COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR APPROVAL OF THE 1998 AMENDMENTS TO STATION TWO CONTRACTS BETWEEN BIG RIVERS ELECTRIC CORPORATION AND THE CITY OF HENDERSON, KENTUCKY AND THE UTILITY COMMISSION OF THE CITY OF HENDERSON	) CASE NO. 98-267

O R D E R

IT IS ORDERED that Big Rivers Electric Corporation ("Big Rivers") shall file the original and 12 copies of the following information with the Commission no later than June 30, 1998, with a copy to all parties of record. Each copy of the data requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. Where information requested herein has been provided along with the original application, in the format requested herein, reference may be made to the specific location of said information in responding to this information request. When applicable, the information requested herein should be provided for total company operations and jurisdictional operations, separately.

The following questions relate to the "Agreement for Electric Service Between Henderson Union Electric Cooperative Corp. and LG&E Energy Marketing Inc." ("HU/LEM Agreement") and the "Agreement for Electric Service Between Green River Electric Corporation and LG&E Energy Marketing Inc." ("GR/LEM Agreement"), both filed with the Commission on June 10, 1998.

1. Refer to Section 2.04 of the HU/LEM and GR/LEM Agreements. The phrase "a portion of" has been inserted into the last sentence of this section. Explain how this revision is related to the New Participation Agreement.

2. Refer to Section 3.25 of the HU/LEM Agreement and Section 3.24 of the GR/LEM Agreement. In defining the Open Access Transmission Tariff ("OATT"), the phrase "or approved by the KPSC" has been inserted.

a. As used in the documents that have been filed relating to Big Rivers' reorganization plan, hasn't the OATT been identified as a Federal Energy Regulatory Commission ("FERC") jurisdictional document?

b. Explain why Commission approval of the OATT has been included in this definition.

3. Refer to Section 7.06 of the HU/LEM and GR/LEM Agreements, subparts (i) through (iii). Provide a listing of the "other services" contemplated or envisioned by this section of the Agreements.

4. Refer to Section 9.03 of the HU/LEM and GR/LEM Agreements. Provide a detailed description of the "other information" the cooperatives contemplate providing

to LG&E Energy Marketing Inc. ("LEM") to assist in the calculation of the Monthly Charge.

5. Refer to Section 20.03 of the HU/LEM and GR/LEM Agreements. Explain why the parties decided not to specify a particular circuit court as the venue for state court actions.

6. Refer to Schedule A of the HU/LEM and GR/LEM Agreements, part b. Explain in detail why the rates charged by LEM to the cooperatives would be expected to change if adjustments to fuel or environmental costs were incurred or imposed on the cooperatives or the Smelters. Provide examples of the situations this provision was developed to address.

7. Refer to Schedule A of the HU/LEM and GR/LEM Agreements, part d(1).

a. Was the "Tier 2 Supplemental Energy" concept part of the original application in Case No. 97-204,[1] the resolution of the unforeseen cost issue, or the Commission's approval in principle contained in its April 30, 1998 Order?

b. Explain in detail why the Tier 2 Supplemental Energy concept was necessary and what circumstances or events prompted the development of this modification. Include with this response an explanation of how energy in excess of a 98 percent load factor was priced under the provisions of the documents on file with the Commission as of February 27, 1998.

[1] Case No. 97-204, The Application of Big Rivers Electric Corporation, Louisville Gas and Electric Company, Western Kentucky Energy Corp., Western Kentucky Leasing Corp., and LG&E Station Two Inc. for Approval of Wholesale Rate Adjustment for Big Rivers Electric Corporation and for Approval of Transaction.

c. Provide a schedule comparing the annual Tier 2 Energy revenues, including the Tier 2 Supplemental Energy, as anticipated under the documents on file with the Commission as of February 27, 1998 with those revenues as anticipated under the documents filed on June 10, 1998. The schedule should separately identify the revenues for each smelter by years 1998 through and including 2011. The Tier 2 Energy revenues based on the June 10, 1998 documents should be segmented into Tier 2 Energy and Tier 2 Supplemental Energy.

d. Describe the impact the Tier 2 Supplemental Energy has on LEM's agreement to pay the expected Tier 1 and Tier 2 Smelter margins to the Rural Utilities Service ("RUS") to be applied to Big Rivers' outstanding debt.

e. Explain in detail why the Tier 2 Supplemental Energy rate is approximately 30 percent lower than the Tier 2 Energy rate. (A response of "resulting from negotiations" is not acceptable.)

