

SULLIVAN, MOUNTJOY, STAINBACK & MILLER PSC

ATTORNEYS AT LAW

Ronald M. Sullivan
Jesse T. Mountjoy
Frank Stainback
James M. Miller
Michael A. Fiorella
William R. Dexter
Allen W. Holbrook
R. Michael Sullivan
P. Marcum Willis
Bryan R. Reynolds
Tyson A. Kamuf
Mark W. Starnes
Julia B. Hawes

June 29, 2005

RECEIVED

JUN 30 2005

PUBLIC SERVICE
COMMISSION

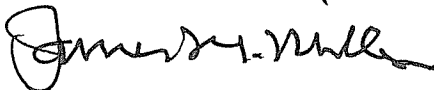
Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: Big Rivers Electric Corporation, Case No. ~~99-360~~ 2005-00275

Dear Ms. O'Donnell:

Enclosed are an original and ten copies of the Report of Big Rivers Electric Corporation, regarding the operation of its Rate Schedules 7 and 10, that is required to be filed by Big Rivers in this matter by June 30, 2005. This Report also contains a motion that the pilot rate program currently in effect be extended through December 31, 2008. I certify that a copy of this filing has been today mailed to the persons identified on the attached service list.

Sincerely yours,



James M. Miller

JMM/ej
Enclosures

cc: Service List
Hon. Elizabeth Blackford
David Spainhoward
Mark A. Bailey
Burns E. Mercer
G. Kelly Nuckols

Telephone (270) 926-4000
Telecopier (270) 683-6694

100 St. Ann Building
PO Box 727
Owensboro, Kentucky
42302-0727

**SERVICE LIST
CASE NO. 99-360**

Frank N. King, Jr., Esq.
Dorsey King Gray & Norment
318 Second Street
Henderson, Kentucky 42420

Counsel for Kenergy and Meade County RECC

W. David Denton, Esq.
Denton & Keuler
P.O. Box 929
Paducah, KY 42002-0929

Counsel for Jackson Purchase Energy Corporation

1 COMMONWEALTH OF KENTUCKY
2 BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
JUN 30 2005
PUBLIC SERVICE
COMMISSION

3
4 In the Matter of:

5
6 THE TARIFF FILING OF BIG RIVERS ELECTRIC)
7 CORPORATION TO REVISE THE LARGE)
8 INDUSTRIAL CUSTOMER RATE SCHEDULE)

CASE NO. ~~99-360~~
2005-00275

9
10
11 **PILOT PROGRAM ASSESSMENT REPORT AND MOTION**
12

13
14 Big Rivers Electric Corporation ("Big Rivers") files this assessment report on the
15 operation of its Rate Schedule 10, and moves the Public Service Commission ("Commission") to
16 extend the expiration date of the tariff for another three years, to December 31, 2008. Big
17 Rivers' large industrial customer rate schedule (Rate Schedule 10) was approved by the
18 Commission in this case by order dated February 25, 2000 (copy attached). Rate Schedule 10
19 contemplates that new or expanded large industrial load will be served at market prices, absent
20 special, negotiated arrangements approved by the Commission.

21 Big Rivers also sought, and the Commission granted in 2000, changes in Big Rivers'
22 tariffs that effectively closed its existing Rate Schedule 7 for certain new or expanded loads of
23 direct serve large industrial customers of Big Rivers' members. In approving those tariff
24 changes on a pilot basis, the Commission required that Big Rivers file, no later than June 30,
25 2002, a report assessing the first two years of the pilot program.

26 Big Rivers filed that assessment report on June 29, 2002, and moved the Commission to
27 extend the pilot program for another three years. The Commission entered an order on October
28 1, 2002 (copy attached), accepting Big Rivers' report, finding that "Big Rivers' pilot Rate
29 Schedule 10 is reasonable, has functioned property during its first 2 years and should be

1 continued for an additional 3 years, through December 31, 2005 ” and requiring another
2 assessment report from Big Rivers on or before June 30, 2005. This filing reports on Big Rivers’
3 experience with Rate Schedule 10 since Big Rivers’ last report, and seeks extension of that tariff.

