COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF BIG RIVERS ELECTRIC CORPORATION TO REVISE THE LARGE INDUSTRIAL CUSTOMER RATE SCHEDULE	))))	CASE NO. 99-360

O R D E R

On August 27, 1999, Big Rivers Electric Corporation ("Big Rivers") filed for approval of a new rate schedule ("Rate Schedule 10") for direct serve customers of its three member cooperatives with new or expanded peak loads of 5 Megawatts ("MW") or greater. Rate Schedule 10, as proposed, would apply to any direct serve customer that initiated service after August 31, 1999 or expanded an existing load, in aggregate, by 5 MW or greater above its peak load for the 12 months ending August 31, 1999. Big Rivers proposed to effectively "close" its existing tariff for such direct serve customers, Rate Schedule 7, so that only those customers whose loads do not exceed by 5 MW or more their peak load during the 12 months prior to September 1, 1999, would continue to be served thereunder.

Big Rivers' member cooperatives, Kenergy Corporation, Jackson Purchase Energy Corporation, and Meade County Rural Electric Cooperative Corporation were granted leave to intervene herein. The three member cooperatives all expressed their support for the proposed tariff. All direct serve customers were notified of Big Rivers' proposed Rate Schedule 10 but none chose to intervene or file comments. An informal conference was held in this proceeding on November 23, 1999, attended by Big Rivers, its three member cooperatives and Commission Staff. A formal hearing in this matter was held on January 10, 2000.

BACKGROUND

Since July of 1998, Big Rivers has obtained the power requirements necessary to meet the loads of its member cooperatives' retail customers from two primary sources: a Power Purchase Agreement with LG&E Energy Marketing ("LEM"); and a contract with the Southeastern Power Administration ("SEPA"). Collectively, these two power sources are referred to as "Base Power." Under both sources, Big Rivers receives a specified, limited quantity of power which, as of 1998, was forecasted to meet its total system requirements for several years. While it was anticipated that additional power resources might be required to supply portions of these loads at some future point in time, Big Rivers and its member cooperatives intended to preserve the Base Power to serve the existing and foreseeable loads of its member cooperatives' existing customers.

The loads of Big Rivers' member cooperatives have experienced greater growth than was anticipated when Big Rivers entered into the LEM agreement in July 1998. This growth has resulted in Big Rivers' power supply requirements being forecasted to exceed its power supply resources within the next 2-3 years based on normal weather conditions and no new industrial loads. With the known load additions scheduled this year by existing industrial customers, a repeat of the hotter-than-normal 1999 temperatures will create the potential that Big Rivers' load could exceed its power supply during the summer of 2000.

DISCUSSION AND ANALYSIS

Big Rivers is in a unique situation among the major electric utilities regulated by this Commission. It has recently emerged from bankruptcy and, as a cooperative, has no shareholders to absorb increased purchased power costs that are not recovered in rates. It is dependent upon two unaffiliated sources of power supply, both of which are limited in quantity. It began this power supply arrangement at approximately the same time that the wholesale power markets began to experience significant volatility in the pricing and availability of power, both short-term and long-term, due to shortages of power during peak times in the summer of 1998. For these reasons, Big Rivers has proposed to segregate its load into two components for rate-setting purposes. These special circumstances have caused the Commission to consider unique solutions that are applicable only to Big Rivers' situation. Thus, the Commission's decision in this proceeding is recognizing the unique circumstances faced by a single regulated electric utility, rather than establishing a precedent for all regulated electric utilities.

Big Rivers and its member cooperatives desire to preserve the benefits of its Base Power for those customers and the associated loads for which those benefits were intended when it emerged from bankruptcy. Based on current and foreseeable short-term market conditions in the wholesale power markets, Big Rivers anticipates that any new sources of power supply will cost more than its Base Power which is already reflected in its existing "system average cost-based rates." In order to preserve the price benefits of its Base Power for its existing customers, Big Rivers seeks to avoid filing a general rate case which would pass along the higher cost of a new source of power supply to all existing customers.