8. Refer to Schedule A of the HU/LEM and GR/LEM Agreements, part d(5). The Tier 3 Energy rate for firm power is to be $.0192 per KWH divided by one minus the applicable transmission loss rate as determined under the Transmission Provider's OATT. Previously, the rate was to be $.0192 per KWH multiplied by one plus the applicable transmission loss rate as determined under the Transmission Provider's OATT. Explain why this change was necessary, since the mathematic results are essentially the same under either approach.

The following questions relate to the "Agreement for Tier 3 Electric Service (2001-2002) Between Green River Electric Corporation and LG&E Energy Marketing Inc." ("Tier

3 (2 Year) Agreement") and the "Agreement for Tier 3 Electric Service (2001-2005) Between Green River Electric Corporation and LG&E Energy Marketing Inc." ("Tier 3 (5 Year) Agreement"), both filed with the Commission on June 10, 1998.

9. Prepare a summary of the terms, conditions, rights, obligations, and responsibilities under both Tier 3 agreements.

10. Article I of both Tier 3 agreements states that Southwire Company ("Southwire") consents to the agreement.

a. Explain in detail why the consent of Southwire is needed.

b. Can either of the Tier 3 agreements become effective without Southwire's consent? Explain the response.

11. Indicate how much of Southwire's total Tier 3 requirement is provided by the Tier 3 (2 Year) Agreement and the Tier 3 (5 Year) Agreement.

12. Indicate whether similar agreements are being developed or are contemplated between Henderson Union Electric Cooperative Corp. ("Henderson Union") and Alcan Aluminum Corporation ("Alcan").

The following questions relate to Big Rivers' Transaction Tariff ("Transaction Tariff"), filed with the Commission on June 12, 1998.

13. Refer to Sections 5.f. and 6.f. of the Transaction Tariff. Concerning reactive power, the previous version of the tariff included the provision "according to Big Rivers' then applicable rates for such service set forth in Big Rivers' OATT." This statement has been deleted, and the replacement phrase does not address what rates will be charged by Big Rivers for reactive power.

a. Explain in detail why this provision was deleted from the Transaction Tariff.

b. The Document Summary Sheet for the Transaction Tariff indicates that the rates for reactive power, if available, will not be at the Big Rivers' OATT rate. Explain in detail why this rate will not be at the OATT rate.

c. Provide Big Rivers' proposed rate for reactive power and explain in detail why that rate has not been disclosed in the Transaction Tariff.

14. Refer to Sections 5.i.(b) and 6.i.(b) of the Transaction Tariff. These sections state that Henderson Union and Green River shall not be charged more than the lesser of the amount that Big Rivers imputes to itself for its own off-system transactions or the amount Big Rivers charges to any third-party for comparable transmission service and ancillary services. Explain in detail how there could be a difference between the amount Big Rivers imputes to itself and the amount it charges to a third-party, given the requirements of FERC Order No. 888. If Big Rivers is aware of specific sections of FERC Order No. 888 which would allow for such a difference in charges, provide the appropriate citations to those sections.

The following questions relate to the Amendment to the Wholesale Power Agreements between Big Rivers and Green River ("Green River Agreements") and the Amendment to the Wholesale Power Agreements between Big Rivers and Henderson Union ("Henderson Union Agreements"), both filed with the Commission on June 12, 1998.

15. Refer to the Green River Agreements, Section 2, paragraph 5. This section creates a $83,300 per month Tier 3 take-or-pay transmission obligation for Green River to Big Rivers for the period January 1, 2001 through December 31, 2010.

a. Explain why this provision has been added to the Green River Agreements. Include a discussion of the circumstances that made this take-or-pay obligation necessary.

b. Provide Big Rivers' best estimate of the annual take-or-pay transmission revenues expected for each year covered by this provision. Include an explanation of how the estimate was developed and what information sources were utilized.

c. Explain in detail why there is not a similar provision in the Henderson Union Agreements.

