

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF BIG RIVERS ELECTRIC)	2024-00141
CORPORATION FROM NOVEMBER 1, 2022)	
THROUGH APRIL 30, 2023)	

ORDER

Pursuant to 807 KAR 5:056, the Commission established this case on August 2, 2024, to review and evaluate the operation of the Fuel Adjustment Clause (FAC) of Big Rivers Electric Corporation (BREC) for the six months that ended on April 30, 2023.¹ As part of this review, BREC responded to four requests for information.² An informal conference was held on December 6, 2024, and a formal hearing was held on June 4, 2025. On June 19, 2025, BREC requested a decision on the existing record.³ This case was opened contemporaneously with the review of BREC's operation of its FAC for the six months that began on May 1, 2023, and ended on October 31, 2023.⁴ There is an

¹ Opening Order (Ky. PSC Aug. 2, 2024).

² BREC's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Aug. 26, 2024); BREC's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Sept. 23, 2024); BREC's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Feb. 28, 2025) and BREC's Response to Commission Staff's Fourth Request for Information (Staff's Fourth Request) (filed Sept. 12, 2025).

³ BREC's Request for a Decision on the Existing Record (filed June 19, 2025).

⁴ Case No. 2024-00149, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2023 Through October 31, 2023* (Ky. PSC Aug. 2, 2024).

issue, discussed below, that is common across the review periods. During the review of this case and Case No. 2024-00149,⁵ discovery responses to the same questions were filed in both cases, and in some instances, in the record of one or the other case. For the purpose of administrative efficiency, the Commission finds that the record of Case No. 2024-00149 should be incorporated by reference into this proceeding.

ISSUE

During this proceeding, it became apparent that when calculating its FAC, BREC excluded the sales to one industrial customer but included the fuel and purchased power costs to serve that industrial customer in the FAC calculation, indicating a possible higher FAC factor than should be calculated. Commission Staff issued several requests for information concerning the exclusion of the sales from the calculation of the FAC, and BREC's witnesses were subject to cross examination at the June 4, 2025 hearing on this matter.

Pursuant to discovery issued in this case, beginning on December 1, 2022, BREC ceased charging the FAC to a new industrial customer, later identified as Nucor Corporation (Nucor).⁶ BREC asserted that it did not charge Nucor a FAC pursuant to a special contract, approved by the Commission, between Meade County Rural Electric Cooperative Corporation (Meade RECC), BREC, and Nucor.⁷ This contract provided

⁵ Case No. 2024-00149, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation From May 1, 2023 Through October 31, 2023*.

⁶ BREC's Response to Staff's Third Request, Item 1, *passim*.

⁷ BREC's Response to Commission Staff's Third Request, Item 1, page 4. See also, Case No. 2019-00365, *Electronic Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with Nucor Corporation; and (2) Approval of Tariff* (Ky, PSC. Aug. 17, 2020).

that, *inter alia*, sales to Nucor, during the current phase of the contract were not subject to “the FAC or other riders.”⁸ This exclusion was offered as an incentive for Nucor to locate within Meade RECC’s territory.⁹ Nucor ultimately located its new steel mill in Meade RECC’s service territory. While the special contract excluded Nucor from the FAC, it did not contain provisions directing BREC to include the fuel and purchased power costs accrued to serve Nucor in the FAC applicable to BREC’s remaining customers.

BREC, when calculating the FAC, included energy consumed by Nucor in the “Non-Tariff Market Rate Sales to Members” on page 3 of BREC’s monthly Form A, FAC Rate Sheet filings.¹⁰ “Non-Tariff Market Rate Sales to Members” was then excluded from the “Total Sales” used to calculate the monthly FAC factor.¹¹ BREC asserted that, because of the special contract with Nucor, “[d]uring the current phase of the contract, the FAC does not apply to energy sales to Nucor. As such, these energy sales to Nucor are not included in the Total Sales volume used in the FAC calculation.”¹² BREC admitted, however, that if it had included the sales to Nucor in the FAC, “[t]otal Sales volume would be higher, and the \$/kWh FAC charge that retail customers pay would be less.”¹³

⁸ BREC’s Response to Commission Staff’s Third Request, Item 1, page 4.

⁹ BREC’s Response to Commission Staff’s Third Request, Item 1, page 1.

¹⁰ BREC’s Generator FAC Form A filings are located on the Kentucky Public Service Commission’s website at <https://psc.ky.gov/Home/Library?type=FAC>

¹¹ BREC’s Response to Staff’s Third Request, Item 1, page 1. See also Hearing Video Transcript (HVT) of the June 4, 2025 Hearing, Testimony of Katherine Cheatham (Cheatham Testimony) at 10:02:07.

