

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE NOTICE OF BIG RIVERS ELECTRIC )  
CORPORATION OF A PROPOSED CONTRACT )  
WITH HENDERSON-UNION RECC TO ) CASE NO. 10424  
IMPLEMENT AN INDUSTRIAL INCENTIVE )  
RATE )

O R D E R

On October 3, 1988, Big Rivers Electric Corporation ("Big Rivers") filed a proposed service agreement with Henderson-Union Rural Electric Cooperative Corporation, Inc. ("Henderson-Union") for Commission approval. The agreement provides for an industrial incentive rate to Henderson-Union for power sales made by Henderson-Union to Valley Grain Products, Inc.

On July 1, 1988, the Commission issued its Order in Case No. 10064,<sup>1</sup> in which an economic development rate ("EDR") approval process was initiated.<sup>2</sup> This policy requires that all utilities which seek to offer economic development rates must satisfy six requirements.

The Commission, having reviewed Big Rivers' proposed service agreement with Henderson-Union and the EDR requirements established in Case No. 10064, is of the opinion and finds that said agreement fails to comply with all of the EDR requirements

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<sup>1</sup> Case No. 10064, Adjustment of Gas and Electric Rates of Louisville Gas and Electric Company.

<sup>2</sup> Id., pages 93-94.

and should be dismissed without prejudice. Specifically, the Commission finds that Big Rivers' service agreement fails to satisfy Requirement No. 4. That provision states "Each utility that intends to offer economic incentive rates should be required to file a tariff stating the terms and conditions of its offering."<sup>3</sup>

Since the issuance of the Order in Case No. 10064, a number of questions have been raised, either in informal conferences or in contract or tariff filings, concerning the application and interpretation of the Commission's EDR requirements. In its February 10, 1989 Order establishing Administrative Case No. 327,<sup>4</sup> the Commission found that a complete examination of its policy on EDRs is appropriate and timely. In that Order, the Commission directed major gas and electric utilities in Kentucky and encouraged all other participants to respond to questions posed in order to address and delineate the EDR issues. The Commission also stated its intent to continue to review all EDRs now pending before the Commission to determine if they are consistent with the guidelines contained in Case No. 10064. The Order continues,

If a filed tariff and/or contract is not consistent with these guidelines, the Commission will dismiss it without prejudice. The utility will then have the opportunity to either modify the tariff consistent with the guidelines established in Case No. 10064 or file a new tariff after this administrative case is completed.<sup>5</sup>

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<sup>3</sup> Id., page 3.

<sup>4</sup> Administrative Case No. 327, An Investigation Into the Implementation of Economic Development Rates By Electric and Gas Utilities.

<sup>5</sup> Id., page 3.

Therefore, consistent with the Order in Administrative Case No. 327, the Commission, having dismissed Big Rivers' service agreement without prejudice, is of the opinion and finds that Big Rivers should have the opportunity to either modify its service agreement in accordance with the Order in Case No. 10064 or file a new service agreement after Administrative Case No. 327 is completed.

On November 14, 1988, Henderson-Union and Big Rivers filed a joint motion to consolidate Case No. 10422<sup>6</sup> and Case No. 10424 and to schedule an informal conference with the Commission Staff. As the Commission has found that the service agreements in question should be dismissed without prejudice, it finds the subject of the joint motion to be moot and that the motion should therefore be denied.

IT IS THEREFORE ORDERED that:

1. Big Rivers' service agreement with Henderson-Union be and it hereby is dismissed without prejudice.

2. Within 20 days of the date of this Order, Big Rivers shall notify the Commission if it intends to modify its service agreement in accordance with the Order in Case No. 10064.


3. Henderson-Union and Big Rivers' Joint Motion to Consolidate and to Schedule Informal Conference be and it hereby is denied.

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<sup>6</sup> Case No. 10422, The Notice of Henderson-Union RECC of a Proposed Contract with Valley Grain Products, Inc. to Implement an Industrial Incentive Plan.

Done at Frankfort, Kentucky, this 10th day of February, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director