4 The pilot program initially approved by the Commission in 2000, and extended by the
5 Commission in 2002, continues to work well. While no new large industrial customers have
6 taken service under this rate schedule, Big Rivers and its Member Cooperatives (“Members”)
7 desire to continue to preserve the Base Power to serve the existing loads as well as the future
8 loads of its Member’s existing customers. As was anticipated in Big Rivers’ original filing, Rate
9 Schedule 10 allows Big Rivers the flexibility to manage the business risk and potential adverse
10 rate impact to its Members associated with a large load demanding service under Rate Schedule
11 7.

12 Since the last assesement report to the Commission on June 29, 2002, Big Rivers’
13 Members have had several inquiries regarding service and rates. Those inquiries have ranged
14 from an 11 MW load to a 135 MW load. A partial listing of those inquiries is as follows:

Industry or Type	Max. Demand	Date
Lynx Project	20 MW	April, 2004
Manufacturing	30 MW	September, 2003
Paper	18 MW	August, 2003
Aircraft	12 MW	June, 2003
Auto	25 MW	February, 2003
Unknown	65 MW	August, 2003
Industrial Park	12 MW	February, 2003
Project Eagle	11 MW	May, 2003
Chemical	135 MW	August, 2003

15
16
17
18
19
20
21
22
23
24
25
26 As was the situation when the Commission initially approved Rate Schedule 10, in most
27 cases where negotiations take place with new or expanding loads, it will be feasible for Big
28 Rivers to make a proposal that incorporates some existing base power as well as market power.

1 As the Commission knows from prior proceedings in this case, Big Rivers made the negotiation
2 option a part of Rate Schedule 10 to give Big Rivers the option to leverage its low cost system
3 resources with market products, selected solely by Big Rivers, to ultimately deliver an attractive
4 package for a large industrial consumer without adversely affecting the retail customers who
5 have expectations that they will enjoy the benefits of Big Rivers' 1998 reorganization for an
6 extended period into the future. Big Rivers has made proposals to its Members for those
7 industries listed above using a combination of Base Power and market power. In two wholesale
8 contracts approved by the Commission for service to Kenergy to retain large industrial
9 customers,¹ Big Rivers has used Rate Schedule 10 as the contractual default tariff. Rate
10 Schedule 10 is the basis on which those customers' rates will be set following the expiration or
11 other termination of their existing service agreements.

12 Rate Schedule 10 gives Big Rivers critical leverage to negotiate rates and terms of
13 service with new or expanding industrial loads. Without this leverage, other rates charged by
14 Big Rivers to its Members could be adversely affected.

15 Big Rivers' 2003 load forecast indicates that Big Rivers has surplus power through 2015.
16 See attached chart. But should one or more of the industries listed above decide to locate in Big
17 Rivers' Members' service territories, without Rate Schedule 10 the surplus could be
18 instantaneously eliminated. For the same reasons the Commission initially approved, and
19 subsequently extended Rate Schedule 10, the Commission should extend the Rate Schedule 10
20 program for an additional three years. Big Rivers accordingly moves that the Commission
21 continue this pilot program for an additional three years, through December 31, 2008, with a


¹ The large industries are Willamette Industries, Inc. (now Weyerhaeuser Corporation) and Commonwealth Aluminum Lewisport, LLC.

1 requirement that Big Rivers report to the Commission on Big Rivers' continuing experience
2 under that tariff no later than June 30, 2008.

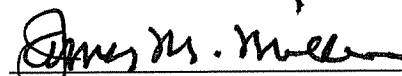
3 WHEREFORE, Big Rivers requests that its 2005 assessment report be accepted, that the
4 Commission grant its motion extending the Rate Schedule 10 pilot program for another three
5 years (through December 31, 2008), that Big Rivers be required to assess its continuing
6 experience with Rate Schedule 10 in a report to be filed with the Commission no later than June
7 20, 2008, and for all other relief to which it may appear entitled.

