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RECEIVED
OCT 06 2015
PUBLIC SERVICE COMMISSION

October 5, 2015

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

**Re: 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-_________**

Dear Mr. Derouen:

Enclosed are an original and ten (10) copies of Big Rivers Electric Corporation's application seeking authority to establish regulatory assets to defer certain expenses Big Rivers will incur to comply with the U.S. Environmental Protection Agency's recently published Disposal of Coal Combustion Residuals from Electric Utilities Rule. Please feel free to give me a call if you have any questions.

Sincerely,

TAK

Tyson Kamuf

TAK/lm
Enclosures

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RECEIVED

OCT 06 2015

PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

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| Application of Big Rivers Electric Corporation for Authority to Establish Regulatory Assets for Expenses related to the Coal Combustion Residuals Rule | ) ) ) ) | Case No. 2015-__________ |

## APPLICATION

1. Big Rivers Electric Corporation ("Big Rivers") files this application ("Application") pursuant to KRS 278.030, KRS 278.040, KRS 278.220, and 807 KAR 5:001 Section 14, seeking an order from the Public Service Commission ("Commission") authorizing Big Rivers to establish regulatory assets to defer certain expenses Big Rivers will incur to comply with the U.S. Environmental Protection Agency's recently published Disposal of Coal Combustion Residuals from Electric Utilities rule (the "CCR Final Rule"). In support of this Application, Big Rivers states as follows:

### Introduction

2. Big Rivers is a rural electric cooperative corporation organized pursuant to KRS Chapter 279. Its full name is Big Rivers Electric Corporation. Its mailing address is P.O. Box 24, 201 Third Street, Henderson, Kentucky 42419. Its address for electronic mail service is regulatory@bigrivers.com. 807 KAR 5:001 Section 14(1).

3. Big Rivers owns generating assets and purchases, transmits and sells electricity at wholesale. Its principal purpose is to provide the wholesale electricity requirements of its three distribution cooperative members: Jackson Purchase Energy Corporation, Kenergy Corp., and Meade County Rural Electric Cooperative Corporation (collectively, the "Members"). The

Members in turn provide retail electric service to approximately 114,000 consumer/retail members located in 22 western Kentucky counties: Ballard, Breckenridge, Caldwell, Carlisle, Crittenden, Daviess, Graves, Grayson, Hancock, Hardin, Henderson, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Union and Webster.

4. Big Rivers was incorporated in the Commonwealth of Kentucky on June 14, 1961, and hereby attests that it is currently in good standing in Kentucky. 807 KAR 5:001 Section 14(2).

**Accounting Impacts of the CCR Final Rule**

5. The CCR Final Rule, which was published in the Federal Register on April 17, 2015, and which will become effective October 19, 2015, deals extensively with coal ash storage and disposal. The rule will require Big Rivers to address the eventual permanent closure of its coal ash ponds, and Big Rivers believes it will face significant liabilities with respect to the treatment of the ash ponds at its Green Station ("Green") and at the City of Henderson's Station Two ("Station Two") generating stations upon those stations' retirement from service or closure of the ash ponds. Big Rivers' Coleman Station was idled as of April 17, 2015, the Federal Register publication date for the CCR Final Rule; consequently, there are currently no such CCR-related future liabilities for ash ponds at Coleman Station. Big Rivers' Wilson Station has no coal ash pond; therefore, there are no such CCR-related future liabilities for ash ponds at Wilson Station.

6. As a result of the impact of the CCR Final Rule on the Green and Station Two ash ponds, under the Rural Utilities Service Uniform System of Accounts ("RUS USoA"), Big Rivers is required to recognize an asset retirement obligation ("ARO"). AROs are legal

obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and/or the normal operation of such assets. The RUS USoA explains:

> 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.[1]

7. Financial Accounting Standards Board Accounting Standards Codification ("ASC") Topic 410-20, *Asset Retirement Obligations,* likewise requires AROs to be recognized at fair value when incurred and capitalized as part of the related long-lived asset. The liability is accreted to its present value each period, and the capitalized cost is depreciated over the useful life of the related asset. When the asset is retired, the entity settles the obligation for its recorded amount or incurs a gain or loss.