16. Refer to Section 2, paragraph 10 of the Green River Agreements and Section 2, paragraph 9 of the Henderson Union Agreements. These paragraphs address Big Rivers' recording of patronage capital for financial reporting and tax accounting purposes. Has Big Rivers determined, or sought a determination from its independent auditors, that the reporting and accounting treatments described in these paragraphs are permissible under the requirements of:

a. generally accepted accounting principles;

b. the Internal Revenue Service tax code; or

c. the RUS Uniform System of Accounts?

Explain each response. If any of these determinations have not been made, explain in detail why not.

17. Refer to Section 2, paragraph 10.3 of the Green River Agreements and Section 2, paragraph 9.3 of the Henderson Union Agreements. This provision states that neither Big Rivers nor the cooperatives will permit any amendments or modifications of their bylaws that would adversely affect the Smelters' rights to distribution, as described in paragraph 10 of the Green River Agreements and paragraph 9 of the Henderson Union Agreements.

a. Indicate which entity would be making the determination that a proposed amendment or modification would adversely affect the Smelters' rights to distribution: Big Rivers, the cooperatives, or the Smelters. Explain the response.

b. Have Big Rivers' other member cooperatives, Jackson Purchase Electric Cooperative Corporation ("Jackson Purchase") and Meade County Rural Electric Cooperative Corporation ("Meade County"), agreed with Big Rivers that such a prohibition is acceptable? Explain the response.

c. Explain how Big Rivers can agree to this prohibition without impacting the rights of Jackson Purchase and Meade County.

d. Explain how Green River or Henderson Union can agree to this prohibition without impacting the rights of its other members.

The following questions relate to the "Agreement for Electric Service between Alcan Aluminum Corporation and Henderson Union Electric Cooperative Corp." ("Alcan/HU Agreement") and the "Agreement for Electric Service between Southwire

Company and Green River Electric Corporation" ("Southwire/GR Agreement"), both filed with the Commission on June 15, 1998.

18. Refer to Section 9.1.2. of the Agreements. This section states, in part, that the Smelters will purchase all power requirements in excess of Tier 1 and 2 directly from authorized electric suppliers and outside Tier 3 if and to the extent permitted by law. This section notes, however, that until such a change in law is enacted, another section of the Agreements will govern these power purchases.

a. Explain what is meant by the phrase "outside Tier 3" with regard to these power requirements purchases.

b. In light of current Kentucky law, explain why Section 9.1.2. was included in these Agreements.

19. Refer to Section 9.2. of the Agreements. Included in this section is the statement that the Smelters will notify the cooperatives sufficiently in advance of the delivery date so that the cooperatives can contract for the purchase of Tier 3 power from one or more suppliers at prices, terms, and conditions which respond to the Smelters' requirements. The section further states that the Smelters will provide financial assurances as may be reasonably required to hold the cooperatives harmless for such contracts, provided that such contracts have been agreed to by the Smelters.

a. Do these provisions of Section 9.2. mean that the Smelters have approval authority over the Tier 3 purchase contracts undertaken by the cooperatives? Explain the response.

b. When securing Tier 3 power requirements for the Smelters, are the cooperatives allowed any flexibility concerning the prices, terms, and conditions which respond to the Smelters' requirements? Explain the response.

c. Explain how the Smelters' Tier 3 power requirements are to be met if the cooperatives fail to secure a contract with a power supplier which does not match the prices, terms, and conditions which respond to the Smelters' requirements.

d. Assume that Green River, upon notice from Southwire and following prudent utility practices, secures Tier 3 power for Southwire, but at a price which is 2 percent higher than that specified by Southwire. Under current Kentucky law,

(1) Would Southwire be obligated to pay for such power, at the higher price? Explain the response.

(2) Would Green River be held harmless because it had performed its statutory duty to secure the power requested? Explain the response.

20. Refer to Section 9.2. of the Agreements. This section includes the statement that the cooperatives will request in filings with the Commission concerning the Tier 3 purchases that the necessary regulatory approval will become effective 20 days from the date of notice.

a. Were Green River and Henderson Union aware that, absence a showing of good cause, the notice period for these filings is 30 days pursuant to KRS 278.180(1)?

b. Explain why the shorter period was incorporated into these Agreements.