8 Respectfully submitted, this the 29th day of June, 2005.

9
10 BIG RIVERS ELECTRIC CORPORATION

11
12 
13 _____
14 David A. Spainhoward
15 Vice President, Contract Administration and
16 Regulatory Affairs
17

18
19
20 SULLIVAN, MOUNTJOY, STAINBACK
21 & MILLER, P.S.C.

22
23 
24 _____
25 James M. Miller
26 100 St. Ann Street, P.O. Box 727
27 Owensboro, Kentucky 42302-0727
28 (270) 926-4000
29

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF BIG RIVERS)
ELECTRIC CORPORATION TO REVISE) CASE NO. 99-360
THE LARGE INDUSTRIAL CUSTOMER)
RATE SCHEDULE)

O R D E R

On August 27, 1999, Big Rivers Electric Corporation ("Big Rivers") filed for approval of a new rate schedule ("Rate Schedule 10") for direct serve customers of its three member cooperatives with new or expanded peak loads of 5 Megawatts ("MW") or greater. Rate Schedule 10, as proposed, would apply to any direct serve customer that initiated service after August 31, 1999 or expanded an existing load, in aggregate, by 5 MW or greater above its peak load for the 12 months ending August 31, 1999. Big Rivers proposed to effectively "close" its existing tariff for such direct serve customers, Rate Schedule 7, so that only those customers whose loads do not exceed by 5 MW or more their peak load during the 12 months prior to September 1, 1999, would continue to be served thereunder.

Big Rivers' member cooperatives, Kenergy Corporation, Jackson Purchase Energy Corporation, and Meade County Rural Electric Cooperative Corporation, were granted leave to intervene herein. The three member cooperatives all expressed their support for the proposed tariff. All direct serve customers were notified of Big Rivers' proposed Rate Schedule 10 but none chose to intervene or file comments. An informal

conference was held in this proceeding on November 23, 1999, attended by Big Rivers, its three member cooperatives and Commission Staff. A formal hearing in this matter was held on January 10, 2000.

BACKGROUND

Since July of 1998, Big Rivers has obtained the power requirements necessary to meet the loads of its member cooperatives' retail customers from two primary sources: a Power Purchase Agreement with LG&E Energy Marketing ("LEM"); and a contract with the Southeastern Power Administration ("SEPA"). Collectively, these two power sources are referred to as "Base Power." Under both sources, Big Rivers receives a specified, limited quantity of power which, as of 1998, was forecasted to meet its total system requirements for several years. While it was anticipated that additional power resources might be required to supply portions of these loads at some future point in time, Big Rivers and its member cooperatives intended to preserve the Base Power to serve the existing and foreseeable loads of its member cooperatives' existing customers.

The loads of Big Rivers' member cooperatives have experienced greater growth than was anticipated when Big Rivers entered into the LEM agreement in July 1998. This growth has resulted in Big Rivers' power supply requirements being forecasted to exceed its power supply resources within the next 2-3 years based on normal weather conditions and no new industrial loads. With the known load additions scheduled this year by existing industrial customers, a repeat of the hotter-than-normal 1999 temperatures will create the potential that Big Rivers' load could exceed its power supply during the summer of 2000.

DISCUSSION AND ANALYSIS

Big Rivers is in a unique situation among the major electric utilities regulated by this Commission. It has recently emerged from bankruptcy and, as a cooperative, has no shareholders to absorb increased purchased power costs that are not recovered in rates. It is dependent upon two unaffiliated sources of power supply, both of which are limited in quantity. It began this power supply arrangement at approximately the same time that the wholesale power markets began to experience significant volatility in the pricing and availability of power, both short-term and long-term, due to shortages of power during peak times in the summer of 1998. For these reasons, Big Rivers has proposed to segregate its load into two components for rate-setting purposes. These special circumstances have caused the Commission to consider unique solutions that are applicable only to Big Rivers' situation. Thus, the Commission's decision in this proceeding is recognizing the unique circumstances faced by a single regulated electric utility, rather than establishing a precedent for all regulated electric utilities.

