As discussed in Big Rivers' Response to Item 1 to Commission Staff's July 22, 2013 Request for Information in Case No. 2012-00535, because total environmental surcharge ("ES") costs are split between native load sales and off-system sales on the basis of total revenues, there is an ES revenue effect that occurs with an increase in base rates. The rates approved in this Order result in a base rate increase of \$35,569,961 and the related incremental increase in ES revenues provides the remainder of the increase.

¹¹³ Wolfram Rebuttal, Exhibit Wolfram 5.2.

the proposed rate design, KIUC stated that it supports a rate design that reflects cost of service,¹¹⁴ and the AG expressed concern that a proportional demand increase by Big Rivers' member cooperatives would result in a "much-larger-than-the-class average percentage increase" for small non-residential customers with three-phase service.¹¹⁵

As Big Rivers' member cooperatives have filed applications proposing to pass through the wholesale increase to each rate class and within each rate class on a proportional basis, the Commission finds that each rate class served by a member cooperative will receive the same proportional increase as all other rate classes of that member cooperative. Therefore, the Commission finds the AG's concern to be unwarranted. However, as expressed in the 535 Rate Order, the Commission has concerns about the significant increases to the demand charges that would result from Big Rivers' proposed rate design. Generally, the Commission believes that rates should be set so as to move closer to cost of service. Big Rivers' COSS supports an energy charge much greater than \$0.0350. However, Big Rivers contends that the energy charge supported by the COSS is inflated due to the accounting for, and the COSS allocation of, costs associated with Station Two,¹¹⁶ which is owned by Henderson Municipal Power and Light and operated by Big Rivers. Therefore, while the Commission finds that an increase in the energy charge of each rate class is warranted, recognizing the issue of the Station Two costs, we will not increase the energy charges to the level supported in the COSS. We will increase the Rural class energy charge by

¹¹⁴ Response to Item 9.e. of Commission Staff's First Request for Information to KIUC.

¹¹⁵ Response to Item 4 of Commission Staff's First Request for Information to the AG.

¹¹⁶ January 9, 2014 Evidentiary Hearing at 15:10:50.

\$.010, from \$.0350 to \$.0450 per kWh, with the remainder of the Rural class increase being achieved by raising the demand charge from \$12.914 to \$13.805. The increase for the Large Industrial class will be achieved in its entirety by increasing the energy charge from \$.0300 per kWh to \$.03805 per kWh, with no increase to the demand charge.

Economic and Rural Economic Reserve Funds

Big Rivers proposes to accelerate the use of the ER fund and RER fund to offset 100 percent of its proposed increase. To accomplish this, Big Rivers proposes changes to its Member Rate Stability Mechanism (“MRSM”) which was established pursuant to Case No. 2007-00455 at the closing of the Unwind Transaction.¹¹⁷ At that time, \$157 million was deposited into the ER fund, and the MRSM was established as the tariff provision that utilizes that fund monthly to partially offset fuel and environmental costs for the Rural and Large Industrial classes. Upon exhaustion of the ER fund, the MRSM will utilize the RER fund, a separate fund which was also created at the closing of the Unwind Transaction. The RER fund was created by a \$60.9 million contribution from the former lessee of Big Rivers’ generating facilities and was established to be used exclusively for the purpose of partially offsetting fuel and environmental costs for the Rural class. Big Rivers proposes that no change be made to the RER fund with regard to the beneficiary of the fund. None of the parties objected to Big Rivers’ proposal to accelerate the use of the ER and RER funds to mitigate 100 percent of the increase

¹¹⁷ Case No. 2007-00455, *The Applications of Big Rivers Electric Corporation for: (1) Approval of Wholesale Tariff Additions for Big Rivers Electric Corporation; (2) Approval of Transactions; (3) Approval to Issue Evidences of Indebtedness; and (4) Approval of Amendments to Contracts; and of E.ON U.S. LLC, Western Kentucky Energy Corp., and LG&E Energy Marketing, Inc. for Approval of Transactions* (Ky. PSC Mar. 6, 2009) (the “Unwind Transaction”).

granted in this case, and the Commission finds that Big Rivers' proposal should be approved.