21. Refer to Section 9.7. of the Agreements. This section includes the statement that, in the event a third-party supplier fails to deliver energy requested by the Smelters and scheduled by the cooperatives, the Smelters will have no obligation to pay the cost of excess energy taken from LEM or any other source unless the Smelters have consented to the contract with that third-party supplier.

a. Explain in detail why the Smelters' consent is necessary and reasonable.

b. Explain how the cooperatives will be able to ensure that the Smelters do not take excess energy from LEM or any other source when a third-party supplier fails to deliver energy for the Smelters.

22. Refer to Schedule A of the Agreements, paragraph c.15. The definition of "Transmission Provider" includes references to Big Rivers and any other owner or lessee of transmission facilities directly interconnected with the cooperatives.

a. Are Green River or Henderson Union at present directly interconnected with any other transmission facilities? If yes, identify and describe these interconnections.

b. Do Green River or Henderson Union reasonably anticipate securing other direct interconnections with other transmission facilities within the next 10 years? If yes, describe the anticipated interconnections.

The following questions relate to the Agreement for Retail Electric Service between Green River and Commonwealth Industries, Inc. ("Commonwealth"), filed with the Commission on June 16, 1998.

23. Prepare a comparative summary of the terms, conditions, rights, obligations, and responsibilities under the current and proposed Commonwealth contracts.

24. Concerning the proposed Commonwealth contract:

a. Explain in detail why the proposed contract is needed.

b. Explain why the term of the proposed contract is two years.

c. Does Big Rivers intend to file a corresponding revision to its contracts with Green River and Commonwealth which reflect similar terms and conditions?

(1) If yes, when will this filing be made?

(2) If no, explain why the proposed contract implies such a filing.

25. Refer to Schedule A of the proposed Commonwealth contract. For purposes of these questions, assume Commonwealth's contract is approved as submitted and is in effect for 1999 and 2000.

a. Using Commonwealth's load information as contained in Big Rivers' financial model SUP-11, calculate the revenues for 1999 and 2000 due from Commonwealth, using the following rates:

(1) the September 2 rates, as identified in the Commission's June 11, 1998 Order in Case No. 97-204.

(2) the transaction rates, as identified in the Commission's June 11, 1998 Order in Case No. 97-204.

(3) the rates contained on Schedule A, parts I and II, to the proposed Commonwealth contract.

b. If the revenues for 1999 and 2000 from Commonwealth using the Schedule A rates are lower than either the September 2 rates or the transaction rates, explain in detail the impact the lowered revenues would have on Big Rivers.

The following questions relate to the Second Amendment to the New Participation Agreement ("Second Amendment"), redacted version, filed with the Commission on June 10, 1998.

26. Refer to Section 8.17(d) of the Station Two Agreement, as shown on page 25 of the Second Amendment and Section 9.10(c) of the Station Two Agreement, as shown on page 27 of the Second Amendment. These sections have been modified by the addition of the statement "but limited in the case of Big Rivers to the remaining Big Rivers Contribution (as defined in Section 20.6 of the Participation Agreement) for that Year with respect to Henderson Non-Incremental Capital Costs that are not for Henderson Major Capital Repairs (as defined in the Participation Agreement)." Explain in detail the purpose of this modification and why the modification was necessary.

27. Refer to Sections J(a) and J(b) of the Operating Reserves Agreement, as shown on page 31 of the Second Amendment. Explain in detail the purpose of this change and why the change was necessary. (A response of "resulting from negotiations" is not acceptable.)

The following questions relate to the Second Amendment to the New Participation Agreement ("Second Amendment"), unredacted version, filed with the Commission on June 10, 1998.

28. Refer to Section 20.6.2. of the New Participation Agreement, as shown on pages 4 and 5 of the Second Amendment. Prepare a comparison of the amounts shown in this section with the corresponding amounts included in Big Rivers' financial model SUP-11. Calculate the difference between the annual amounts. Explain in detail the impact the amounts listed in Section 20.6.2. will have on Big Rivers' financial condition and its ability to meet its obligations under the reorganization plan.

29. Refer to Section 20.6.3. of the New Participation Agreement, as shown on page 6 of the Second Amendment. Prepare a comparison of the amounts shown in this section with the corresponding amounts included in Big Rivers' financial model SUP-11. Calculate the difference between the annual amounts. Explain in detail the impact the amounts listed in Section 20.6.3. will have on Big Rivers' financial condition and its ability to meet its obligations under the reorganization plan.