Big Rivers and its member cooperatives desire to preserve the benefits of its Base Power for those customers and the associated loads for which those benefits were intended when it emerged from bankruptcy. Based on current and foreseeable short-term market conditions in the wholesale power markets, Big Rivers anticipates that any new sources of power supply will cost more than its Base Power which is already reflected in its existing "system average cost-based rates." In order to preserve the price benefits of its Base Power for its existing customers, Big Rivers seeks to avoid filing a general rate case which would pass along the higher cost of a new source of power supply to all existing customers.

Big Rivers proposes to segregate its industrial load into two components. Existing industrial customers with expansions of less than 5 MW would continue to be served under the Rate Schedule 7. The proposed Rate Schedule 10 would be for new industrial loads, or expanded loads of existing industrial customers, of 5 MW or more. Rate Schedule 10 would reflect market-based rates that would be the product of new power supply arrangements negotiated by Big Rivers on behalf of those customer loads. Under this approach, any cost increase attributable to these new power supply arrangements would be charged to the new or expanded loads that are primarily responsible for increasing Big Rivers' overall system load to a level greater than its total system power supply resources.

Big Rivers' proposal presents the Commission with a change in the manner in which increased costs incurred to serve load growth are reflected in rates. Historically, utilities have proposed, and the Commission has required, that the increased cost of new capacity constructed to serve load growth be added to the utility's existing average cost, resulting in a higher system average cost that is spread among all customers. Typically, a utility not in Big Rivers' financial position and with control of its own generating capacity would have ultimate control of how it would meet load growth and would not have the same concerns that Big Rivers has regarding the availability and price of additional power supply resources.

However, the situation that Big Rivers faces does not include the circumstances that have been historically typical for either Big Rivers or this Commission. We have thoroughly investigated the proposed tariff and the issues related thereto and find that, in this instance, it should be approved on a temporary, pilot basis. The pilot will be

effective for a period of approximately three years, from the date of this Order until December 31, 2002. This time-frame is based on Big Rivers' assessment of when the wholesale power market might be expected to change as a result of additional capacity anticipated to be added to the regional grid in the form of Exempt Wholesale Generators, or "merchant" plants that are under consideration by many companies. As a pilot, Big Rivers will be required to file periodic reports with the Commission to facilitate monitoring the impacts of the tariff as they materialize.¹

The Commission will review the pilot before the end of the trial period, and will require Big Rivers to submit an assessment report of the pilot six months prior to the end of the pilot. The assessment report should provide a detailed review of the first two years of the pilot phase of Rate Schedule 10. In addition, if wholesale power market conditions change significantly during the pilot period, either Big Rivers or the Commission can initiate a proceeding to review the pilot tariff.

One other issue that arose during the course of this proceeding was the concern that the customers served under Rate Schedule 10 might have a role in selecting their wholesale source of power supply. This is a matter of significant concern to the Commission, as Kentucky has not approved any form of electric restructuring or retail wheeling which would allow customers to choose their source of supply. Big Rivers represented, both through data responses and at the formal hearing, that it, and not the customers, would be ultimately responsible for the decisions to contract for power to

¹ As a supplement to its Annual Report, Big Rivers will file a schedule detailing all activity under Rate Schedule 10. This schedule will show each customer served under Rate Schedule 10, the size of the load served, the source(s) of power used to serve that load, the cost of the power from each source, and the total revenues generated by Rate Schedule 10.

provide service to customers under Rate Schedule 10. Based on these representations, the Commission will approve this pilot tariff.

