

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION, INC.)
FOR AN ADJUSTMENT OF RATES)

FEB 1 2013
PUBLIC SERVICE
COMMISSION
Case No. 2012-00635

ATTORNEY GENERAL'S BRIEF REGARDING
KIUC'S MOTION FOR CORRECTED NOTICE

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and states as follows for his brief regarding the motion of Kentucky Industrial Utility Customers ["KIUC"] for a Corrected Notice in the above-styled matter.

On January 23, 2013, KIUC filed its Motion for a Corrected Notice ["Motion"], claiming that the notice Big Rivers Electric Corporation ["Big Rivers"] provided to its members and customers of the impact to customers of the proposed base rate increases, as set forth in Big Rivers' application filed in this matter, was essentially defective. In support of its Motion, KIUC stated that Big Rivers' notice "... significantly understates the percentage increases to the Rural and Large Industrial rate classes."¹ Whereas Big Rivers' notice asserts that the proposed increase to the rural class would be approximately 29.4% and that the proposed increase to the large industrial class would be approximately 17.9%, KIUC asserts that the actual proposed increases would be 38.4%, and 27%, respectively.

¹ Motion, p. 1.

KIUC argues the difference in the figures is due to the fact that Big Rivers' calculations intentionally neglected to take into consideration the impact of the Member Rate Stability Mechanism ["MRSM"]. The MRSM is a bill credit funded from the Economic Reserve which serves to reduce the net effective rate actually paid by the Rural and Large Industrial Classes. Big Rivers' witness, Wolfram, acknowledged in his pre-filed testimony that the proposed rate increases were calculated gross of the MRSM.²

On January 28, 2012, Big Rivers filed its response to KIUC's Motion. In that response, Big Rivers asserts that under 807 KAR 5:001 § 10 (3), the only entities entitled to a notice are the three member distribution cooperatives of Big Rivers' system because they are Big Rivers' only customers.³ Big Rivers further asserts that KIUC's calculations were incorrect, such that when the proposed rates net of the MRSM are calculated, they actually amount to 35.8% for the rural class, and 22.1% for the large industrial class. Finally, Big Rivers asserts that even if KIUC had standing to complain about the adequacy of the notice, it has not established that Big Rivers' chosen methodology of calculating the rates gross of the MRSM is in any way improper, or that it fails to comport with 807 KAR 5:001 § 10 (3).

The Attorney General believes KIUC has correctly, and conclusively, established that the notice fails to communicate the actual projected percentage of the base rate increase Big Rivers seeks. While Big Rivers arguably may have complied with the letter

² See, e.g., Wolfram testimony, p. 35.

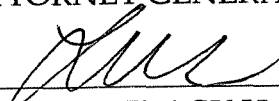
³ The three distribution cooperatives which own Big Rivers, and which doubtlessly knew of and in fact were **required to approve** the proposed rate increases long before Big Rivers filed its notice of intent in this matter, also filed a joint pleading in which they purported to waive any potentially defective notice.

of the law in giving notice merely to its three owner-members, the fact remains that Big Rivers' ultimate end-use customers have yet to be informed of the full amount of the proposed increases. Given the unprecedented magnitude of the proposed increase, the drastic changes coming to Big Rivers' system resulting from the pending departure of both smelters from its system, as well as Big Rivers' own dire financial condition, the Attorney General believes that both Big Rivers' ultimate end-use customers, as well as its owners, should be provided with a complete disclosure of the proposed increases which reflect the MRSM being calculated into the equation. If there was ever a time for Big Rivers to be as transparent as possible, this is that time.

Moreover, it has yet to be determined whether the three distribution cooperatives will publish notices based on Big Rivers' hypothetical calculations which fail to take into consideration the real world, actual amounts and percentages involved once the MRSM is taken into consideration. Should the distribution cooperatives fail to do so, the Attorney General is giving notice that he will challenge the adequacy of any such notice. Finally, in the attached article published in the January 16, 2013 edition of the *Evansville Courier & Press*, Greg Starheim, president and CEO of Kenergy Corp., was quoted as saying that the impact on rural class customers would be "even higher, about \$24 for a rural home." The customers of the three distribution cooperatives will doubtlessly find very confusing the wide range of numbers being circulated. Both Big Rivers' ultimate end-use customers and its owners expect and deserve more from the non-profit entity, which is duty-bound to supply them with reliable power at a just, fair and reasonable rate.

The Attorney General does not wish to delay these proceedings, but believes that Big Rivers should be admonished to provide notice of the actual projected increases to all of its end-user customers.

Respectfully submitted,
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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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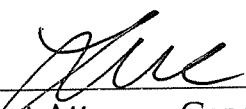
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IN EFFECT UNTIL FEB 1, 12:00 a.m.

Economic impact of Big Rivers rate increase would spread across Western Kentucky

Utility on notice to lose biggest customer

By Chuck Stinnett

Posted January 16, 2013 at 9:18 p.m.