In direct testimony, KIUC proposed an equal sharing of the RER fund across both of Big Rivers' rate classes.¹¹⁸ At the evidentiary hearing and in its post-hearing brief, KIUC revised its proposal to specify that Residential, School, Church, and Farm customers (included in Big Rivers' Rural class) would continue to receive the full benefit of the RER fund and the same amounts as under the originally approved use of the fund, while the Large Industrial class customers would share the remainder of the RER fund with all other customers included in Big Rivers' Rural class ("Revised Proposal"). If its Revised Proposal is not approved, KIUC recommends that Big Rivers' Large Industrial customers be allowed to receive up to 15 percent of their demand and energy requirements at market-based rates, with an option of increasing this percentage by 5 percent per year up to a maximum of 25 percent ("KIUC's Alternate Proposal").

KIUC states that in the Unwind Case, the Big Rivers Financial Model assumed high future market prices for power and, if one or both aluminum smelters gave notice that smelting operations would cease, that Big Rivers' excess generating capacity could be easily marketed.¹¹⁹ KIUC argues that this has not been the case and that all customers on the Big Rivers system are experiencing tremendous increases. KIUC states that its Revised Proposal would address an inequity that exists due to preferential

¹¹⁸ Direct Testimony and Exhibits of Stephen J. Baron at 8.

¹¹⁹ KIUC/Sierra Club Post-Hearing Brief at 66.

treatment received by the business customers served under Big Rivers' Rural class over the business customers served under the Large Industrial class.¹²⁰

Big Rivers opposes KIUC's Revised Proposal, arguing that the Commission has long treated Big Rivers' Rural and Large Industrial classes differently and that those differences are legitimate distinctions between different classes of customers with different needs. Big Rivers states that Rural business customers pay a higher all-in rate than Large Industrial customers, and that KIUC's Revised Proposal would increase the rate disparity between the Rural business customers and the Large Industrial customers who benefit from a lower class demand charge.¹²¹

The AG supports KIUC's Revised Proposal, stating that it would "treat all business customers equally (both Rural and Large Industrial), while the residential portion of the Rural class would continue to receive all of the funds they would have received if the Commission elects to not alter usage of the existing funds."¹²²

In Case No. 2012-00535, KIUC recommended that the terms of the RER fund be amended to benefit the Large Industrial class in the same manner as the Rural class. In that case, the Commission denied the request, stating that approval of the Unwind Transaction was expressly conditioned upon the creation and funding of the RER fund, and that it was to be used to mitigate future rate increases for the Rural class. The Commission also found that there had been no showing of sufficiently changed

¹²⁰ KIUC/Sierra Club Post-Hearing Brief states at 66 that Ben Taylor and the Sierra Club take no position regarding KIUC's proposal as discussed in the brief.

¹²¹ Richert Rebuttal at 21-22.

¹²² AG's Post-Hearing Brief at 55.

circumstances to justify amending the established purpose of the RER fund.¹²³ However, given the level of increases to be experienced by Big Rivers' customers with the combination of this rate proceeding and Big Rivers' previous rate proceedings, the Commission believes that circumstances have sufficiently changed for it to re-evaluate the use of the RER fund. The Commission considers the effect of the combined Big Rivers rate increases on all customer classes persuasive enough to find that KIUC's Revised Proposal is reasonable and that it should be approved. As KIUC's Revised Proposal is being approved, the Commission finds that there is no need to address KIUC's Alternate Proposal.

Based on the amount of the increase awarded in this proceeding, and using the formulas KIUC provided in response to a post-hearing data request,¹²⁴ the Commission finds that \$46.89 million of the RER fund should be used for the benefit of the Rural Residential, School, Church, and Farm customers. The remaining balance of the RER fund is to be used for the benefit of the remaining Rural customers and the Large Industrial customers. Because the Residential, School, Church, and Farm customer usage will not be known at the time Big Rivers renders its member cooperatives' monthly bills, the exact amount of RER funds to be credited to its member cooperatives will not be known with certainty at that time. Therefore, the Commission finds that Big Rivers should estimate the amount of the RER credit and true-up the amount in the following month's member cooperative bill.

¹²³ 535 Rate Order at 50-51.

¹²⁴ These formulas can be found in the spreadsheets filed by KIUC in response to Item 2 of Commission Staff's Post-Hearing Data Request.