IT IS THEREFORE ORDERED that:

1. Big Rivers' proposed Rate Schedule 10 and the Revised Rate Schedule 7 are approved on a pilot basis and shall be effective for service rendered on and after the date of this Order.

2. The pilot period shall run through December 31, 2002, unless terminated earlier by the Commission upon a finding of good cause. If the pilot continues through February 2002, Big Rivers shall file, no later than June 30, 2002, an assessment report of the first two years of the pilot.

3. Big Rivers shall be under a continuing obligation to inform the Commission in a timely manner of any significant change in circumstances that would necessitate a review of the tariffs approved herein.

4. The Commission shall review the pilot prior to June 30, 2002 upon a request by Big Rivers, a complaint, or the Commission's own motion if future changes in the wholesale power markets indicate that the findings upon which this Order is based are no longer valid.

Done at Frankfort, Kentucky, this 25th day of February, 2000.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION TO EXTEND)
THE PILOT PROGRAM FOR ITS LARGE) CASE NO. 2002-00272
INDUSTRIAL EXPANSION TARIFF)

O R D E R

On July 1, 2002, Big Rivers Electric Corporation ("Big Rivers") filed a report assessing the results of the first 2 years of a 3-year pilot industrial tariff for new or expanded loads of 5 megawatts ("MW") or more ("Qualifying Loads"). Big Rivers also requested that the pilot, which was approved for 3 years in Case No. 1999-00360,¹ be extended for an additional 3 years, through December 31, 2005. The pilot was tariffed as Rate Schedule 10 and requires Qualifying Loads on Big Rivers' system to be served at market-based rates, absent special, negotiated arrangements approved by the Commission, in lieu of being served under Rate Schedule 7 at cost-based rates.

Since implementing Rate Schedule 10, Big Rivers' member cooperatives have received several inquiries regarding service from prospective industrial customers with Qualifying Loads ranging from 6 MW to 125 MW. However, no new or expanded loads have actually been served under Rate Schedule 10. Big Rivers' 2001 load forecast indicates that it has surplus power through 2015, but that surplus could be quickly eliminated if one or two industrial customers with very large loads locate in the territories of Big Rivers' member cooperatives. In order to preserve this surplus power for use by the existing as well as future loads of its member cooperatives' existing customers, Big

¹ Case No. 1999-00360, The Tariff Filing of Big Rivers Electric Corporation to Revise the Large Industrial Customer Rate Schedule, Order dated February 25, 2000.

Rivers requests to continue the pilot Rate Schedule 10 for 3 additional years, through December 31, 2005.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that Big Rivers' pilot Rate Schedule 10 is reasonable, has functioned properly during its first 2 years and should be continued for an additional 3 years, through December 31, 2005.

To facilitate our future review of this extended pilot and to determine whether it should continue beyond 2005, Big Rivers should file, by June 30, 2005, a report assessing the pilot through December 31, 2004.

IT IS THEREFORE ORDERED that:

1. Big Rivers' industrial pilot Rate Schedule 10 shall continue in effect as a pilot for an additional 3 years, through December 31, 2005.

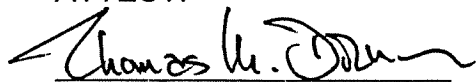
2. Within 20 days from the date of this Order, Big Rivers shall file revised Rate Schedules 7 and 10 showing the date of issue and that they were issued by authority of this Order.

