COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR AUTHORITY TO ESTABLISH REGULATORY ASSETS FOR EXPENSES RELATED TO THE COAL COMBUSTION RESIDUALS RULE	))))	CASE NO. 2015-00333

ORDER

On October 5, 2015, Big Rivers Electric Corporation ("Big Rivers") filed an application seeking authorization to establish regulatory assets for the income statement impacts, including gains, losses, accretion and depreciation expenses, arising from liabilities Big Rivers will incur to comply with the U. S. Environmental Protection Agency's ("EPA") recently published Disposal of Coal Combustion Residuals from Electric Utilities rule ("CCR Final Rule"). These expenses arise from liabilities associated with Big Rivers' Asset Retirement Obligations ("ARO") with respect to the coal ash ponds located at its Green Station ("Green") and the city of Henderson's Station Two ("Station Two") generating stations upon those stations' retirement from service or closure of the ash ponds. In addition, Big Rivers requests that it also be allowed to record as part of the proposed regulatory assets any prospective adjustments to the amounts for ARO-related depreciation and accretion expense associated with the ARO balances existing on December 31, 2015. Finally, Big Rivers has requested the creation of a regulatory asset to defer the actual incremental compliance costs related to the CCR Final Rule that Big Rivers will begin to incur in 2015 and continue into the future.

There are no intervenors in this proceeding. Big Rivers responded to two rounds of information requests from Commission Staff. The matter now stands submitted to the Commission for a decision based on the evidentiary record.

BACKGROUND

Pursuant to KRS 278.220, the Commission has adopted a uniform system of accounts for Big Rivers that was issued by the United States Department of Agriculture, Rural Utilities Service ("RUS").[1] With respect to AROs, the RUS Uniform System of Accounts ("RUS USoA") states:

> (1) An asset retirement obligation represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a company is required to settle as a result of an existing or enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An asset retirement cost represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.[2]

On April 17, 2015, the EPA published the CCR Final Rule. Although the CCR Final Rule became effective on October 19, 2015, the accounting for the legal obligation must be recognized on the publication date of the CCR Final Rule. Therefore, as of April 30, 2015, Big Rivers quantified its ARO liability with respect to the ash ponds at

[1] Codified as 7 CFR Section 1767.15. The current version of the RUS system of accounts became effective May 27, 2008, and is also published and referenced as RUS Bulletin 1767B-1.

[2] *Id.*, General Instructions, subpart (y), Accounting for asset retirement obligations.

$5.3 million related to depreciation expense and $8.057 million related to the accretion expense.[3]

After Big Rivers prepared its application in this matter, the EPA released a pre-publication version of the Effluent Limit Guidelines for Steam Electric Power ("ELG"). The final version of the regulation differed from the proposed regulation in that the proposed regulation exempted power plants less than 400 megawatts ("MW") from certain requirements, but the final regulation does not contain that exemption. The ELG rule includes a final date of operation of December 31, 2023. As a result, Big Rivers now believes it must close the Green and Station Two ash ponds by December 31, 2023. Accordingly, Big Rivers revised its calculations of the ARO-related amounts after the filing of its application in this case to account for the change in the expected closure dates of the ash ponds.

Pursuant to the requirements of the RUS USoA, Big Rivers must recognize the ARO and begin to depreciate and accrete the ARO once it is recognized. Big Rivers calculated the revised present fair values of the ARO liabilities as of May 31, 2015, for financial accounting purposes and initial recognition of the ARO Liabilities to be $3.942 million for the Green ash pond and $2.835 million for Big Rivers' share of the Station Two ash pond.[4] Based on the revised ARO's, Big Rivers will incur $521,244 in

---

[3] Application at 5.

[4] Big Rivers Response to Commission Staff's First Request for Information ("Staff's First Request"), Item 2, Attachment 1 of 8. *See also* Big Rivers' Application at 4: "[T]he preliminary estimate for Big Rivers' share of the Station Two costs is based on approximations of the City of Henderson's historical capacity reservations from Station Two."

depreciation expense and $196,704 in accretion expense in 2015 for the two projects, amounts for which it requests approval to defer as regulatory assets.[5]

Big Rivers believes the actual ARO settlement costs should be recoverable through appropriate rate mechanisms in the future; however, at present, there will be a mismatch of revenues and expenses in its financial statements, because accretion and depreciation expense will be recognized monthly beginning in May 2015, even though the revenue will not be recognized until some future period. These ARO-related expenses, therefore, reduce Big Rivers' margins and understate its true financial performance in the short term. In contrast, when the actual ash pond closure costs are being recovered in the future, Big Rivers' financial performance will be overstated. To avoid this outcome, Big Rivers requests that the Commission authorize the establishment of regulatory assets for deferred depreciation and accretion expense, as discussed above.