Economic Reserve

As previously stated on page 12 of the instant Order, although the Commission is reducing Big Rivers' revenue requirement by the amount of the Century Sebree transmission revenues, it has accepted Big Rivers' proposal to deposit the transmission revenues it receives from Century Hawesville into the ER fund. While the AG did not oppose this proposal,¹²⁵ he argues that the Commission should adjust the allocation methodology. The AG states that the ER fund is allocated to customers based on energy usage, while in the COSS, transmission costs are allocated between the Rural class and Large Industrial class on the 12 CP basis. The AG claims that to allocate transmission revenues on the basis of energy rather than on the 12 CP basis would cause the Rural class to subsidize the Large Industrial class by approximately \$1.2 million per year. The AG argues that transmission revenues deposited to the ER fund should be allocated to the benefit of the two rate classes based on the 12 CP methodology. In its post-hearing brief, KIUC agreed with the AG that Big Rivers should be required to allocate the transmission revenues on the 12 CP basis.

The Commission finds that transmission revenues deposited into the ER fund should be allocated on a 12 CP basis to the benefit of the Rural and Large Industrial classes. Based on the COSS, this would result in 79.2 percent being allocated to the Rural class and 20.8 percent to the Large Industrial class. This will complicate the mechanism used to allocate the ER fund but, as discussed at the evidentiary hearing, it can be accomplished by Big Rivers.¹²⁶

¹²⁵ The AG stated in his Post-Hearing Brief at 57 that, while he preferred the revenues be used to reduce the revenue requirement, Big Rivers' proposal was also reasonable.

¹²⁶ January 9, 2014 Evidentiary Hearing at 14:31:30.

Tariff Changes

Big Rivers proposes a number of non-substantive modifications to its tariffs to address minor typographical errors, changes to definitions and entity names, and to clarify that a retail agreement must be written for every retail customer for whom a member cooperative buys power under the Large Industrial tariff. There were no objections to these tariff changes from the intervenors. The Commission finds that Big Rivers' proposed non-substantive tariff changes are reasonable and should be approved.

Big Rivers is also proposing to delete its Large Industrial Customer Expansion ("LICX") tariff. Big Rivers states that the tariff was originally titled rate schedule 10 and at the time it was approved, "Big Rivers was forecasting unexpectedly robust native load growth that could eventually exceed its power supply, but had no capacity to absorb volatile prices in the wholesale market, and a desire to preserve the benefits of the power supply it received in its bankruptcy plan for the customers for which it was intended."¹²⁷ At that time, Big Rivers was allowed to segregate its industrial customers into two classes: existing customers and customers with new or expanded load. Big Rivers argues that with the departure of the smelter load, it has no shortage of generation resources, and therefore, none of the reasons currently exist that supported the adoption of the LICX tariff. There are no customers being served under the LICX tariff and none of the intervenors objected to the deletion of the tariff. The Commission finds that Big Rivers' proposal to delete tariff LICX is reasonable and should be approved.

¹²⁷ Direct Testimony of Robert W. Berry ("Berry Testimony") at 21.

Big Rivers proposed changes to its tariff related to its proposal to accelerate the use of ER and RER funds to mitigate 100 percent of the increase granted in this proceeding. As the proposal to accelerate the use of the ER and RER funds is being approved, the Commission finds that the tariff changes related to this accelerated use should be approved.

We also find that Big Rivers should make any tariff changes that may be necessary due to our decisions: (1) that transmission revenues deposited into the ER fund to benefit the Rural and Large Industrial classes should be allocated on the 12 CP basis; and (2) to accept KIUC's Revised Proposal relating to the use of the RER funds.

Refund Requirements

As stated previously, after Big Rivers placed its proposed rates in effect on February 1, 2014, we required it to maintain its records in order that the amount of any refund could be determined if the rates the Commission ultimately granted were less than the rates Big Rivers had placed in effect. Given that the rates authorized herein are less than the rates placed in effect by Big Rivers, the Commission finds that refunds should be made. Although Big Rivers placed into effect rates that are excess of the rates approved herein, Big Rivers has been using the Economic Reserve fund to offset 100 percent of that increase in its rates. Therefore, while no refunds are due to its member cooperatives, the Commission finds that Big Rivers should refund the excess revenues collected from February 1, 2014 through the date of this Order to the Economic Reserve fund in compliance with the refund provisions contained in KRS 278.190(4).

Given that the refunds are being made from one Big Rivers' cash account to another Big Rivers cash account, and being mindful of the short period of time the proposed rates were in effect, the Commission finds that it is not necessary for Big Rivers to pay interest on the refunds as is typical in rate cases in which refunds are required.

