

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

2014 INTEGRATED RESOURCE PLAN OF BIG) CASE NO.
RIVERS ELECTRIC CORPORATION) 2014-00166

ORDER

The matter is before the Commission upon the August 20, 2014 petition of Century Aluminum of Kentucky General Partnership and Century Aluminum Sebree LLC (collectively "Century") seeking a rehearing of the Commission's August 7, 2014 Order denying Century's motion to intervene in the instant proceeding. In support of its petition, Century contends that the August 7, 2014 Order is inconsistent with the statutory and regulatory standards for granting intervention; that it has an interest in the transmission services provided by Big Rivers Electric Corporation ("Big Rivers"), which services are addressed as a topic in Big Rivers' Integrated Resource Plan ("IRP"); and that the August 7, 2014 Order misinterprets the nature and scope of the Midcontinent Independent System Operator, Inc. ("MISO") Transmission Expansion Planning ("MTEP") process. Century asserts that it has an interest in Big Rivers' transmission service because Century receives, and its smelting operations are dependent upon, firm and uninterrupted transmission service provided via Big Rivers' transmission facilities. Century avers that it should be allowed to intervene in order to protect its interest in ensuring that Big Rivers is planning its transmission system to adequately fulfill its transmission service obligations to Century's smelting facilities. Century contends that any issues relating to the physical delivery of transmission service over Big Rivers'

system would require Century to seek redress with the Commission and not the Federal Energy Regulatory Commission (“FERC”). Century further contends that the August 7, 2014 Order inappropriately narrows the definition of “service” as that term is defined in KRS 278.010(3)¹ to apply to generation service. Century maintains that the August 7, 2014 Order is inconsistent with the decision in Case No. 2013-00413² in which the Commission expressly retained jurisdiction over any complaints relating to service arising under the electric service agreements approved in that matter. Lastly, Century argues that Big Rivers’ local transmission planning is a key component of, but is not dictated by, MISO’s regional transmission planning efforts in the MTEP. As a transmission service customer that is directly interconnected with Big Rivers’ transmission facilities, Century concludes that it has a substantial interest in Big Rivers’ transmission planning and could assist the Commission in developing facts and issues that are relevant to the Commission’s review of Big Rivers’ IRP.

On August 27, 2014, Big Rivers filed a response to Century’s rehearing petition, arguing that Century fails to show that it is a transmission customer, or any other type of customer, of Big Rivers, and thus does not have the requisite interest in Big Rivers’ rates or service sufficient to entitle Century to intervention in this matter. Big Rivers points out that Century takes transmission service from MISO and thus has no greater interest in Big Rivers’ local transmission planning than the millions of other customers in the MISO footprint. Consistent with the IRP regulation, Big Rivers contends that its recent and planned transmission system additions described in its IRP relate to its plan

¹ KRS 278.010(3) states, in relevant parts, as follows: “Service’ includes any practice or requirement in any way relating to the service of any utility....”

² Case No. 2013-00413, Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order (Ky. PSC Jan. 30, 2014).

to provide safe, reliable, and low-cost power to meet the needs of its native-load members. Big Rivers also contends that its local transmission planning is needed to address North American Electric Corporation compliance issues and that this local transmission planning is distinct from MISO's MTEP process, which is designed to address the reliability of the regional transmission system. Because Century is a customer of the MISO regional transmission system, Big Rivers argues that any concerns that Century may have regarding transmission service reliability relate to the regional transmission system, which are within the province of MISO's planning process and subject to FERC jurisdiction.

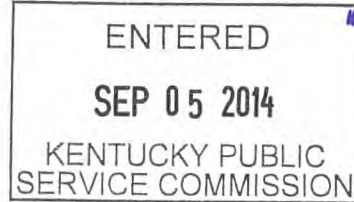
Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Century has failed to establish any grounds to justify granting a rehearing of the August 7, 2014 Order denying Century's request for intervention. As we noted in that Order, Century purchases transmission services from MISO at MISO-tariffed rates that are subject to FERC's jurisdiction, not this Commission's jurisdiction. Century does not purchase any service directly from Big Rivers, be it transmission service or otherwise, and Century is not a customer of Big Rivers. Thus, Century has not established that it has an interest in the rates and/or service of Big Rivers sufficient to warrant intervention in this proceeding. We also find unpersuasive Century's assertion that its contractual right to receive firm transmission service from Big Rivers' transmission facilities is sufficient to entitle it to intervention. We affirm the finding in our August 7, 2014 Order that Century's contractual right to receive firm transmission service from Big Rivers is derived from the electric service agreements entered into by and between Century and Big Rivers and does not constitute an interest that is

sufficiently cognizable to entitle Century to intervene in this proceeding. Any concerns that Century has regarding the quality or quantity of transmission service it receives from Big Rivers are properly raised with MISO and FERC, not in this proceeding.

IT IS THEREFORE ORDERED that Century's petition for rehearing is denied.

By the Commission

Vice Chairman James W. Gardner
dissenting.



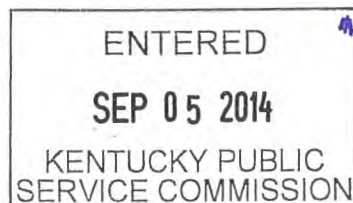
ATTEST:


Executive Director

Dissenting opinion of
Vice Chairman James W. Gardner

I respectfully dissent for the reasons I previously stated in my dissent to the original order dated August 7, 2014.

James W. Gardner, Vice Chairman
Kentucky Public Service Commission
dissenting.



ATTEST:

Executive Director

Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Joe F Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KENTUCKY 40507

Jennifer Black Hans
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CALIFORNIA 94105

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