Big Rivers also requests that it be allowed to record, as part of the regulatory assets requested herein, any prospective adjustments to the amounts for ARO-related depreciation and accretion expense associated with the ARO balances existing on December 31, 2015, as changes to the underlying cost estimates and timing will affect these amounts. This treatment will defer recognition of these ARO expenses until recovery of the actual costs is authorized by the Commission. This would ultimately allow Big Rivers to match its revenues and expenses in each accounting period.

[5] Response to Staff's First Request, Item 2, Attachment 1 of 8.

DISCUSSION

The Commission has previously approved regulatory assets for other jurisdictional utilities. Such approval has been granted when a utility has incurred: (a) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (b) an expense resulting from a statutory or administrative directive; (c) an expense in relation to an industry-sponsored initiative; or (d) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.[6] Big Rivers believes its request to establish regulatory assets for the ARO-related gains and losses, depreciation, and accretion expenses is consistent with the second example listed above, as the ARO-related depreciation and accretion expenses result from the accounting requirements of RUS USoA and ASC Topic 410-20.[7]

The Commission has previously approved the establishment of regulatory assets for ARO-related depreciation and accretion expenses for Louisville Gas and Electric Company[8] and Kentucky Utilities Company[9] when those utilities adopted Statement of

---

[6] Case No. 2008-00436, *The Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages* (Ky. PSC Dec. 23, 2008), Final Order at 4. *See also* Case No. 2010-00449, *Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Amount Expended on Its Smith 1 Generating Unit* (Ky. PSC Feb. 28, 2011) Final Order at 7.

[7] Application at 6.

[8] Case No. 2003-00426, *Application of Louisville Gas and Electric Company for an Order Approving an Accounting Adjustment to be Included in Earnings Sharing Mechanism Calculations for 2003* (Ky. PSC Dec. 23, 2003).

[9] Case No. 2003-00427, *Application of Kentucky Utilities Company for an Order Approving an Accounting Adjustment to be Included in Earnings Sharing Mechanism Calculations for 2003* (Ky. PSC Dec. 23, 2003).

Financial Accounting Standards No. 143, *Accounting for Asset Retirement Obligations*.[10] The Commission also approved the establishment of regulatory assets for ARO-related depreciation and accretion expenses for East Kentucky Power Cooperative in Case No. 2014-00432[11] when that utility recognized an ARO due to the associated ash transfer and closure costs for ash ponds at its Dale Station and asbestos abatement projects at its Dale and Cooper Stations. In Case No. 2015-00187, the Commission approved regulatory assets for Duke Energy Kentucky, Inc. ("Duke Kentucky") for the gains, losses, depreciation and accretion expense related to its East Bend ash pond.[12] Also in that case, the Commission approved Duke Kentucky's request to defer the actual costs for CCR compliance as a CCR Compliance Regulatory Asset.

The Commission has reviewed the information provided by Big Rivers and finds that the proposed regulatory assets should be authorized.

IT IS THEREFORE ORDERED that:

1. The accounting treatment requested by Big Rivers to establish a regulatory asset for the income statement impacts including gains, losses, depreciation and accretion expense related to its Green and Station Two ash ponds is approved for 2015 and subsequent years.

---

[10] Statement of Financial Accounting Standards No. 143 is now codified as ASC Topic 410.

[11] Case No. 2014-00432, *Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for the Depreciation and Accretion Expenses Associated with Asset Retirement Obligations* (Ky. PSC July 21, 2015).

[12] Case No 2015-00187, *Application of Duke Energy Kentucky, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Liabilities Associated with Ash Pond Asset Retirement Obligations* (Ky. PSC Dec. 15, 2015).

2. The accounting treatment requested by Big Rivers to defer the actual incremental compliance costs related to the CCR Final Rule that it will begin to incur in 2015 is approved.

3. The regulatory asset and liability accounts established in this case are for accounting purposes only.

4. Big Rivers shall, within 14 days of the date of this Order, file with the Commission the accounting entries made on its books to effectuate the creation of the regulatory assets.

5. Big Rivers shall file annually updated ARO calculations reflecting any studies, reports, or change in other assumptions for the Green and Station Two ARO balances as originally recorded at December 31, 2015. The annual update shall be based upon the balances as of December 31 of each year and the updated calculations shall be submitted at the same time Big Rivers files its annual report with the Commission.

6. Big Rivers shall file annually an updated report reflecting all incremental compliance costs related to the CCR Final Rule it will begin to incur in 2015. The report shall be broken down by month and include the beginning balance, the total monthly costs incurred by account and the monthly ending balance. The annual report shall be submitted at the same time Big Rivers files its annual report with the Commission beginning in 2016.

7. Any document filed in the future pursuant to ordering paragraphs 4, 5, and 6 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED

JAN 05 2016

KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

Stephanie Bell for JD

Executive Director

*Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Honorable Tyson A Kamuf
Attorney at Law
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KENTUCKY 42302-0727