OTHER ISSUES

Accounting for Transmission Revenues

When Big Rivers requested that it be authorized to deposit the transmission revenues into the ER fund, it also requested a specific accounting treatment as described in the Richert Rebuttal.¹²⁸ This accounting treatment would result in Big Rivers' recording the transmission revenues as revenue when they are used to offset its member cooperatives' rates. According to Big Rivers, its auditors have approved the proposed accounting treatment, provided that the Commission grants its approval.¹²⁹ None of the intervenors objected to Big Rivers' proposal. As discussed previously in this Order, the Commission has directed Big Rivers to deposit the transmission revenues reserved related to the Hawesville smelter into the ER fund. The Commission finds that Big Rivers' proposed accounting treatment of those transmission revenues should be approved.

Focused Management Audit

As noted in Big Rivers' application, it is in transition from having a total system load of roughly 1,500 MW, with 850 MW consumed by two aluminum smelters, to a total

¹²⁸ Richert Rebuttal at 4-5.

¹²⁹ *Id.* at 5.

system load of 650 MW after the departure of these two smelters. According to Big Rivers' president, "After receiving the Century (Hawesville) termination notice, Big Rivers immediately began pursuing efforts to mitigate the effects of the Century contract termination. Those mitigation efforts . . . included filing a rate case, the Century Rate Case, which is pending before the Commission."¹³⁰ According to Big Rivers, its application in this case was designed to address the termination of the Sebree smelter contract under which Alcan provided approximately \$155 million in revenues to Big Rivers in 2012. Big Rivers outlined the steps taken to mitigate the effects of the Sebree contract termination in its application. Its Chief Operating Officer states, "Big Rivers continues to implement its Load Concentration Analysis and Mitigation Plan that was submitted to the Commission under petition for confidential treatment in Big Rivers' 2012 Environmental Compliance Plan case, Case No. 2012-00063."¹³¹

The Load Concentration Analysis and Mitigation Plan ("Mitigation Plan") first calls for Big Rivers to seek rate increases to address the revenue shortfalls caused by the smelter contract terminations. That was to be done in two steps: one for the revenue shortfall from Hawesville in Case No. 2012-00535; and the other for the revenue shortfall from Sebree in this rate case.

Second, Big Rivers is to market its excess power when the market price exceeds its marginal generation cost. According to Big Rivers, forecasted market prices in MISO

¹³⁰ Direct Testimony of Mark A. Bailey at 5.

¹³¹ Berry Testimony at 10.

indicate off-system sales will be depressed in the near future, so this is not expected to be an effective mitigation method for some period of time.¹³²

Third, Big Rivers is to idle or reduce generation when the market price does not support the cost of generating. Big Rivers' plans to address this step involve idling the Coleman and Wilson generating stations.¹³³

Fourth, Big Rivers is to evaluate possible forward bilateral sales agreements, wholesale power contracts, and participation in capacity markets. Efforts undertaken to find replacement load for the 850 MW that previously served the smelters involve efforts by Big Rivers' members to focus on economic development in their territories and by Big Rivers to identify wholesale marketing opportunities.¹³⁴

In the two rate cases filed as part of its mitigation efforts, Big Rivers requested a \$74.5 million and a \$70.4 million increase. The Commission has granted increases of \$54.2 million and \$36.2 million, respectively.

In the 535 Rate Order at 19-20, the Commission found it:

. . . reasonable to afford Big Rivers the time to pursue its mitigation strategies, including operational changes to reduce costs, seeking to acquire replacement load, increasing off-system sales, and attempting to sell or lease its generating facilities. The decision we make today is not an easy one, and some of our rate-making adjustments may be viewed as atypical. But we firmly believe that today's decision fairly balances the interests of all stakeholders. Ratepayers will not be required to pay for depreciation on the Coleman Station that is currently excess capacity, and Big Rivers will be able to avoid a default on its debts, continue to provide safe and reliable electric service to the

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.* at 11.

112,000 customers served by its member-owners, be able to implement its mitigation plan, and possibly attract new load.

KIUC has criticized the Mitigation Plan, both in this case and 2012-00535. It claims the Big Rivers' approach does not resolve the problem of excess generating capacity and the fixed costs associated with that capacity. It argues that Big Rivers refuses to retain experts or counsel to assist in evaluating its alternatives, including the merger or sale of the utility or the sale of a portion of all of its assets. KIUC asserts that Big Rivers also refuses to offer its generating units for sale at market value and insists that it will sell the units only if it can do so at a premium.

KIUC offers its Rate Plan as an alternative to Big Rivers' proposal to use the ER and RER funds to offset 100 percent of the proposed rate increase. In testimony, KIUC stated that its Rate Plan calls for an approximate \$8.6 million rate increase, followed by Big Rivers' drawing on the two reserve funds monthly in order to meet its target TIER.¹³⁵ KIUC avers that its proposal will provide Big Rivers more than a year to resolve the problems associated with its excess capacity before the reserve funds are depleted. It recommends that the Commission direct Big Rivers to retain professional advisors to identify and pursue options that will benefit customers, including, but not limited to, asset sales, corporate restructuring, corporate liquidation, and creditor concessions. KIUC also recommends that we direct Big Rivers to work with stakeholders to achieve a reasonable solution to its excess capacity and fixed cost problem before depletion of the reserve funds.

Big Rivers opposes the KIUC Rate Plan citing KIUC's initially proposed \$8.6 million increase as being grossly insufficient to maintain its operations and likely to force

¹³⁵ In the KIUC/Sierra Club Post-Hearing Brief, the increase had been changed to \$10.5 million.

it into bankruptcy. It states that under the KIUC Rate Plan, after repurposing the reserve funds to meet its TIER on a monthly basis, its rates would be insufficient within less than a year from the February 1, 2014, effective date of its rate increase in this case. Big Rivers contends that the KIUC plan is unrealistic in its expectation of creditor concessions, stating that creditors would not agree to abandon debt principal, but would act rationally to protect their interests. It maintains that ongoing evaluation of its Mitigation Plan is important, but that additional studies and analyses should be addressed in future proceedings.

Regarding KIUC's Rate Plan, our decision on Big Rivers' requested increase, as expressed earlier in this Order, awards much less than was requested and much more than what KIUC has recommended. The Commission is not persuaded to adopt that part of the KIUC Rate Plan under which Big Rivers would draw on the two reserve funds to meet its TIER on a monthly basis. KIUC's argument has not convinced us that such an approach would be appropriate from either a ratemaking or policy perspective.

Concerning the Big Rivers Mitigation Plan, the Commission recognizes that there are many issues to be considered in determining the optimal timing, pricing, terms, and conditions for marketing power and/or selling generation assets. These issues are complex in nature, and their proper analysis requires both detailed knowledge of wholesale power markets and Big Rivers' financial condition and status as a member-owned cooperative. While the impact of the rate increase we are approving today will be offset for some months by the use of Big Rivers' reserve funds, those funds are limited, and once they are exhausted, customers' bills will increase.

Based on all these factors, the Commission believes that now is an appropriate time to review Big Rivers' mitigation efforts to determine the continued reasonableness of those efforts. Therefore, pursuant to the authority set forth in KRS 278.255, the Commission will engage an independent consultant to perform a focused management audit of Big Rivers' efforts to mitigate the impact of the loss of the smelter loads. This audit will review the strategic planning, management, and decision-making of Big Rivers relating to the mitigation efforts. The major focus of the audit will be on the steps that Big Rivers has undertaken or should undertake to mitigate any further financial impact relating to the loss of the smelter load.

Depreciation Rates

Pursuant to the Commission's direction in Case No. 2011-00036,¹³⁶ Big Rivers filed a depreciation study with its application in Case No. 2012-00535.¹³⁷ In recognition that the rates approved in that case would be in effect for a relatively short period of time, the Commission did not approve Big Rivers' use of the depreciation rates resulting from the depreciation study filed in that case. In the 535 Rate Order, the Commission noted that Big Rivers had filed its depreciation study in the record of this case, and that the study and the proposed depreciation rates would be considered in this proceeding.¹³⁸

Based on the study's results, Big Rivers proposed depreciation rates would increase its depreciation expense by \$1,974,814, from \$47,214,776 to \$49,189,590, on

¹³⁶ Case No. 2011-00036, *Application of Big Rivers Electric Corporation for a General Adjustment of Rates* (Ky. PSC Nov. 17, 2011) at 42.

¹³⁷ Direct Testimony of Ted J. Kelly, Exhibit Kelly-1, in Case No. 2012-00535.

¹³⁸ 535 Rate Order at 40.

an annual basis. None of the intervenors took a formal position on the Big Rivers depreciation study or on Big Rivers' intent to implement the new depreciation rates supported by the study. Based on the study results and the evidence in support thereof, the Commission finds the study and the resulting depreciation rates to be reasonable for Big Rivers. Accordingly, the Commission has determined that the depreciation rates resulting from the Big Rivers depreciation study are appropriate for Big Rivers and that they should be implemented by Big Rivers to be effective beginning with the month of February, 2014.

