

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF HENDERSON, KENTUCKY, CITY OF)
HENDERSON UTILITY COMMISSION, AND BIG)
RIVERS ELECTRIC CORPORATION APPLICATION)
FOR CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY AND TO FILE PLAN FOR)
COMPLIANCE WITH CLEAN AIR ACT AND IMPOSE)
ENVIRONMENTAL SURCHARGE)

CASE NO. 93-065

O R D E R

Big Rivers Electric Corporation ("Big Rivers") has applied for Commission approval of certain amendments to its contracts with the City of Henderson, Kentucky ("Henderson") and the City of Henderson Utility Commission ("HUC") and its plan for compliance with the Federal Clean Air Act ("CAA"). In response to this application, Kentucky Industrial Utility Customers ("KIUC") has moved for a pre-hearing conference and an interim hearing on scrubber cancellation penalty charges.

Big Rivers' present application is part of a much larger picture. In this same docket, Big Rivers has given notice of its intent to submit a plan to comply with the CAA which involves amending its existing purchase power contract to provide for the installation of flue gas desulfurization facilities ("scrubbers") on Henderson Municipal Power & Light's Station Two, a coal-fired generating station, and the imposition of an environmental surcharge to recover its share of the scrubbers' cost. Any action taken on Big Rivers' present application will have a significant

impact on proceedings involving Big Rivers' proposed environmental surcharge.

Due to the close relationship between Big Rivers' present application and its proposed environmental surcharge and because of the common issues of fact and law, the Commission finds that the public interest is best served by adjudicating these matters in a comprehensive manner. Accordingly, the Commission finds that no action should be taken upon Big Rivers' application for approval of the contract amendments and its compliance plan until Big Rivers submits a compliance plan which fully complies with KRS 278.183. Such plan must include Big Rivers' testimony and a tariff addition containing the terms and conditions of its proposed environmental surcharge. It must be of sufficient detail not only to permit the Commission to determine its reasonableness and cost-effectiveness of the proposed surcharge but also to permit the Commission to determine whether KRS 278.183 is applicable to the facts in this case. Big Rivers should also submit with its filing copies of the studies to which it refers in its present application.

The Commission shares KIUC's concerns about Big Rivers' liability for any financial penalties related to the cancellation or delay of the scrubber project. In its application, Big Rivers has failed expressly to state that it has not assumed any liability for such penalties. To allay KIUC's and our own concerns, the Commission finds that Big Rivers' principal executive officers should advise this Commission of the extent of Big Rivers' current liability for the proposed scrubber project. Upon receipt of this information, the Commission will determine if further action is necessary. Until then no action will be taken on KIUC's motions.

IT IS THEREFORE ORDERED that:

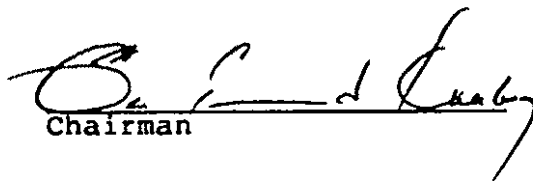
1. Big Rivers' Application for approval of certain contract amendments and its compliance plan is held in abeyance pending Big Rivers' submission of a compliance plan which fully complies with KRS 278.183.

2. Within 10 days of the date of this Order, Big Rivers shall file with the Commission sworn statements from its General Manager and its President fully describing Big Rivers' present liability for any financial penalties if the scrubber project is canceled or delayed. These statements shall include copies of any agreements relating to the scrubber project, aside from those already presented to this Commission, which Big Rivers has entered.

3. KIUC's motions for a pre-hearing conference and for an interim hearing are deferred.

Done at Frankfort, Kentucky, this 30th day of July, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director