



SULLIVAN, MOUNTJOY,
STAINBACK & MILLER, P.S.C.
Attorneys

Skill. Integrity. Efficiency.

August 2, 2016

RECEIVED

AUG 03 2016

PUBLIC SERVICE
COMMISSION

Via Federal Express

Dr. Talina R. Mathews
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
Approval of Amendment to Stipulation and Recommendation, Case
No. 2016- 00286

Dear Dr. Mathews:

Enclosed for filing on behalf of Big Rivers Electric Corporation are an original and ten copies of an application for approval of an amendment to the Stipulation and Recommendation that was approved by the Kentucky Public Service Commission in the Case Nos. 2014-00230 and 2014-00455. All parties to those cases have signed the amendment, and Big Rivers is serving a copy of the application on those parties as shown on the attached service list. Please feel free to contact me if you have any questions.

Sincerely,

Tyson Kamuf

TAK/mh

cc: DeAnna Speed
Service List

Service List

Hon. Lawrence W. Cook
Assistant Attorney General
1024 Capital Center Dr.
Suite 200
Frankfort, KY 40601-8204

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
Attorneys at Law
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

RECEIVED

AUG 03 2016
PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)
CORPORATION FOR APPROVAL OF)
AMENDMENT TO STIPULATION AND) Case No. 2016- 00286
RECOMMENDATION)

**APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR APPROVAL OF
AMENDMENT TO STIPULATION AND RECOMMENDATION**

Big Rivers Electric Corporation (“Big Rivers”) hereby moves the Kentucky Public Service Commission (the “Commission”) pursuant to 807 KAR 5:056 to approve the Amendment to Stipulation and Recommendation (the “Amendment”) attached hereto as Exhibit

1. In support of this motion, Big Rivers states as follows.

1. Big Rivers Electric Corporation is a member-owned, not-for-profit, generation and transmission cooperative headquartered in Henderson, Kentucky. It was incorporated in the Commonwealth of Kentucky as an electric cooperative corporation pursuant to KRS Chapter 279 on June 14, 1961, and is in good standing in the Commonwealth of Kentucky. Big Rivers’ mailing address is P.O. Box 24, Henderson, Kentucky, 42419-0024. Big Rivers’ street address is 201 Third Street, Henderson, Kentucky, 42419-0024. Its electronic mail address is regulatory@bigrivers.com. 807 KAR 5:001 Section 14(1)-(2).

2. The Commission instituted Case No. 2014-00230, a six-month review of the reasonableness of the application of Big Rivers’ fuel adjustment clause (“FAC”), on August 13, 2014. The Commission granted Kentucky Industrial Utility Customers, Inc.’s (“KIUC’s”) motion to intervene in that proceeding. The Commission delayed issuing a decision in that case at the request of the parties to allow the parties an opportunity to negotiate a potential settlement.

1 3. On February 5, 2015, the Commission instituted Case No. 2014-00455, a two-
2 year review of the reasonableness of the application of Big Rivers' FAC. The Commission
3 consolidated Case Nos. 2014-00230 and 2014-00455, made KIUC a party to Case No. 2014-
4 00455, and granted the Office of the Attorney General's ("AG's") request to intervene in the
5 consolidated proceedings.

6 4. On May 21, 2015, the Commission granted the parties' request in the consolidated
7 proceedings to suspend the remaining items on the procedural schedule while the parties
8 negotiated a settlement. The negotiations resulted in a Stipulation and Recommendation
9 agreement (the "Stipulation"), which the Commission approved by order dated July 27, 2015, in
10 the consolidated proceedings.

11 5. Under the Stipulation, Big Rivers agreed to provide a monthly credit through its
12 FAC, subject to certain limitations, beginning with the August 2015 service month. However,
13 the Stipulation contained a condition requiring the Rural Utilities Service ("RUS") to approve
14 the Stipulation before the Stipulation would become effective. The RUS did not approve the
15 Stipulation until October 23, 2015.

16 6. This unexpected delay in obtaining RUS approval of the Stipulation has created
17 uncertainty as to how the FAC credits will be issued to Big Rivers' Members. Big Rivers, the
18 AG, and KIUC have negotiated a resolution of that uncertainty, as set forth in the attached
19 Amendment. The Amendment (i) extends the monthly credit for three months to compensate for
20 the three months Big Rivers was unable to provide the credit as a result of the delay in obtaining
21 RUS approval; (ii) ensures that if Big Rivers voluntarily changes its FAC methodology to a
22 stacking methodology, which will terminate the monthly credit pursuant to the Stipulation, Big
23 Rivers' Members will still receive the benefit of the credits that would have been provided from

1 August 2015 through October 2015 but for the delay in obtaining RUS approval of the
2 Stipulation; and (iii) extends for three months the AG and KIUC's agreement not to challenge
3 Big Rivers' FAC allocation methodology.

4 7. Under the Stipulation and Big Rivers' current FAC tariff, the last credit will apply
5 to the October 2016 service month. In order for Big Rivers to have sufficient time if the
6 Amendment is approved to file the revised tariff sheets and to ensure no gaps in the credits, Big
7 Rivers respectfully requests the Commission issue a final order in this matter no later than
8 October 1, 2016.

9 8. The Amendment is a fair, just, and reasonable resolution of the uncertainty
10 created by the delay in obtaining RUS approval of the Stipulation, and it allows the parties to
11 receive the benefits they negotiated in the Stipulation that may have been lost as a result of that
12 delay. Big Rivers therefore requests that the Commission approve the Amendment without
13 change or conditions.

14 WHEREFORE, Big Rivers respectfully requests that the Commission enter an order
15 approving the Amendment.

16

1 On this the 2nd day of August, 2016.

2 Respectfully submitted,

3
4
5 

6 _____
7 James M. Miller
8 Tyson Kamuf
9 SULLIVAN, MOUNTJOY, STAINBACK
10 & MILLER, P.S.C.
11 100 St. Ann Street
12 P. O. Box 727
13 Owensboro, Kentucky 42302-0727
14 Phone: (270) 926-4000
15 Facsimile: (270) 683-6694
16 jmillersmsmlaw.com
17 tkamuf@smsmlaw.com

18 *Counsel for Big Rivers Electric Corporation*

19
20
21 **Certificate of Service**

22
23 I certify that a true and accurate copy of the foregoing was served by first class mail or by
24 overnight courier upon the persons listed on the accompanying service list, on or before the date
25 the foregoing is filed with the Kentucky Public Service Commission.

26
27 On this the 2nd day of August, 2016,

28
29 

30 _____
31 *Counsel for Big Rivers Electric Corporation*

AMENDMENT TO STIPULATION AND RECOMMENDATION

This Amendment to Stipulation and Recommendation (“*Amendment*”) is entered into this 1st day of August, 2016, by and between Big Rivers Electric Corporation (“*Big Rivers*”), the Office of the Attorney General (“*AG*”), and Kentucky Industrial Utility Customers, Inc. (“*KIUC*”) (collectively, the “*Signatory Parties*”) in the proceedings involving Big Rivers that are the subject of this Amendment, as set forth below:

WITNESSETH:

WHEREAS, pursuant to 807 KAR 5:056, the Kentucky Public Service Commission (“*Commission*”) established Case No. 2014-00230 to review and evaluate the reasonableness of the application of Big Rivers’ fuel adjustment clause (“*FAC*”) for the six-month period that ended on April 30, 2014, and the Commission established Case No. 2014-00455 to review and evaluate the reasonableness of the application of Big Rivers’ FAC for the two-year period that ended on October 31, 2014, and consolidated it with Case No. 2014-00230;

WHEREAS, the Commission granted the AG and KIUC full intervention in those proceedings;

WHEREAS, the Signatory Parties entered into a Stipulation and Recommendation, which was approved by the Commission by order dated July 27, 2015, and by the Rural Utilities Service (“*RUS*”) on October 23, 2015;

WHEREAS, under the Stipulation and Recommendation, Big Rivers agreed to provide a monthly credit through its FAC, subject to certain limitations, beginning with the August 2015 service month;

WHEREAS, an unexpected delay in obtaining RUS approval of the Stipulation and Recommendation created uncertainty as to how the FAC credits would be issued to Big Rivers' customers; and

WHEREAS, the Signatory Parties desire to enter into this Amendment to resolve that uncertainty.

