

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF BIG RIVERS ELECTRIC)	2020-00009
CORPORATION FROM MAY 1, 2019 THROUGH)	
OCTOBER 31, 2019)	

ORDER

The Commission, pursuant to 807 KAR 5:056, Section 1(11) hereby initiates the six-month review to examine Big Rivers Electric Corporation's (BREC) application of its Fuel Adjustment Clause (FAC) from May 1, 2019, through October 31, 2019.

IT IS THEREFORE ORDERED that:

1. a. The information requested in the Appendix to this Order is due no later than 14 days from the date of entry of this Order. Responses to requests for information in paper medium shall be appropriately bound, tabbed, and indexed. Electronic documents shall be in portable document format (PDF), shall be searchable and shall be appropriately bookmarked. Responses shall include the name of the witness responsible for responding to the questions related to the information provided, an original in paper medium and an electronic version to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is

true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. When filing a paper containing personal information, BREC shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

2. Any party who wishes to file testimony in this proceeding or to request information from BREC may petition the Commission for a procedural schedule.

3. All documents that BREC filed with the Commission during the period under review pursuant to 807 KAR 5:056, Sections 1(7) and 1(9), are incorporated by reference into the record of this proceeding.

4. Unless otherwise ordered by the Commission, the electronic filing procedures set forth in 807 KAR 5:001, Section 8, shall be followed when filing papers in this proceeding. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceedings which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly

complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction.

Based on the foregoing, the Commission finds that any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of electricity consumed by the movant or a general statement regarding a potential impact of a possible modification of rates will not be deemed sufficient to establish a special interest.

5. Pursuant to 807 KAR 5:001, Section 8, unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; the party shall file with the Commission, within seven days of the date of entry of an Order of the Commission granting the intervention, a written statement that the party waives any right to service of Commission Orders by United States mail; and the party, or the party's authorized agent, possesses the facilities to receive electronic transmissions.

6. Any request for intervention must be filed by February 28, 2020.

7. A person who submits a motion to intervene after February 28, 2020, and upon a showing of good cause is granted full intervention, shall accept and abide by the existing procedural schedule.

8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the services of all papers; including Orders of the Commission; by electronic means; and

b. Within seven days of the date of an Order of the Commission granting its intervention, file with the Commission a written statement that:

(1) It, or its authorized agent, possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

9. Any request for a hearing, or that the case should be submitted on the record, shall be filed no later than April 3, 2020.

10. Due to a potential constitutional challenge by Foresight Coal Sales, LLC (Foresight) that Foresight intends to pursue legal action to invalidate as unconstitutional 807 KAR 5:056, Section 3(5) (Section 3(5)), the Commission will not be enforcing Section 3(5) in its proceeding.¹

¹ The Commission has requested a legal opinion from the Attorney General for the Commonwealth of Kentucky regarding the constitutionality of Section 3(5). After the Attorney General renders his opinion, the Commission will determine the next steps regarding Section 3(5).

By the Commission

ENTERED
FEB 11 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director
for Kent A. Chandler

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00009 DATED FEB 11 2020

1. For the period under review, provide the amount of coal purchased in tons and the percentage of purchases that were spot versus contract.
2. For the period under review, list each coal purchase made under a long-term contract (one year or greater). For each purchase, list:
 - a. Contract or purchase order number;
 - b. The supplier's name;
 - c. The location(s) of production facilities from which the coal is sourced;
 - d. The method of delivery, (i.e., barge, truck, rail, other);
 - e. The actual quantity received during the review period;
 - f. The tonnage requirement for the review period; and
 - g. Current price paid per ton.
3.
 - a. As of the last day of the review period, state the coal inventory level in tons and in number of days' supply. Provide this information by generating station and in the aggregate.
 - b. Describe the criteria used to determine number of days' supply.
 - c. State the target coal inventory level for each generating station and for the total system.
 - d. If actual coal inventory exceeds the target inventory by ten days' supply, state the reasons for the excess inventory.

e. (1) State whether any significant changes in the current coal inventory target are expected within the next 12 months.