8. While the specific AROs related to the eventual closure of the Green and Station Two ash ponds will be settled and resolved at a future date, under RUS USoA accounting standards, Big Rivers must begin recognizing depreciation and accretion expense in 2015 due to the publication of the CCR Final Rule. Big Rivers is required to record depreciation expense for the ARO-related assets and accretion expense for the ARO-related liabilities each month. Big Rivers has not yet recorded its ARO-related expenses for calendar year 2015. In its 2015 calendar year end books, Big Rivers will record the entire amount of depreciation and accretion for the months of May 2015 through December 2015. In subsequent years, the depreciation and accretion will be recorded on a monthly basis.

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[1] 7 CFR Section 1767.15, *General Instructions*, subpart (y), *Accounting for asset retirement obligations.*

9. Big Rivers is required to recognize these expenses as of May 2015. Although the effective date of the CCR Final Rule is October 19, 2015, the accounting for the legal obligation is required to be recognized as of April 17, 2015, the publication date of the CCR Final Rule. The projected ash pond closure costs are $8.233 million for Green and $5.134 million for Big Rivers' share of Station Two. Big Rivers projects that, at the end of 2015, the ARO-related depreciation expense will have totaled approximately $0.169 million and the ARO-related accretion expense will have totaled approximately $0.154 million. These are preliminary estimates based on the ARO recognized as of April 30, 2015, and will be subject to prospective adjustment as the underlying cost estimates and timing change based on updated compliance cost estimates.[2] Also, the 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. The actual split between Big Rivers and the City of Henderson will be determined at the time the ash pond is closed based on the City of Henderson's actual capacity reservations over the life of the contract.

## Request for Authority to Establish Regulatory Assets

10. Big Rivers believes the actual ARO settlement costs should be recoverable through appropriate rate mechanisms in the future; however, under present guidance, there will be a mismatch of revenues and expenses in Big Rivers' financial statements for years 2015

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[2] The RUS USoA requires that a utility initially record a liability for an ARO in Account 230 — Asset Retirement Obligations and charge the associated asset retirement costs to the electric utility plant that gave rise to the legal obligation. The RUS USoA requires the asset retirement cost to be depreciated over the useful life of the related asset that gives rise to the obligation. In periods subsequent to the initial recording of the ARO, the RUS USoA requires the utility to recognize the period-to-period changes of the ARO that result from the passage of time due to the accretion of the liability by recording a debit to Account 411.11 — Accretion Expense, and a credit to Account 230. For any subsequent measurement changes to the initial liability for the legal obligation recorded in Account 230 for each specific ARO, the utility is required to recognize said changes as an adjustment to the liability in Account 230 with a corresponding adjustment to the appropriate electric utility plant account. *See* 7 CFR Section 1767.15, *General Instructions*, subpart (y), *Accounting for asset retirement obligations.*

forward because ARO-related accretion and depreciation expense is required to be recognized monthly (beginning in May 2015), even though those expenses have not yet been incorporated into Big Rivers' rates and any such revenue adjustment will not be made until some future period. The ARO-related expenses, therefore, reduce Big Rivers' net margins and cause its true financial performance to be understated in the short-term. Additionally, when Big Rivers' rates are adjusted in the future to incorporate the ash pond closure costs, Big Rivers' revenues and expenses will then be inflated and will cause its financial performance to be overstated. To avoid these outcomes, Big Rivers asks the Commission to authorize the establishment of regulatory assets of approximately $5.310 million and $8.057 million for the ARO-related depreciation expense and accretion expense, respectively.

11. Big Rivers requests that it also 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 impact these amounts. This treatment will appropriately defer recognition of these ARO expenses until recovery of the actual costs is authorized by the Commission at some point in the future. This will ultimately allow Big Rivers to match its revenues and expenses in each relevant accounting period.

12. Additionally, Big Rivers anticipates incurring additional CCR Final Rule-related expenses in 2015 and continuing into the future. Big Rivers must immediately begin analyzing the status of the Green and Station Two ash ponds. That analysis involves the installation of piezometers and ground water wells around the ash ponds at Sebree for the Green and Station Two units. Estimated costs are $100,000 for each pond and will be incurred in 2015. In addition, Big Rivers will commence the engineering studies required in the CCR Final Rule.