¹² BREC’s Response to Staff’s Third Request, Item 1, page 4.

¹³ BREC’s Response to Staff’s Third Request, Item 1, page 4.

BREC, at the hearing, described that sales to members that received market, but not tariffed rates, are included in “Non-Tariff Market Rate Sales to Members.”¹⁴ This occurs when BREC purchases power at a wholesale market price for an individual customer and charges the customer for the purchased power.¹⁵ Nucor, however, under the retail service agreement does not pay wholesale power prices, rather, it pays a fixed price for power.¹⁶ In excluding the Nucor sales from the FAC, BREC treated the sales to Nucor as BREC treats sales to other wholesale customers, which are listed on BREC’s monthly Form A, FAC Rate Sheets as “Non-Tariff Market Rates Sales to Members.”¹⁷ BREC acquires power on the wholesale market for these customers and, except for Nucor, passes those costs on directly to the customers.¹⁸ BREC does not incur fuel costs for serving customers that receive non-tariff market rates. BREC does incur fuel costs for sales to Nucor, which are included in the monthly Form A, FAC Rate Sheet, however, sales to Nucor were excluded in the FAC Form A, FAC Rate Sheet.

BREC stated that it first discovered the retail service agreement may lead to an under recovery of costs when BREC was modeling its 2023 budget.¹⁹ A base rate was considered as one option to recover the Nucor costs.²⁰ After discussions at the highest

¹⁴ The fuel and power costs of Non-Tariff Market Rate Members are not included in the FAC factor calculation. HVT of the June 4, 2025 Hearing, Cheatham Testimony at 09:48:10.

¹⁵ HVT of the June 4, 2025 Hearing, Cheatham Testimony at 10:03:50.

¹⁶ HVT of the June 4, 2025 Hearing, Cheatham Testimony at 10:04:02 and Testimony of Donald Gulley (Gulley Testimony) at 10:05:19.

¹⁷ HVT of the June 4, 2025 Hearing, Cheatham Testimony at 10:02:27.

¹⁸ HVT of the June 4, 2025 Hearing, Testimony of Christopher Warren (Warren Testimony) at 9:46:33.

¹⁹ HVT of the June 4, 2025 Hearing, Warren Testimony at 10:06:00.

²⁰ HVT of the June 4, 2025 Hearing, Warren Testimony at 10:09:20.

level of the company, the decision was made to recover the costs through the FAC because Nucor was a member of Meade RECC, unlike other fixed contract customers.²¹

In response to Staff's Fourth Request, BREC stated that, if the Commission ordered BREC to refund any over collection due to the exclusion of the Nucor sales, BREC would request that the refund be amortized over 36 months, or the amount of time over which the sales were excluded from the FAC factor calculation.²² BREC also stated that the refund and inclusion of sales to Nucor in the FAC calculation would trigger an emergency rate case because BREC's Times Interest Earned Ratio (TIER) and Margin for Interest Ratio (MFIR) would fall below the required 1.10 required by its debt covenants.²³

BREC asserted that the contract was critical to have Nucor locate in BREC's territory and that the resulting increased sales have been a net positive to BREC, BREC's retail customers, and the territory, in general.²⁴ Nucor's load replaced the lost load from two smelters, who stopped purchasing power from BREC and purchased from the wholesale market.²⁵ BREC also returned to investor-grade credit ratings for its debt instruments.

²¹ HVT of the June 4, 2025 Hearing, Warren Testimony at 10:09:34.

²² BREC's Response to Staff's Fourth Request, Item 3, page 1.

²³ BREC's Response to Staff's Fourth Request, Item 3, page 1.

²⁴ BREC's Response to Staff's Fourth Request, Item 4, page 2.

²⁵ See, e.g., Case No. 2014-00370, *Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts* (KY PSC Nov. 25, 2014).

