

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE	)	
COMMISSION OF THE APPLICATION OF THE	)	
FUEL ADJUSTMENT CLAUSE OF BIG RIVERS	)	CASE NO. 96-521
ELECTRIC CORPORATION FROM	)	
NOVEMBER 1, 1994 TO OCTOBER 31, 1996	)	

O R D E R

Pursuant to Administrative Regulation 807 KAR 5:056, the Commission on November 14, 1996 initiated this case to review and evaluate the operation of the fuel adjustment clause ("FAC") of Big Rivers Electric Corporation ("Big Rivers") for the 2 years ending October 31, 1996, and to determine the amount of fuel cost that should be transferred to its base rates to reestablish its FAC charge.

As part of its review, the Commission ordered Big Rivers to submit certain information concerning its fuel procurement, its fuel usage, and the operation of its FAC. Big Rivers submitted this information on December 13, 1996. A public hearing was held on June 24, 1997. The Attorney General ("AG") and Kentucky Industrial Utility Customers ("KIUC") were granted leave to intervene in these proceedings.

After submission of this matter for decision, Big Rivers moved to stay these proceedings and dismiss them with prejudice following Big Rivers Plan of Reorganization ("Plan").<sup>1</sup> In support of its motion, Big Rivers states that upon the Plan's

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<sup>1</sup> See In Re Big Rivers Electric Corporation, No. 96-41168 (Bankr. W.D. Ky. June 1, 1998).

effective date all claims to refunds arising from the operation of its FAC will be discharged and this proceeding will be rendered moot. Regardless of the Plan's effect on creditor claims, however, the Commission's statutory obligation to review Big Rivers' FAC continues. Accordingly, the Commission finds that Big Rivers' Motion should be denied.

Big Rivers proposed that the month of October 1996 be used as the base period (test month) for the purpose of arriving at the base fuel cost [F(b)] and the KWH Sales [S(b)] components of its FAC. It further proposed that its base fuel cost be changed to 10.63 mills per KWH, the actual fuel cost, as adjusted, for the proposed base period. Big Rivers' current base fuel cost is 12.62 mills per KWH. The Commission finds that the recent elimination of a FAC from Big Rivers' filed rate schedules<sup>2</sup> renders these proposals moot.

KIUC raises three issues. It first argues that the Commission should hold this case open pending resolution of judicial proceedings involving the Commission's Order of July 21, 1994 in Case No. 90-360-C.<sup>3</sup> Given the Franklin Circuit Court's recent decision to stay all proceedings in that case and to recall and vacate its Judgment of

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<sup>2</sup> Case No. 97-204, The Application of Big Rivers Electric Corporation, Louisville Gas and Electric Company, Western Kentucky Energy Corporation, Western Kentucky Leasing Corporation, and LG&E Station Two, Inc. for Approval of Wholesale Rate Adjustment for Big Rivers Electric Corporation and for Approval of Transaction, Order of April 30, 1998 (establishing permanent rates) at 44-45; Order of June 11, 1998 at 2-4 (granting petitions for rehearing and establishing effective date for permanent rates).

<sup>3</sup> Case No. 90-360-C, An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 1991 to April 30, 1992 (July 21, 1994).

October 20, 1995,<sup>4</sup> a decision to which KIUC and its members agreed, the Commission finds that these judicial proceedings should not be used to prevent final Commission action in this case.

KIUC next argues that a contract dispute between Big Rivers and Costain Coal Inc. has resulted in excess fuel charges to Big Rivers' ratepayers. KIUC has failed to offer any convincing evidence of improper fuel procurement practices concerning the Costain Coal Contract or of unreasonable fuel prices resulting from this contract or Big Rivers' management of the contract. We note, moreover, a portion of the alleged unreasonable fuel costs have never been included in Big Rivers' fuel charges and are pending review in another Commission proceeding.<sup>5</sup>

KIUC also argues that Big Rivers is improperly accounting for emission allowances bundled with coal purchased for its Coleman Plant. It asserts that Big Rivers should include the cost of such allowances in the cost of fuel. The Commission finds no merit to this argument. Big Rivers' accounting methods accord with the accounting treatment that the Commission ordered when approving Big Rivers' environmental surcharge.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds Big Rivers has substantially complied with the provisions of Administrative Regulation 807 KAR 5:056.

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<sup>4</sup> Big Rivers Electric Corp. v. Pub. Serv. Comm'n, No. 94-CI-001184 (Franklin Cir. Ct. Ky. July 13, 1998).

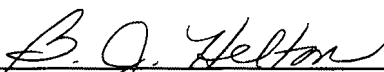
<sup>5</sup> Case No. 96-215, Application of Big Rivers Electric Corporation for an Order Approving Fuel Adjustment Clause Pass Through of Funds Ordered Escrowed in Litigation with Costain Coal, Inc. (filed May 17, 1996).

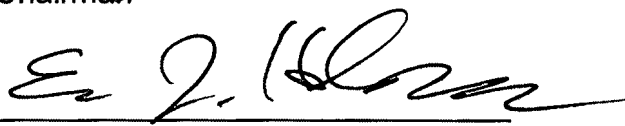
IT IS THEREFORE ORDERED that:

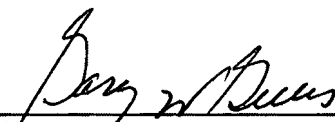
1. Big Rivers Motion for Stay and Dismissal of Proceedings is denied.
2. The charges and credits billed by Big Rivers through its FAC for the period November 1, 1994 to October 31, 1996 are approved.
3. Big Rivers' base fuel rate shall remain unchanged.
4. This case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 5th day of August, 1998.

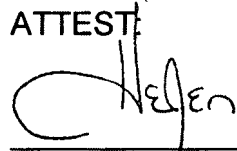
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director