This includes seismic, wetlands and stability analysis of the ash ponds and landfills at the Wilson, Green, Station Two, and Coleman sites. Preliminary estimates for these studies are in the range of $700,000 to $1,000,000. Big Rivers must also containerize CCR piles at Wilson Station in 2015. This project is expected to cost approximately $1.4 million. Finally, Big Rivers may incur other as yet unidentified costs that are necessary for compliance. These compliance actions are necessary, reasonable, and prudent, and Big Rivers asks the Commission for authority to accumulate as a regulatory asset and defer for future recovery in appropriate accounts the actual incremental compliance costs incurred as a result of the CCR Final Rule. If approved, Big Rivers will hold the deferred incremental compliance costs in Account No. 182.3, "Other Regulatory Assets," until such time as the Commission considers the method of recovery in a future proceeding.

13. The authority of the Commission to allow utilities to establish regulatory assets "arises under the Commission's plenary authority to regulate utilities under KRS 278.040 and the Commission's authority to establish a system of accounts under KRS 278.220."[3]

14. The Commission has previously authorized other jurisdictional utilities to establish regulatory assets.[4] As the Commission has explained:

> Historically, the Commission has exercised its discretion to approve regulatory assets where a utility has incurred: (1) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (2) an expense resulting from a statutory or administrative directive; (3)

[3] Order dated December 23, 2008, in *In the Matter of: 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*, Case No. 2008-00436, at p. 4.

[4] *See id.;* order dated December 22, 2008, in *In the Matter of: Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2008-00456; order dated December 22, 2008, in *In the Matter of: Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 20088-00457; order dated October 30, 2008, in *In the Matter of: Joint Application of Duke Energy Kentucky, Inc., Kentucky Power Company, Kentucky Utilities Company and Louisville Gas and Electric Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to Certain Payments Made to the Carbon Management Research Group and the Kentucky Consortium for Carbon Storage*, Case No. 2008-00308.

an expense in relation to an industry sponsored initiative; or (4) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.[5]

15. Big Rivers' request to establish regulatory assets for the ARO-related depreciation and accretion expenses falls under the second category, as the ARO-related depreciation and accretion expenses result from the directives of the CCR Final Rule and the accounting requirements of the RUS USoA and ASC Topic 410-20 concerning ARO accounting.

16. Moreover, the Commission has previously approved the establishment of regulatory assets for ARO-related depreciation and accretion expenses.[6] The Commission also recently approved a similar request made by East Kentucky Power Cooperative, Inc., relating to AROs for the depreciation and accretion expenses associated with coal ash disposal and asbestos abatement projects.[7]

17. Finally, Big Rivers requests that the Commission issue a final order in this proceeding no later than January 5, 2016. This timing will allow Big Rivers to complete all internal journal entries as part of the year-end close of its books for the year 2015 no later than January 15, 2016.

18. Based on the foregoing, the Commission should allow Big Rivers to establish regulatory accounts for its AROs and incremental compliance costs associated with the CCR Final Rule.

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[5] Order dated December 23, 2008, in *In the Matter of: 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*, Case No. 2008-00436, at p. 4.

[6] *See* order dated December 23, 2003, in *In the Matter of Application of Louisville Gas and Electric Company for an Order Approving an Accounting Adjustment to be Included in Earnings Sharing Mechanism Calculations for 2003*, Case No. 2003-00426; order dated December 23, 2003, in *In the Matter of Application of Kentucky Utilities Company for an Order Approving an Accounting Adjustment to be Included in Earnings Sharing Mechanism Calculations for 2003*, Case No. 2003-00427.

[7] *See* order dated March 6, 2015, in *In the Matter of the 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*, Case No. 2014-00432.

WHEREFORE, Big Rivers respectfully requests that the Commission enter an order:

1. approving the establishment of a regulatory asset for the income statement impacts- including gains, losses, accretion and depreciation expenses- associated with the ARO-related liabilities arising from the Green and Station Two ash ponds;
2. approving the establishment 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
3. granting all other relief to which Big Rivers may be entitled.

On this the 5th day of October, 2015.

Respectfully submitted,

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