BREC asserted that this increased load has benefited its customers.²⁶ BREC's margins in excess of those needed to meet its 1.30 TIER requirement have been returned to its customers through 40 percent of the excess amount being passed on to its retail customers through the Member Rate Stability Mechanism (MRSB) credit,²⁷ and the remaining 60 percent of the excess amount being used to reduce BREC's regulatory asset balances.²⁸

BREC argued that, because Nucor sales are excluded from the calculation of the MRSB, the MRSB credit has been higher for BREC's retail customers and the regulatory asset balance is lower than either otherwise would have been.²⁹ BREC stated that if it is not permitted to recover the full amount of Nucor costs, it would have to reduce the MRSB credit to its customers and decrease MRSB credits in the future, as well as reduce the balance of the regulatory assets.³⁰

BREC argued that neither the regulation nor BREC's FAC tariff allows for the exclusion of reasonably incurred fuel and power costs from the calculation of the FAC. BREC also argued that it believes it is reasonable to recover through the FAC all

²⁶ BREC's Response to Staff's Fourth Request, Item 3.

²⁷ BREC's Response to Staff's Fourth Request, Item 3, page 2-3. The TIER Credit returns net margins above a 1.30 TIER each year to the benefit of our Members. Sixty percent of the TIER Credit is used as a reduction of the Smelter Loss Mitigation regulatory assets that are recoverable from our Member-Owners (which were a result of the changes at BREC from losing the two large, concentrated smelter loads in 2013 and 2014). Forty percent of the TIER Credit is returned to BREC's Member-Owners as a direct bill credit through the MRSB. Sixty percent of the TIER Credit accelerates the reduction of the regulatory assets.

²⁸ BREC's Response to Staff's Fourth Request, Item 3, page 2-3.

²⁹ BREC's Response to Staff's Fourth Request, Item 4, page 2.

³⁰ BREC's Response to Staff's Fourth Request, Item 3, page 2.

reasonable power costs incurred to serve its members.³¹ BREC alleged that if it does not recover the costs to serve Nucor through the FAC, then BREC would need a base rate increase to recover those costs.³²

BREC, however, acknowledged that the question of how to handle the Nucor sales in the calculation of the FAC was not contemplated at the time the contract was approved by the Commission.³³ Yet BREC claimed that, if it could not recover Nucor's costs, or exclude Nucor's sales from the FAC, it would cause significant and immediate financial harm.³⁴ The FAC allows for timely recovery of fuel procurement costs, and BREC claimed that if it were to utilize other methods of recovery (e.g. the non-FAC Power Purchase Agreement (PPA) tariff), the recovery would be delayed, resulting in impacts to cash flow, causing a negative impact on financial ratings and an inability to satisfy debt covenants, requiring an emergency rate case.³⁵

Commission Staff, during pre-hearing discovery, requested that BREC provide alternatives to BREC's current calculation of the FAC. BREC provided the following four alternatives.

1. Continue Calculating the FAC as it is but provide a monthly report of the portion attributable to NUCOR to each RECC, BREC's Board, and the Commission

³¹ BREC's Response to Staff's Third Request, Item 1, page 7.

³² BREC's Response to Staff's Third Request, Item 1, page 12. See *also* HVT of the June 4, 2025 Hearing, Gulley Testimony at 10:15:35.

³³ BREC's Response to Staff's Third Request, Item 1, page 11. See *also* HVT of the June 4, 2025 Hearing, Gulley Testimony at 9:30:27.

³⁴ BREC's Response to Staff's Third Request, Item 1, page 12.

³⁵ BREC's Response to Staff's Third Request, Item 1, page 12. See *also* HVT of the June 4, 2025 Hearing, Gulley Testimony at 10:47:02.

BREC asserted that this is the least disruptive option and ensures that any excess margins are still returned to retail members through the MRSM.³⁶ BREC's member cooperatives have filed a statement in support of this proposal.³⁷

2. Add NUCOR's FAC costs to the Non-FAC PPA tariff rider each month.

This rider, to recover fuel and power costs not recovered through the FAC, is adjusted annually. BREC asserted that because Nucor's load has been volatile, this option creates potential for over- and under-recoveries that would impact BREC's cash flows.³⁸

3. Revise the MRSM or file a new tariff rider for the NUCOR charges that would appear on the monthly bill.

BREC claimed this is the least favorable as it would add an additional billing line-item and cause additional expenses to the cooperative member-owners because it would compel them to have to reprogram their billing programs. BREC also claimed that it will cause confusion for cooperative customers.³⁹

4. File an emergency base rate case.

Besides the costs to file a rate case, BREC points out that the rates would not adjust once Nucor began paying the FAC.⁴⁰

³⁶ BREC's Response to Staff's Third Request, Item 1, page 13.

³⁷ BREC's Response to Staff's Third Request, Item 1, page 13. See *also* HVT of the June 4, 2025 Hearing, Gulley Testimony at 10:45:48.

³⁸ BREC's Response to Staff's Third Request, Item 1, page 13-14. See *also* HVT of the June 4, 2025 Hearing, Gulley Testimony at 10:47:02.