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PHOTO BY MIKE LAWRENCE // BUY THIS PHOTO

(File Photo) Big Rivers Sebree Complex chief engineer Ed Chisholm leads a group of Henderson County High tech students on a tour of the power generating complex near Robards. The Kentucky Public Service Commission on Tuesday largely reaffirmed its November 2011 decision in a rate adjustment case for Big Rivers Electric Corp., although minor changes will cost the average Kenergy Corp. residential customer about 45 cents more per month (Gleaner photo by Mike Lawrence • 831-8346 or mlawrence@thegleaner.com)

HENDERSON, Ky. —If Century Aluminum quits buying electric power for its Hawesville, Ky., smelter from Henderson's Big Rivers Electric Corp., the impact of the accompanying economic ripple would likely be more akin to a tsunami washing across Western Kentucky:

In Rural electrical customers supplied by Big Rivers could see their monthly electric bills increase by 18.6 percent, or more than \$21 a month for a typical user.

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n The future of Rio Tinto Alcan's Sebree aluminum smelter and its 500 employees could be placed in jeopardy.

n Big Rivers, itself, would face the likely sale or closure of one or more of its generating plants.

Unhappy with Big Rivers' electric rates, Century Aluminum filed notice in

August 2012 that it would terminate its purchase of power produced by Big Rivers starting Aug. 20, 2013. The Hawesville smelter is Big Rivers' largest customer, consuming 482 megawatts of electricity, an amount equal to four or five the amount of power typically used in the city of Henderson.

"Cost-cutting alone cannot offset this deficiency," Big Rivers spokesman Marty Littrel said Wednesday.

Faced with the prospect of loss of revenue from the smelter, Big Rivers on Tuesday filed a request with the Kentucky Public Service commission for a \$74.5 million increase in its wholesale electric rates to become effective in August.

Big Rivers supplies electric power to three rural electric co-ops, Kenergy at Henderson, Meade County at Brandenburg and Jackson Purchase at Paducah. The co-ops in turn service more than 112,000 residential, business and industrial customers in 22 Western Kentucky counties stretching from near Louisville to Paducah.

Big Rivers estimated the rate increase, if approved, would boost retail electric bills for a typical residential customer of rural electric co-ops by \$21.71 per month or 18.6 percent. That's based on usage of 1,300 kilowatt-hours per month.

However, Greg Starheim, president and CEO of the Kenergy Corp., put the impact even higher, about \$24 for a rural home. He said Kenergy will work to educate its customers about ways they can reduce power consumption to save money.

The rate increase wouldn't affect customers of Henderson Municipal Power and Light or Kentucky Utilities Co., which also serve portions of the area.

Rates for Rio Tinto Alcan — which already has complained that existing power costs put it at a competitive disadvantage on the world aluminum market — would rise 15.6 percent under Big Rivers' proposal.

"Obviously, we're disappointed," Alcan plant spokesman Kenny Barkley said Wednesday.

"This kind of increase can cause serious implications" for the 500-employee plant, Barkley said.

Closing the smelter "is an option, but it's not part of the solution we'll be making a decision on" in "the very near future," he said.

"Obviously, this not welcome news to them," Starheim said. "It's causing an extra burden on the already tough environment they're competing in."

Other large industries — from big manufacturing plants to coal mines — could also feel the pinch, with Big Rivers seeking to increase their electric rates by 17.9 percent.

Photo Galleries



Evansville's unknown graveyards



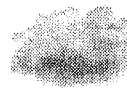
Rails leave trail in Poseyville, Ind.



SeaPerch robotics competition

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Losing a customer such as Century could reduce the need for Big Rivers to operate all of its existing generating stations in Western Kentucky, including the Reid-Green-Station Two complex near Sebree; its Coleman power plant in Hancock County; and its Wilson power plant in Ohio County.

Location: e.g. Evansville, IN
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Starheim said that "to reduce operational expenses in the future, discussions have included idling or selling a power plant."

Features

In its application with the PSC, Big Rivers declared that idling the Wilson plant could result in the cutting of 92 of the company's 627 employees.

But Littrel said that doesn't mean that Wilson would necessarily be the plant that would be mothballed.

"We still don't know if it would be Wilson or not," he said. "We had to put something down for the rate case, and that's what we put down. But that could change ... It doesn't mean that Sebree's (complex of generating stations) are being ignored, either."

In fact, quite a lot isn't known, particularly concerning Century Aluminum's plans. Last August, when Century announced its intention to terminate its power supply contract with Big Rivers, the aluminum company spoke as if it would close its smelter. A month later, Century informed Big Rivers that it intended to buy power on the open market to keep the plant in operation, and Starheim said discussions have taken place concerning such a possibility.

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But, he said, "It's not obvious at all what their intent is."

A Century spokeswoman didn't return a phone call Wednesday seeking comment on its plans.

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January 17, 2013
9:17 a.m.

NoMoDoh writes:

Sounds like they have themselves in hock up to the neck and haven't left any room for decreased revenue

Suggest removal

Reply to this post

Would it be possible to sell that excess electricity to the "GRID"? That new transmission line that VECTREN has build from the AB Brown plant across the OHIO River and 12 miles of Kentucky farmland to the Big Rivers utility should work both ways. Maybe they could sell some of their LOWER COST electricity to VECTREN and lower the rates in SW Indiana.

Nawl VECTREN wouldn't do that, lower our rates, I mean. They would take cheaper electricity and make a bigger profit, that's all

Even if our rates stayed the same, it would help stabilize the rates in the Big Rivers area and help the economy of the residents. Is there anything wrong with a community effort?

JMO

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