30. Refer to Section 23.2 of the New Participation Agreement, as shown on page 10 of the Second Amendment.

a. Provide a copy of the May 14, 1998 letter from Michael Core to George Basinger.

b. Describe the status of the Coleman Unit No. 2 facility as of the date of the response to this Order.

31. Refer to Sections 23.2 through 23.6 of the New Participation Agreement, as shown on pages 10 through 13 of the Second Amendment. For each section, provide the estimated (or actual, if known) cost to Big Rivers for it to be in compliance with the section provisions. Describe the impact these costs will have on Big Rivers' financial model and its ability to meet its obligations under the reorganization plan.

The following questions relate to the Responses to the Commission's June 12, 1998 Order.

32. Refer to Item 7, page 38 of 81. The response indicates that the February 23, 1998 documents contemplated that Green River and Henderson Union would be the parties contracting for transmission and that a portion of the Monthly Margin Payments would be diverted to them to be used for payment to Big Rivers. Provide citations to the sections and documents on file with the Commission as of February 27, 1998 which contain this provision.

33. Refer to Item 11. This response indicates that the full cost of transmission service secured by LEM will be covered by the Monthly Margin Payment. However, the transaction documents on file with the Commission as of February 27, 1998 did not include this provision. As of February 27, 1998, transmission service for the Smelter loads was to be arranged by Green River and Henderson Union and the Monthly Margin Payment (referenced as the Smelter Margins in Case No. 97-204) was to only include the level of expected margins Big Rivers included in SUP-11 related to the Smelter power sales.

a. Assume that Big Rivers' OATT transmission rates are as stated in Item 11. Calculate the annual LEM transmission revenues the May 29, 1998 documents would include as part of the Monthly Margin Payments.

b. Explain why the inclusion of the transmission costs in the Monthly Margin Payments is more reasonable than separately charging LEM for its transmission costs.

34. Provide a schedule comparing the Monthly Margin Payments envisioned under the terms of the documents on file with the Commission as of February 27, 1998 with the provisions included in the May 29, 1998 documents. The schedule is to cover the period from 1998 through and including 2011. Assume that:

a. The Monthly Margin Payments have not been adjusted in accordance with Section 3.3(a)(iv) of the Power Purchase Agreement or Section 2.3.2(c) of the Lease and Operating Agreement;

b. The transmission prices are the same as outlined in Item 11; and

c. The closing date of the Big Rivers/LEM transactions occurred on July 1, 1998.

35. If the Commission were to accept the inclusion of LEM's transmission costs as part of the Monthly Margin Payments, explain in detail how the Commission could be assured that transmission costs properly allocated to LEM are not being allocated to the four distribution cooperatives and their members.

36. Refer to Items 13(d) and 17. In the response to Item 13(d), Big Rivers states that certain conditional arrangements have been disclosed to FERC in the OATT

filing in Docket No. NJ98-5-00, made on May 29, 1998. In the response to Item 17, Big Rivers states that there presently is no reference to the LEM Member Transmission arrangements in the OATT.

a. Describe the conditional arrangements disclosed in FERC filing.

b. The statements in these responses appear to be contradictory. Provide a clarification as to what LEM transmission arrangements have been disclosed in the FERC filing of May 29, 1998.

c. Identify any changes between the OATT filed with the Commission on May 29, 1998 and the OATT filed with FERC.

37. If Big Rivers' OATT transmission rates change from those currently on file with the FERC, which party bears the ultimate financial risk under the following circumstances:

a. The Monthly Margin Payment includes only the expected level of margins from Smelter power sales as reflected in Big Rivers' SUP-11?

b. The Monthly Margin Payment includes both the expected margins on Smelter power sales and the full cost of transmission service?

38. Provide an updated version of Big Rivers' financial model which reflects the financial impact of all changes since SUP-11 was prepared. The update should be based on the SUP-11 version filed with the Commission in Case No. 97-204. In addition to the hard copy printout of the update, provide one 3.5 inch computer disc which contains the update.

Done at Frankfort, Kentucky, this 23rd day of June, 1998.

PUBLIC SERVICE COMMISSION

For the Commission

ATTEST:

Executive Director