

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)
CORPORATION TO ASSESS A SURCHARGE UNDER)
KRS 278.183 TO RECOVER COSTS OF) CASE NO. 94-032
COMPLIANCE WITH ENVIRONMENTAL)
REQUIREMENTS OF THE CLEAN AIR ACT)

O R D E R

On August 8, 1994, Big Rivers Electric Corporation ("Big Rivers") filed a Motion for Clarification and to Strike certain text of the Kentucky Industrial Utility Customers ("KIUC") post-hearing brief in this matter and Exhibit B to the brief. On August 17, 1994, the Commission received the Answer of KIUC in Opposition to Motion For Clarification and to Strike. At issue are portions of KIUC's post-hearing brief which rely on exhibits not admitted as evidence and a fifteen page proposed tariff submitted by KIUC. On August 15, 1994, Big Rivers filed another Motion to Strike or Alternatively to Supplement Reply Brief and Record. This motion concerns certain coal bid information submitted by KIUC. Big Rivers' motions to strike will be denied and its motion to supplement the record will be granted.

Big Rivers sought production of the KIUC tariff and when it was not forthcoming, sought to compel its production. At Big Rivers' behest, KIUC was ordered to produce the document on July 8, 1994. Having gone to great lengths to obtain this document, it is not immediately apparent why Big Rivers is now intent on keeping it out of the record in this case. The coal bid information submitted by KIUC was not available at the time of the hearing.

KRS 278.310 gives the Commission wide latitude in deciding evidentiary issues. The Commission has traditionally exercised this latitude by accepting all information presented by the parties which may aid it in determining the public interest in proceedings before it. Big Rivers has itself taken advantage of this latitude on many occasions. It can hardly now argue that including in the record the information it sought to compel and the new information tendered by KIUC will deprive it of due process. By the same token, Big Rivers' motion to supplement its reply brief is consistent with a full consideration of the issues before the Commission in this case.

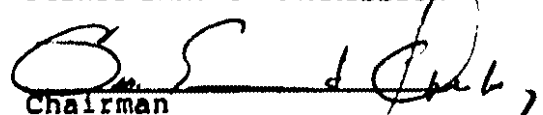
IT IS THEREFORE ORDERED that:

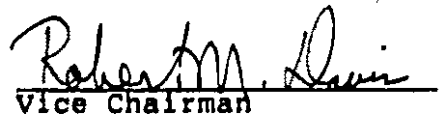
1. The Motion For Clarification and To Strike filed by Big Rivers is denied.

2. The Motion to Strike or Alternatively To Supplement Reply Brief and Record is denied to the extent it seeks to exclude evidence from the record. However, the reply brief and affidavit tendered by Big Rivers are accepted as filed.

Done at Frankfort, Kentucky, this 31st day of August, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director