NOW, THEREFORE, for and in consideration of the premises and terms and conditions set forth herein, the Signatory Parties agree as follows:

1. Paragraph 1 of the Stipulation and Recommendation is deleted and replaced with the following paragraph:

Big Rivers will credit \$311,111.11 (the "FAC Credit") each month through its FAC to its Members beginning on the wholesale invoices issued for November 2015 consumption. The FAC Credits shall cease upon the first to occur of the following:

- (a) The date of the fifteenth FAC Credit;
- (b) the effective date of any Commission order ordering a change in the methodology Big Rivers uses to allocate fuel costs to off-system sales for purposes of calculating FAC charges;
- (c) the effective date of any Commission order ordering a refund of amounts collected through Big Rivers' FAC on the basis of the methodology Big Rivers uses to allocate fuel costs to off-system sales; and
- (d) if Big Rivers voluntarily changes its FAC methodology to a stacked-cost methodology effective prior to November 1, 2016, the FAC Credits shall cease after the third monthly payment after the effective date of the change to the FAC methodology.

Any cessation of FAC Credits under (b) or (c) shall take effect beginning with the month in which that change is effective.

2. Paragraph 3 of the Stipulation and Recommendation is deleted and replaced with the following paragraph:

The AG and KIUC each agree not to contest, seek a change in, or oppose the manner in which Big Rivers allocates FAC costs between native load and off-system sales in any Commission proceeding initiated prior to February 1, 2017, or for any FAC review period prior to February 1, 2017, but shall not be prohibited in any respect from: (a) raising issues related to the manner in which Big Rivers allocates FAC costs between native load and off-system sales in FAC proceedings initiated by Commission order after February 1, 2017, for review periods after February 1, 2017, if Big Rivers has not changed its FAC calculation methodology to an hourly stacked-cost methodology; or (b) contesting the appropriateness of the changes proposed by Big Rivers to its FAC calculation methodology in the 2016 Rate Case or in any other proceeding initiated after February 1, 2017.

3. The Signatory Parties agree that the foregoing amendments and agreements represent a fair, just and reasonable resolution of the issues addressed herein, and request that the Commission approve the Amendment.

4. The Signatory Parties agree that, following the execution of this Amendment, they will cause the Amendment to be filed with the Commission together with a request that the Commission consider and approve the Amendment. The Signatory Parties agree that this Amendment is subject to the acceptance of and approval by the Commission, and they agree to act in good faith and to use their best efforts to seek the Commission's acceptance and approval of this Amendment. If the Commission approves this Amendment without modification, the

Signatory Parties each waive any right to appeal or to file an action seeking review of or to seek reconsideration of any order of the Commission issued in accordance with this Amendment.

5. The Signatory Parties agree that if the Commission does not accept and approve this Amendment in its entirety and unchanged, or if the Commission imposes conditions on its acceptance and approval that are unacceptable to Big Rivers, then:

(a) This Amendment shall be void and withdrawn by the Signatory Parties hereto from any further consideration by the Commission, and none of the Signatory Parties shall be bound by any of the provisions herein, provided that none of the Signatory Parties is precluded from advocating any position contained in this Amendment; and

(b) Neither the terms of the Amendment nor any matters raised during the negotiations of this Amendment shall be binding on any of the Signatory Parties to this Amendment or be construed against any of the Signatory Parties.

6. Subsequent to obtaining Commission approval of this Amendment, Big Rivers shall cause the tariff amendments attached hereto as Exhibit A to be filed with the Commission. The Signatory Parties recommend that the Commission allow the tariff amendments to become effective without suspension or change.

7. The Signatory Parties hereto agree that this Amendment shall inure to the benefit of and be binding upon the Signatory Parties hereto, their successors and assigns.

8. The Signatory Parties hereto agree that this Amendment constitutes the complete agreement and understanding among the Signatory Parties hereto, and any and all oral statements, representations or agreements made prior hereto or contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Amendment.

9. The Signatory Parties hereto agree that, for purposes of this Amendment only, the terms of this Amendment are based upon the independent analyses of the Signatory Parties, reflect a fair, just and reasonable resolution of the issues herein, and are the product of compromise and negotiation.

10. The Amendment shall not have any precedential value in this or any other jurisdiction.

11. Counsel for KIUC warrants that he or she has informed, advised, and consulted with the KIUC members participating in these proceedings in regard to the contents and the significance of this Amendment, and based upon the foregoing, is authorized to execute this Amendment on behalf of those clients. The other Signatory Parties hereto warrant that they have informed, advised, and consulted with their respective clients in regard to the contents and the significance of this Amendment, and based upon the foregoing are authorized to execute this Amendment on behalf of those clients.

