COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF BIG RIVERS CORPORATION'S WHOLESALE POWER CONTRACT WITH HOOSIER ENERGY RURAL ELECTRIC COOPERATIVE, INC.) CASE NO. 93-163

O R D E R

On January 26, 1996, Kentucky Industrial Utility Customers ("KIUC") filed a petition for rehearing of the Commission's January 5, 1996 Order approving Big Rivers Electric Corporation's ("Big Rivers") wholesale power contract with Hoosier Energy Rural Electric Cooperative, Inc. ("Hoosier Energy"). Under the terms of the power contract, Big Rivers is obligated to sell Hoosier Energy unit power capacity from the D.B. Wilson Unit No. 1 ("Wilson") for the months of June through September from 1993 through 1999.

KIUC seeks rehearing on only one issue - the Commission's approval of incremental pricing of the fuel allocated to the Hoosier Energy sale. KIUC asserts that the fuel should be priced at actual Wilson fuel costs rather than incremental system fuel costs and presents three arguments to support its position.

Big Rivers responded in objection to the rehearing request, noting that KIUC's position on rehearing is contrary to KIUC's prior position of advocating the use of the highest system fuel costs. Big Rivers' response also discloses that at some time subsequent to the September 30, 1993 hearing in this case, it reclassified the Hoosier Energy sale from a non-firm off-system sale to a long-term firm off-system sale. The consequence of this reclassification is that fuel costs will be assigned based on Big Rivers' system average rather than its incremental costs.

Based on the request for rehearing and being otherwise sufficiently advised, the Commission finds that its January 5, 1996 Order approved the Hoosier Energy sale on the basis that fuel would be priced at incremental costs. Big Rivers' recent disclosure that system average fuel costs will be used should be more advantageous to ratepayers, assuming that incremental fuel costs are lower than average.

However, the Commission is concerned by Big Rivers' failure to promptly disclose this pricing change. Standing alone, none of KIUC's arguments justify rehearing, but in light of Big Rivers' fuel pricing change the parties should have an opportunity to further address this issue. While the Commission will rehear the issue of fuel pricing for the Hoosier Energy sale, two of the arguments presented by KIUC are unfounded and will not be considered for the following reasons.

First, KIUC asserts that since four of Big Rivers' high priced, minimum take coal contracts were procured through fraud, the contracts are null and void and cannot be considered when pricing fuel for the sale to Hoosier Energy. The record evidence does not support this argument. The Commission has entered no findings in this case or any other that any of Big Rivers' coal contracts were induced by fraud, or that such contracts are void and unenforceable, or that actual coal costs should not be used to price fuel for sales.

Second, KIUC challenges the Commission's finding that native load customers will not be adversely affected by the Hoosier Energy sale. KIUC claims that the Commission's July 21, 1994 decision in Case No. 90-360-C[1] requiring refunds and disallowances of unreasonable fuel costs will result in an unjustified allocation of these benefits to Hoosier Energy. This is not true. The refunds are allocated not on the basis of current kilowatt-hour sales but on fuel cost ratios for the review period in that case, the 30 months ended April 30, 1993. Those fuel cost ratios do not reflect the contract sales to Hoosier Energy because the ratios predate those sales. The issue of prospective disallowances of unreasonable fuel costs has been fully investigated in Big Rivers' pending two year Fuel Adjustment Clause review, Case No. 94-458,[2] and will be decided in that case.

IT IS THEREFORE ORDERED that:

1. Rehearing is granted on the issue of whether fuel for the sales to Hoosier Energy should be priced on an incremental, average, or Wilson basis.

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[1] Case No. 90-360-C, An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause for Big Rivers Electric Corporation from November 1, 1991 to April 30, 1992.

[2] Case No. 94-458, An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause for Big Rivers Electric Corporation from November 1, 1992 to April 30, 1994.

2. The procedural schedule in Appendix A, attached hereto and incorporated by reference, shall be followed.

Done at Frankfort, Kentucky, this 14th day of February, 1996.

PUBLIC SERVICE COMMISSION

Linda K Breathitt
Chairman

Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 93-163 DATED FEBRUARY 14, 1996

Big Rivers' prefiled testimony shall be due no later than 03/04/96

All requests for information to Big Rivers shall be due no later than.......................................03/18/96

Big Rivers shall mail or deliver responses to the requests for information no later than.................03/28/96

Intervenor testimony, if any, shall be filed in verified prepared form no later than....................04/11/96

All requests for information to Intervenors shall be due no later than...............................04/22/96

Intervenors shall mail or deliver responses to requests for information no later than.....................05/02/96

Last day for any party to request a hearing................05/09/96

Public Hearing, if ordered by the Commission, shall begin at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.....................................05/21/96