³⁹ BREC's Response to Staff's Third Request, Item 1, page 14–15.

⁴⁰ BREC's Response to Staff's Third Request, Item 1, page 14.

BREC argued that using the MRSM or other rider, or a base rate increase, will cause complicating factors, including additional time and expense for BREC and its RECC members. BREC requests that, should the Commission require BREC to recover charges through a mechanism other than the FAC, the Commission allow BREC to continue recovering the costs through the FAC until the new method is implemented.⁴¹

BREC recalculated its FAC from November 2022 until July 2025 and determined that \$27,093,443 was over collected due to the exclusion of the sales to Nucor.⁴² BREC, however, averred that its member-owner cooperatives benefited through the TIER Credit approved in modifications to the MRSM.⁴³ BREC claimed that the over collection of the FAC was offset by the TIER Credit benefit on a dollar-by-dollar basis in the form of: 1) direct credit to customers; and 2) advanced retirement of a regulatory asset.⁴⁴

BREC provided quantitative data showing the benefits that the member-owner cooperatives have received from the TIER Credit and the early regulatory asset retirement through the MRSM. Since 2020, the MRSM has returned \$137,062,728 to member-owner cooperatives.⁴⁵ BREC stated that since the TIER Credit was implemented in 2020, net margins greater than a 1.30 TIER were returned to BREC's member-owner cooperatives in the amounts of \$33.3 million, \$44.5 million, \$29.3 million,

⁴¹ BREC's Response to Staff's Third Request, Item 1, page 13–15.

⁴² BREC's Response to Staff's Fourth Request, Item 1, page 2.

⁴³ BREC's Response to Staff's Fourth Request, Item 1, page 2.

⁴⁴ BREC's Response to Staff's Fourth Request, Item 3, page 2.

⁴⁵ BREC's Response to Staff's Fourth Request, Item 4, page 1-2.

\$25.9 million and \$7.0 million for 2020 through 2024, respectively.⁴⁶ Nucor does not receive the TIER Credit.⁴⁷

BREC listed other benefits of the Nucor facility being opening within the service territory of BREC's member owners. BREC stated that Nucor's decision to locate in its territory increased BREC's credit-rating with ratings agencies,⁴⁸ which decreased annual borrowing costs by \$225,000.⁴⁹ BREC also stated that NUCOR's load increased BREC's margins by \$17.8 million dollars since 2022, which was returned for a dollar-for dollar amount to Member-Owners through the TIER credit.⁵⁰ BREC also listed several other benefits including increased tax revenue and jobs in the area. BREC stated that if it cannot recover the additional costs to serve Nucor, it will not attain the 1.10 TIER and MFIR necessary to meet its loan covenants.⁵¹ To avoid an emergency base rate case, BREC proposed a new billing line-item in the form of a rider to recover these costs.⁵²

The new rider would be filed in tandem each month with the FAC rider filing. When compared with BREC's current methodology for calculating the FAC, the FAC would decrease in an amount equal to the amount that would flow through the rider, which would

⁴⁶ BREC's Response to Staff's Fourth Request, Item 3, page 3.

⁴⁷ BREC's Response to Staff's Fourth Request, Item 3, page 3.

⁴⁸ BREC's Response to Staff's Third Request, Item 1, page 5–6.

⁴⁹ BREC's Response to Staff's Fourth Request, Item 4, page 4.

⁵⁰ BREC's Response to Staff's Fourth Request, Item 4, page 2-3.

⁵¹ BREC's Response to Staff's Fourth Request, Item 5, page 1.

⁵² BREC's Response to Staff's Fourth Request, Item 5, page 1.

be labeled the “Interim Energy Adjustment” tariff. BREC stated that this would not affect its new margins.⁵³

Compared to the options presented in previous discovery, BREC asserted that the rider would be the lowest cost option and use fewer administrative resources.⁵⁴ BREC stated that, upon an order from the Commission that directs BREC to include the sales to Nucor in the calculation, BREC and the Member-Cooperatives would file the new rider tariff and flow through tariffs for Commission approval.⁵⁵

DISCUSSION

BREC’s FAC factor, since December 1, 2022 when Nucor began taking service under the retail service agreement, appears to be artificially higher than it otherwise would be. This stems from how the FAC is calculated. The FAC formula, set out in 808 KAR 5:056, Section 1(1) is:

$$\text{Adjustment Factor} = \frac{F(m)}{S(m)} - \frac{F(b)}{S(b)}$$

Where F(b) is the cost of fuel in the base period, F(m) is the cost of fuel in the current period, S(b) is sales in the base period, and S(m) is sales in the current period, all as established in subsections (2) through (6) of this section.