12. The Signatory Parties agree that this Amendment being a product of negotiation among all Signatory Parties, no provision of this Amendment shall be strictly construed in favor of or against any party.

13. The Signatory Parties hereto agree that this Amendment may be executed in multiple counterparts.

The Attorney General of Kentucky, by and through
his Office of the Rate Intervention Division

By: 


Kentucky Industrial Utility Customers, Inc.

By: _____

Big Rivers Electric Corporation

By: _____

The Attorney General of Kentucky, by and through
his Office of the Rate Intervention Division

By:  _____

Kentucky Industrial Utility Customers, Inc.

By: _____

Big Rivers Electric Corporation

By: _____

The Attorney General of Kentucky, by and through
his Office of the Rate Intervention Division

By: _____

Kentucky Industrial Utility Customers, Inc.

By: _____

Big Rivers Electric Corporation

By: Robert W. Boney

**Big Rivers Electric Corporation
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Standard Electric Rate Schedules – Terms and Conditions

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[T] Deleted: 11-12-2015

Deleted: November 12, 2015
 Deleted: October 23, 2015
 Deleted: Issued by Authority of an Order of the Commission, dated July 27, 2015, in Case Nos. 2014-00230 and 2014-00455

DATE OF ISSUE _____
 DATE EFFECTIVE _____

 /s/ Robert W. Berry

ISSUED BY: Robert W. Berry,
 President and Chief Executive Officer
 Big Rivers Electric Corporation, 201 Third Street, Henderson, KY 42420



Your Touchstone Energy Cooperative
(Name of Utility)

For All Territory Served By
Cooperative's Transmission System
P.S.C. KY. No. 27
Original SHEET NO. 62
CANCELLING P.S.C. KY. No. 26
Original SHEET NO. 60

RATES, TERMS AND CONDITIONS – SECTION 2

FAC - Fuel Adjustment Clause:

Applicability:

To all Big Rivers' Members.

Availability:

The Fuel Adjustment Clause ("FAC") is a mandatory rider to all wholesale sales by Big Rivers to its Members, including Base Energy sales to the Smelters under the Smelter Agreements but excluding Supplemental and Back-Up Energy sales to the Smelters under those two Agreements.

Rate:

The FAC shall provide for periodic adjustment per kWh of sales when the unit cost of fuel [F(m)/S(m)] is above or below the base unit cost of \$0.020932 per kWh [F(b)/S(b)]. The current monthly charges shall be increased or decreased by the product of the kWh furnished during the current month and the FAC factor for the preceding month where the FAC factor is defined below:

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

Where "F" is the expense of fossil fuel in the base (b) and current (m) periods; and S is sales in the base (b) and current (m) periods as defined in 807 KAR 5:056, all defined below:

Definitions:

Please see Section 4 for definitions common to all tariffs.

- (1) Fuel cost (F) shall be the most recent actual monthly cost of:
 - (a) Fossil fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants, plus the cost of fuel which would have been used in plants suffering forced generation or transmission outages, but less the cost of fuel related to substitute generation, *plus*

DATE OF ISSUE May 15, 2014
DATE EFFECTIVE February 1, 2014

/s/ Billie J. Richert

ISSUED BY: Billie J. Richert,
Vice President Accounting, Rates, and
Chief Financial Officer
Big Rivers Electric Corporation, 201 Third Street, Henderson, KY 42420
*Issued by Authority of an Order of the Commission,
dated April 25, 2014, in Case No. 2013-00199*



Your Touchstone Energy® Cooperative
(Name of Utility)

For All Territory Served By
Cooperative's Transmission System
P.S.C. KY. No. 27

~~Second Revised~~ SHEET NO. 63

CANCELLING P.S.C. KY. No. 27

~~First Revised~~ SHEET NO. 63

Deleted: First Revised

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RATES, TERMS AND CONDITIONS – SECTION 2

FAC - Fuel Adjustment Clause – (continued)

Definitions (continued):