(2) If so, state the expected change and the reasons for this change.

4. List each written coal-supply solicitation issued during the period under review.

a. For each solicitation, provide the date of the solicitation, the type of solicitation (contract or spot), the quantities solicited, a general description of the quality of coal solicited, the period over which deliveries were requested, and the generating unit(s) for which the coal was intended.

b. For each solicitation, state the number of vendors to whom the solicitation was sent, the number of vendors who responded, and the selected vendor. Provide the bid tabulation sheet or corresponding document that ranked the proposals. (This document should identify all vendors who made offers.) State the reasons for each selection. For each lowest-cost bid not selected, explain why the bid was not selected.

5. List each oral coal-supply solicitation issued during the period under review.

a. For each solicitation, state why the solicitation was not written, the date(s) of the solicitation, the quantities solicited, a general description of the quality of coal solicited, the time period over which deliveries were requested, and the generating unit(s) for which the coal was intended.

b. For each solicitation, identify all vendors solicited and the vendor selected. Provide the tabulation sheet or other document that ranks the proposals. (This

document should identify all vendors who made offers.) State the reasons for each selection. For each lowest-cost bid not selected, explain why the bid was not selected.

6. For the period under review, list each vendor from whom natural gas was purchased for generation and the quantities and the nature of each purchase (i.e., spot or contract).

7. For the period under review, state whether there were any instances in which a natural gas generating unit could not be operated when it otherwise would have run due to pipeline constraints or natural gas being unavailable.

8. State whether there have been any changes to hedging activities for coal or natural gas purchases used for generation since the previous FAC review proceeding. If so, describe the changes in detail.

9. a. State whether BREC has audited any of its fuel or transportation contracts during the period under review.

b. If so, for each audited contract:

(1) Identify the contract;

(2) Identify the auditor; and

(3) State the results of the audit, and describe the actions that

BREC took as a result of the audit.

10. a. State whether BREC is currently involved in any litigation with its current or former fuel suppliers or transportation vendors.

b. If yes, for each litigation:

(1) Identify the supplier or vendor;

(2) Identify the contract involved;

(3) State the potential liability or recovery to BREC;

(4) List the issues presented; and

(5) Provide a copy of the complaint or other legal pleading that initiated the litigation and any answers or counterclaims. If a copy has previously been filed with the Commission, provide the date on which it was filed and the case in which it was filed.

c. State the current status of all litigation with suppliers or vendors.

11. a. For the period under review, state whether there have been any changes to BREC's written policies and procedures regarding its fuel procurement.

b. If yes:

(1) Describe the changes;

(2) Provide the written policies and procedures as changed;

(3) State the date(s) the changes were made; and

(4) Explain why the changes were made.

c. If no, provide the date BREC's current fuel procurement policies and procedures were last changed, provide the date when they were last provided to the Commission, and identify the proceeding in which they were provided.

12. For the period under review, list all firm power commitments for (a) purchases and (b) sales. This list shall identify the electric utility, the amount of commitment in megawatts, and the purpose of the commitment (i.e., peaking, emergency).

13. Provide a monthly billing summary of sales to all electric utilities for the period under review.

14. Describe the effect on the FAC calculation of line losses related to:
 - a. Intersystem sales when using a third-party transmission system and
 - b. Intersystem sales when not using a third-party transmission system.
15. Provide a list, in chronological order, showing by unit any scheduled, actual, and forced outages for the period under review.
16. For the period under review, provide the monthly capacity factor at which each generating unit operated.
17.
 - a. For the period under review, explain whether BREC made any changes to its maintenance and operation practices or completed any specific generation efficiency improvements that affect fuel usage at BREC's generation facilities.
 - b. Describe the impact of these changes on BREC's fuel usage.
18. State whether BREC is aware of any violations of its policies and procedures regarding fuel procurement that occurred prior to or during the period under review.
19. State whether BREC is aware of any violations of 807 KAR 5:056 that occurred prior to or during the period under review.
20. State whether all fuel contracts related to commodity and transportation have been filed with the Commission. If any contracts have not been filed, explain why they have not been filed, and provide a copy.

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