3. Big Rivers shall file, by June 30, 2005, a report assessing the pilot through December 31, 2004.

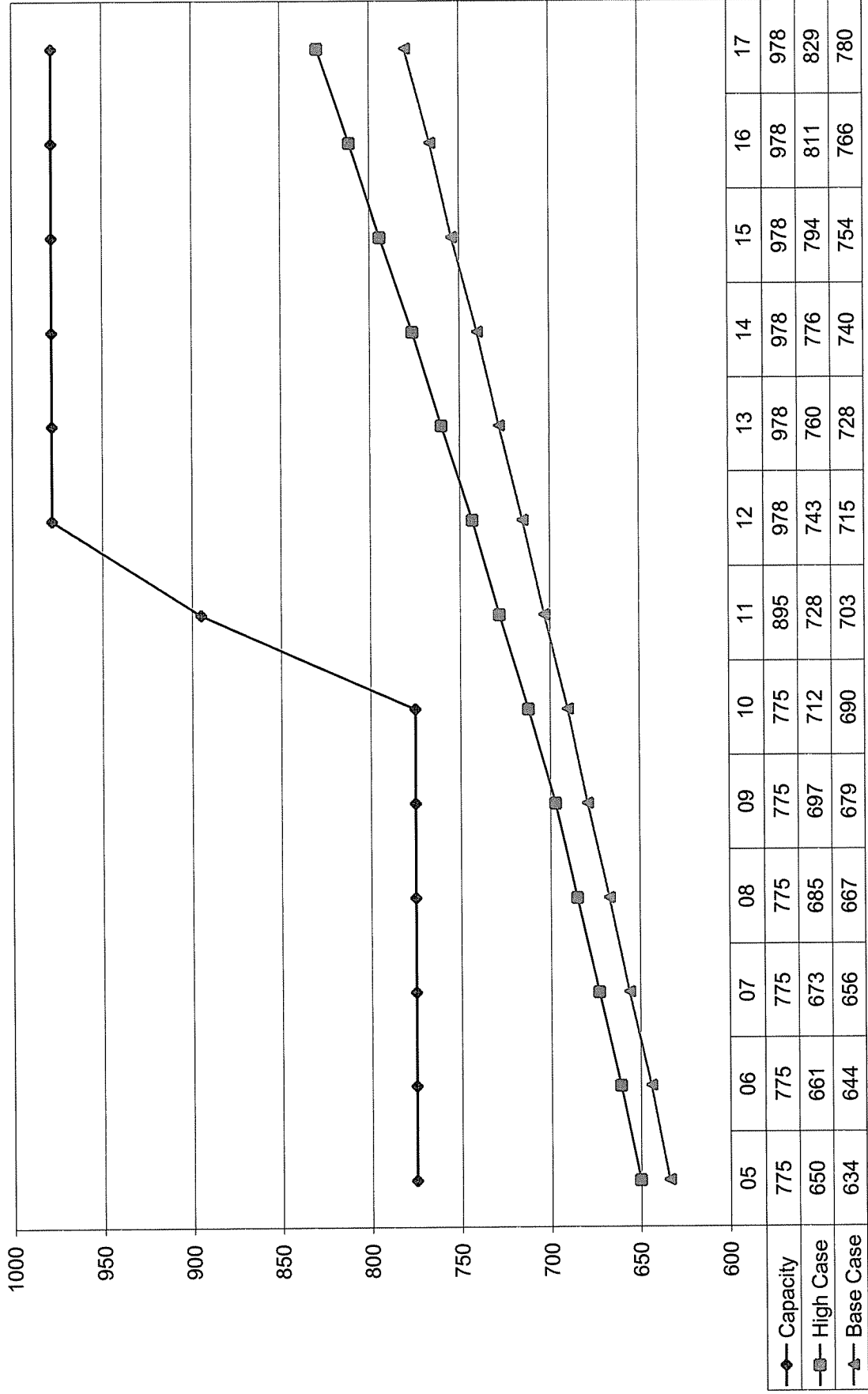
Done at Frankfort, Kentucky, this 1st day of October, 2002.

By the Commission

ATTEST:


Executive Director

Big Rivers Capacity vs Load ¹



¹ The 2003 Load Forecast is the latest, completed load forecast. The 2005 Load Forecast is being developed, but the results are not yet complete. The 2003 Load Forecast forecasts the capacity that will be needed for Big Rivers to meet the load requirements of its three members under their all-requirements contracts with Big Rivers.