- (b) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (c) below, but excluding the cost of fuel related to purchases to substitute the forced outages, plus
- (c) The net energy cost of energy purchases, exclusive of capacity or demand charges (irrespective of the designation assigned to such transaction) when such energy is purchased on an economic dispatch basis and exclusive of energy purchases directly related to Supplemental and Back-Up Energy sales to the Smelters. Included therein may be such costs as the charges for economy energy purchased and the charges as a result of scheduled outages, also such kinds of energy being purchased by the buyer to substitute for its own higher cost energy; and less
- (d) The cost of fossil fuel, as denoted in (1)(a) above, recovered through inter-system sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis; and less
- (e) A monthly credit of \$311,111.11 for each month from the November 2015 service month, through the January 2017 service month, except as follows:
 - (i) ~~If the Commission orders Big Rivers to change its FAC methodology to a stacking methodology prior to February 1, 2017, or if Big Rivers is ordered to refund amounts collected through its FAC based on its allocation methodology prior to February 1, 2017, the monthly credit shall be zero.~~
 - (ii) ~~If Big Rivers voluntarily changes its FAC methodology to a stacking methodology effective prior to November 1, 2016, the monthly credit shall be \$311,111.11 for the first three service months the change is effective, after which the monthly credit shall be zero.~~

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Deleted: In all other months, the monthly credit shall be zero.¶

Deleted: All fuel costs shall be based on weighted average inventory costing.¶

¶ Forced outages are all non-scheduled losses of generation or transmission which require substitute power for a continuous period in excess of six (6) hours. Where forced outages are not a result of faulty equipment, faulty manufacture, faulty design, faulty installations, faulty operation, or faulty maintenance, but are Acts of God, riot, insurrection or acts of public enemy, the utility may, upon proper showing, with the approval of the Commission, include the fuel cost of substitute energy in the adjustment.¶

Deleted: November 12, 2015

Deleted: October 23, 2015

Deleted: Issued by Authority of an Order of the Commission,¶ dated July 27, 2015, in Case Nos. 2014-00230 and ¶ ... [1]

DATE OF ISSUE
DATE EFFECTIVE

/s/ Robert W. Berry

ISSUED BY: Robert W. Berry,
President and Chief Executive Officer
Big Rivers Electric Corporation, 201 Third Street, Henderson, KY 42420



Your Touchstone Energy® Cooperative
(Name of Utility)

For All Territory Served By
Cooperative's Transmission System
P.S.C. KY. No. 27

Second Revised SHEET NO. 64

Deleted: First Revised

CANCELLING P.S.C. KY. No. 27

First Revised SHEET NO. 64

Deleted: Original

RATES, TERMS AND CONDITIONS – SECTION 2

FAC - Fuel Adjustment Clause – (continued)

Definitions (continued):

All fuel costs shall be based on weighted average inventory costing.

[T]

(2) Forced outages are all non-scheduled losses of generation or transmission which require substitute power for a continuous period in excess of six (6) hours. Where forced outages are not a result of faulty equipment, faulty manufacture, faulty design, faulty installations, faulty operation, or faulty maintenance, but are Acts of God, riot, insurrection or acts of public enemy, the utility may, upon proper showing, with the approval of the Commission, include the fuel cost of substitute energy in the adjustment.

(3) Sales (S) shall be kWh sold, excluding inter-system sales and Supplemental and Back-Up Energy sales to the Smelters. Where for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to the sum of:

- (i) generation, *plus*
- (ii) purchases, *plus*
- (iii) interchange in, *less*
- (iv) energy associated with pumped storage operations, *less*
- (v) inter-system sales referred to in subsection (1)(d) above, *less*
- (vi) total system losses.

Utility-used energy shall not be excluded in the determination of sales (S).

(4) The cost of fossil fuel shall include no items other than the invoice price of fuel less any cash or other discounts. The invoice price of fuel includes the cost of the fuel itself and necessary charges for transportation of the fuel from the point of acquisition to the unloading point, as listed in Account 151 of the FERC Uniform System of Accounts for Public Utilities and Licenses.

(5) Current (m) period shall be the second month preceding the month in which the FAC factor is billed.

Deleted: November 12, 2015

Deleted: October 23, 2015

Deleted: Issued by Authority of an Order of the Commission, dated July 27, 2015, in Case Nos. 2014-00230 and 2014-00455

DATE OF ISSUE _____
DATE EFFECTIVE _____

/s/ Robert W. Berry

ISSUED BY: Robert W. Berry,
President and Chief Executive Officer
Big Rivers Electric Corporation, 201 Third Street, Henderson, KY 42420