Big Rivers proposes to segregate its industrial load into two components. Existing industrial customers with expansions of less than 5 MW would continue to be served under the Rate Schedule 7. The proposed Rate Schedule 10 would be for new industrial loads, or expanded loads of existing industrial customers, of 5 MW or more. Rate Schedule 10 would reflect market-based rates that would be the product of new power supply arrangements negotiated by Big Rivers on behalf of those customer loads. Under this approach, any cost increase attributable to these new power supply arrangements would be charged to the new or expanded loads that are primarily responsible for increasing Big Rivers' overall system load to a level greater than its total system power supply resources.

Big Rivers' proposal presents the Commission with a change in the manner in which increased costs incurred to serve load growth are reflected in rates. Historically, utilities have proposed, and the Commission has required, that the increased cost of new capacity constructed to serve load growth be added to the utility's existing average cost, resulting in a higher system average cost that is spread among all customers. Typically, a utility not in Big Rivers' financial position and with control of its own generating capacity would have ultimate control of how it would meet load growth and would not have the same concerns that Big Rivers has regarding the availability and price of additional power supply resources.

However, the situation that Big Rivers faces does not include the circumstances that have been historically typical for either Big Rivers or this Commission. We have thoroughly investigated the proposed tariff and the issues related thereto and find that, in this instance, it should be approved on a temporary, pilot basis. The pilot will be effective for a period of approximately three years, from the date of this Order until December 31, 2002. This time-frame is based on Big Rivers' assessment of when the wholesale power market might be expected to change as a result of additional capacity anticipated to be added to the regional grid in the form of Exempt Wholesale Generators, or "merchant" plants that are under consideration by many companies. As a pilot, Big Rivers will be required to file periodic reports with the Commission to facilitate monitoring the impacts of the tariff as they materialize.[1]

The Commission will review the pilot before the end of the trial period, and will require Big Rivers to submit an assessment report of the pilot six months prior to the end of the pilot. The assessment report should provide a detailed review of the first two years of the pilot phase of Rate Schedule 10. In addition, if wholesale power market conditions change significantly during the pilot period, either Big Rivers or the Commission can initiate a proceeding to review the pilot tariff.

One other issue that arose during the course of this proceeding was the concern that the customers served under Rate Schedule 10 might have a role in selecting their wholesale source of power supply. This is a matter of significant concern to the Commission, as Kentucky has not approved any form of electric restructuring or retail wheeling which would allow customers to choose their source of supply. Big Rivers represented, both through data responses and at the formal hearing, that it, and not the customers, would be ultimately responsible for the decisions to contract for power to provide service to customers under Rate Schedule 10. Based on these representations, the Commission will approve this pilot tariff.

IT IS THEREFORE ORDERED that:

1. Big Rivers' proposed Rate Schedule 10 and the Revised Rate Schedule 7 are approved on a pilot basis and shall be effective for service rendered on and after the date of this Order.

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[1] As a supplement to its Annual Report, Big Rivers will file a schedule detailing all activity under Rate Schedule 10. This schedule will show each customer served under Rate Schedule 10, the size of the load served, the source(s) of power used to serve that load, the cost of the power from each source, and the total revenues generated by Rate Schedule 10.

2. The pilot period shall run through December 31, 2002, unless terminated earlier by the Commission upon a finding of good cause. If the pilot continues through February 2002, Big Rivers shall file, no later than June 30, 2002, an assessment report of the first two years of the pilot.

3. Big Rivers shall be under a continuing obligation to inform the Commission in a timely manner of any significant change in circumstances that would necessitate a review of the tariffs approved herein.

4. The Commission shall review the pilot prior to June 30, 2002 upon a request by Big Rivers, a complaint, or the Commission's own motion if future changes in the wholesale power markets indicate that the findings upon which this Order is based are no longer valid.

Done at Frankfort, Kentucky, this 25th day of February, 2000.

By the Commission

ATTEST:

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Executive Director