SUMMARY

The Commission, after consideration of the evidence of record and being otherwise sufficiently advised, finds that:

1. The rates set forth in the appendix to this Order are the fair, just, and reasonable rates for Big Rivers to charge for service rendered on and after February 1, 2014.

2. The rate of return and TIER granted herein are fair, just, and reasonable and will provide sufficient revenue for Big Rivers to meet its financial obligations.

3. The rates proposed by Big Rivers would produce revenue in excess of that found reasonable herein and should be denied.

4. Big Rivers should continue to defer the depreciation on the Coleman Station in a regulatory asset account rather than record that depreciation as an expense. It should continue to credit depreciation on the Coleman Station to its accumulated depreciation, or depreciation reserve, account.

5. Effective February 1, 2014, Big Rivers should defer the depreciation on the Wilson Station in a regulatory asset account rather than record that depreciation as an expense. It should continue to credit depreciation on the Wilson Station to its accumulated depreciation, or depreciation reserve, account.

6. Big Rivers' proposal to implement new depreciation rates based on the depreciation study filed in this proceeding on its behalf should be approved to be effective as of February 1, 2014.

7. Big River's proposed accounting treatment for the transmission revenues related to the Hawesville smelter should be approved.

8. Big Rivers' proposal to accelerate the use of the ER and RER funds to mitigate 100 percent of the increase granted in this case should be approved.

IT IS THEREFORE ORDERED that:

1. The rates and charges proposed by Big Rivers are denied.
2. The rates in the appendix to this Order are approved for service rendered by Big Rivers on and after February 1, 2014.
3. The depreciation rates proposed by Big Rivers are approved effective as of February 1, 2014.
4. Big Rivers shall continue to defer recording depreciation on the Coleman Station as an expense and record it in a regulatory asset account. All other aspects of Big Rivers' accounting for depreciation on the Coleman Station shall remain unchanged.
5. Effective as of February 1, 2014, Big Rivers shall discontinue recording depreciation of the Wilson Station as an expense and shall defer this depreciation and

record it in a regulatory asset account. All other aspects of Big Rivers' accounting for depreciation on the Wilson Station shall remain unchanged.

6. Big Rivers shall prepare a new depreciation study for Commission review by the earlier of five years from the date of this Order or the filing of Big Rivers' next general rate case.

7. Big River's proposed accounting treatment for the transmission revenues related to the Hawesville smelter is approved.

8. Big Rivers' proposal to accelerate the use of the ER and RER funds to mitigate 100 percent of the increase granted in this case is approved.

9. Big Rivers shall be subject to a focused management audit of its efforts to mitigate the impact of the loss of the smelter loads. This audit shall review the strategic planning, management, and decision-making of Big Rivers relating to the mitigation efforts. The audit shall focus on the steps that Big Rivers has undertaken or should undertake to mitigate any further financial impact relating to the loss of the smelter loads.

10. Within 20 days of the date of this Order, Big Rivers shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required herein and reflecting their effective date and that they were authorized by this Order.

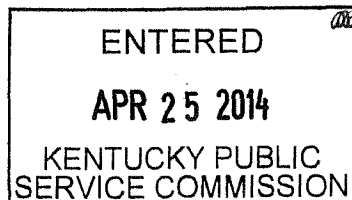
11. Within 60 days from the date of this Order, Big Rivers shall refund all amounts collected for service rendered from February 1, 2014, through the date of this Order that are in excess of the rates set out in the appendix to this Order. The amount refunded to the Economic Reserve fund shall equal the amount removed from the

Economic Reserve fund during the period Big Rivers' proposed rates were in effect that is in excess of the rates approved herein.

12. Within 75 days from the date of this Order, Big Rivers shall submit a written report to the Commission in which it describes its efforts to refund all monies collected in excess of the rates that are set forth in the appendix to this Order.

13. Any documents filed pursuant to ordering paragraph 11 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2013-00199 DATED **APR 25 2014**

The following rates and charges are prescribed for the customers in the area served by Big Rivers Electric Corporation. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

RURAL DELIVERY SERVICE

Demand Charge	\$ 13.805
Energy Charge per kWh	\$.0450

LARGE INDUSTRIAL CUSTOMER

Demand Charge	\$ 10.715
Energy Charge per kWh	\$.03805

COGENERATION/SMALL POWER PRODUCTION SALES – OVER 100 kW

Demand Charge - Weekly	\$ 3.22
Energy Charge per kWh	\$.0450

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