The focus for monthly FAC is the first equation, F(m)/S(m). This is the FAC factor that changes monthly. F(b)/S(b) is the FAC base amount set either in two-year reviews or in utility base rate cases. If F(m)/S(m) is greater than F(b)/S(b) then the FAC factor is a charge to the customer. If it is less, then the FAC factor is a credit to customers.

⁵³ BREC’s Response to Staff’s Fourth Request, Item 5, page 1–2.

⁵⁴ BREC’s Response to Staff’s Fourth Request, Item 5, page 2.

⁵⁵ BREC’s Response to Staff’s Fourth Request, Item 5, page 2–3.

BREC, by excluding the sales to Nucor from S(m), but including the fuel and power costs for Nucor in F(m), calculated a higher FAC factor than if the fuel costs had been excluded, or if Nucor sales had been included. BREC's other customers are paying an inflated FAC factor, essentially subsidizing what Nucor would otherwise pay through the FAC (if it had been charged an FAC).

BREC testified at the hearing that, when entering the special contract with Nucor, it had not considered how it would handle accounting for the exclusion of the collection of surcharges for sales to BREC.⁵⁶ BREC further testified that it realized it would be an issue when BREC was preparing its annual financial planning documents for 2023, and that the exclusion of the FAC from sales to BREC would lead to BREC under collecting the cost to serve Nucor.⁵⁷ BREC, thus, determined that it should exclude sales to Nucor, but include the costs of serving Nucor in the FAC factor, to recover the full costs of serving Nucor.⁵⁸

The Commission regulation, 807 KAR 5:056, unlike many of the Commission's other regulations, does not have a clause allowing for deviation from its provisions. The definition of sales in 807 KAR 5:056 does not support BREC's exclusion of Nucor sales from the FAC.

As discussed above, the monthly FAC factor is determined by the following equation.

⁵⁶ HVT of the June 4, 2025 Hearing, Gulley Testimony at 09:30:27.

⁵⁷ HVT of the June 4, 2025 Hearing, Warren Testimony at 10:07:30.

⁵⁸ HVT of the June 4, 2025 Hearing, Warren Testimony at 10:09:34.

$$\text{Adjustment Factor} = \frac{F(m)}{S(m)} - \frac{F(b)}{S(b)}$$

Where F(b) is the cost of fuel in the base period, F(m) is the cost of fuel in the current period, S(b) is sales in the base period, and S(m) is sales in the current period, all as established in subsections (2) through (6) of this section.

Commission regulation 807 KAR 5:056, Section 1(5) provides the following definition of sales.

- (5) Sales (S) shall be all KWH's sold, excluding intersystem sales. Utility used energy shall not be excluded in the determination of sales (S). If, for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to:
- (a) Generation; plus
 - (b) Purchases; plus
 - (c) Interchange-in; less
 - (d) Energy associated with pumped storage operations; less
 - (e) Intersystem sales referred to in subsection (3)(d) of this section; less
 - (f) Total system losses. (*Emphasis Added*)

There is no debate that BREC is selling power to Nucor, versus acquiring the power on the market and passing those costs directly onto the customer. Here, BREC is either generating or purchasing power to serve its native load, and Nucor is part of BREC's native load.⁵⁹ Commission regulation 807 KAR 5:056, Section 1(5)(c)–(f), lists what can be excluded from sales when calculating the FAC, none of which apply to the sales to Nucor. The sales to Nucor fall under the regulatory definition of sales and should be included in the calculation of BREC's FAC.

Commission regulation 807 KAR 5:056, Section 3(3)(b), provides that “[t]he commission shall order a utility to charge off and amortize, by means of a temporary decrease of rates, any adjustments the commission finds unjustified due to improper

⁵⁹ See BREC's Confidential Response to Staff's First Request for Information Items 13, 22, and 23 and BREC's Confidential Response to Staff's Second Request, Item 5. Pursuant to the special contract between Nucor, Meade RECC and BREC, through November 2022, BREC had been charging Nucor both a FAC and environmental surcharge (ES) amount. Beginning December 1, 2022 (Nucor's service commencement date), BREC ceased charging Nucor either a FAC or an ES.

calculation or application of the charge or improper fuel procurement practices.” Having considered the record and being otherwise sufficiently advised, the Commission finds that BREC, by excluding the Nucor sales, improperly calculated and currently improperly calculates the FAC factor. The Commission, therefore, would be justified in ordering BREC to refund, by way of a decrease to the FAC charge, the difference between what the FAC should have been if the Nucor sales had been included in the FAC factor and what was charged. In addition, the Commission would be justified in ordering BREC to start including the Nucor sales in the calculation of the FAC.

BREC’s CEO Don Gulley testified that the Commission ordering a refund of the recalculated FAC calculation would be the “nuclear option” that would require BREC to file an immediate emergency base rate case.⁶⁰ Ordering a refund, while justified under a strict reading of 807 KAR 5:056, overlooks the benefits received by BREC member-cooperatives, and the cooperatives’ retail customers, from the increase to the credit through the MRSM and the early retirement of the regulatory asset.

In response to post-hearing information requests, BREC showed that the benefits that flowed through the MRSM and the regulatory asset retirement from the Nucor sales were at least equal to, or exceeded, the amount the FAC factor was increased by the exclusion of the sales to Nucor.⁶¹ Therefore, even though BREC did not follow the regulation to the letter of the law, consumers were not negatively affected due to the increased sales to Nucor. Put another way, had BREC properly calculated the FAC by including sales to Nucor, resulting in a lower FAC factor, customers would have received

⁶⁰ HVT of the June 4, 2025 Hearing, Gulley Testimony at 10:15:35 and 10:21:05.

⁶¹ BREC’s Response to Staff’s Fourth Request, Item 4, Attachment 4_4.

a corresponding lower MRSM credit and lower payments towards the early retirement of the regulatory assets.

The Commission finds that BREC has been and is, improperly, calculating its FAC factor by excluding sales to Nucor. The Commission finds that ordering a refund would lead to an unreasonable result that would negatively affect BREC's credit rating and require an emergency rate case, the costs of which are ultimately borne by BREC's member cooperatives. The Commission also finds that customers were not materially harmed by the exclusion of the Nucor sales from the FAC calculation because the Nucor sales led to a corresponding increase to the MRSM credit and increased payments toward retiring a regulatory asset.

The Commission finds that BREC should include the sales to Nucor in its calculation of the FAC. However, because reasonable costs to serve Nucor are eligible for possible recovery by BREC, the Commission further finds that BREC may recover these reasonable costs through the proposed "Interim Energy Adjustment" tariff, which will appear as a separate line item on monthly bills. This finding should not be construed as acceptance of the tariff but merely a recognition that this methodology of addressing the issue is accepted.

The Commission will review the tariff filing and may open an investigation into the reasonableness of the tariff. However, there are some specific terms that BREC should include in its filing that may assist in the review process. BREC should include a specific termination date coinciding with the date the Nucor contract no longer excludes riders in its rate calculation. In addition, BREC should provide enough information for a person to be informed as to what will pass through this rider. In order to assist in the review of this

mechanism, BREC should footnote in its monthly FAC filings the calculation and amount flowed through this mechanism each month. The footnote should be included in the first full month's filing coinciding with the inclusion of the rider.

Except as discussed above, the Commission finds that a review of BREC's monthly FAC filings shows that the fuel cost billed for the six months under review ranged from a low of \$0.022258 per kWh in February 2023 to a high of \$0.040963 per kWh in November 2022 with a six-month average of \$0.029718 per kWh are reasonable and should be approved. In establishing this review, the Commission ordered BREC to submit certain information concerning its fuel procurement, fuel usage, and the operation of its FAC.

IT IS THEREFORE ORDERED that:

1. The record of Case No. 2024-00149 is incorporated by reference.
2. Within 30 days of the date of this Order BREC shall file, using the Commission electronic tariff filing system, its proposed "Interim Energy Adjustment" tariff.
3. Upon approval of BREC's "Interim Energy Adjustment" tariff, BREC shall begin including the sales to Nucor in its FAC calculation for the month following approval of the tariff.
4. The charges and credits billed by BREC through its FAC from November 1, 2022, through April 30, 2023, are approved.
5. This case is closed and removed from the Commission's docket.

Entered on this 29th day of May, 2026.

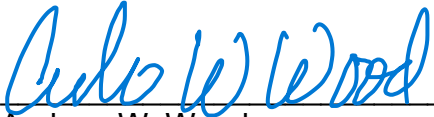
PUBLIC SERVICE COMMISSION



Angie Hatton
Chair



Mary Pat Regan
Commissioner



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

ATTEST:



Linda C. Bridwell, PE
Executive Director

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