

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION

ALLEGED FAILURE TO COMPLY WITH
COMMISSION REGULATIONS

)
)
) CASE NO. 91-444
)
)
)

O R D E R

On December 6, 1991, the Commission initiated this investigation to determine whether Big Rivers Electric Corporation ("Big Rivers") should be subject to the penalties prescribed in KRS 278.990 for probable violations of 807 KAR 5:006, Section 22, and 807 KAR 5:041, Section 3. Five probable violations were noted by the Commission Staff in its report of an explosion of a sulfuric acid storage tank at Big Rivers' Coleman Generating Plant in Hawesville, Kentucky. The explosion caused the death of one Big Rivers' employee and serious injuries to another employee.

Big Rivers was directed to appear at a hearing on January 14, 1992 at the Commission's offices. Prior to the hearing, Big Rivers notified the Commission that it did not intend to contest any Commission findings that paralleled those of the Kentucky Labor Department, Occupational Safety and Health Program, and requested that an informal conference, rather than a hearing, be convened. Such a conference was held on January 14, 1992 and Big Rivers and the Commission Staff reached an agreement in principle regarding

the pertinent facts. The agreement was reduced to writing, and on April 1, 1992, a Stipulation of Procedure and a Stipulation of Facts ("Stipulation") was filed with the Commission (attached hereto and incorporated herein as Appendix A).

The Stipulation includes the operative facts surrounding the circumstances of the explosion, a detailed description of the remedial action taken by Big Rivers, and an agreement that Big Rivers will pay a civil penalty of \$2,000 on each of the five probable violations without admitting or denying the probable violations. In determining whether the results of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the stipulation and the remedial action taken by Big Rivers to cure the deficiencies noted in the Commission Staff Report.

Based on the evidence of record, and being otherwise sufficiently advised, the Commission hereby finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is the product of serious arms-length negotiations among capable, knowledgeable parties, is in the public interest and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation be and it hereby is adopted and approved in its entirety as a complete resolution of all issues in this case.

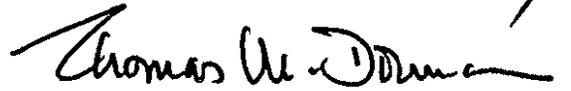
2. Big Rivers shall adhere to and comply with all remedial provisions of the Stipulation.

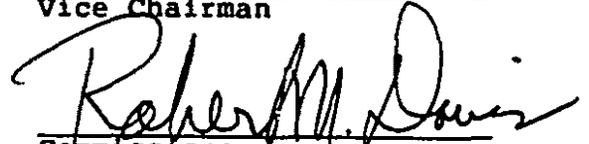
3. Big Rivers shall pay \$10,000 as a penalty within 30 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 10th day of April, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting