

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BIG RIVERS )  
ELECTRIC CORPORATION, LOUISVILLE )  
GAS AND ELECTRIC COMPANY, WESTERN )  
KENTUCKY ENERGY CORP., WESTERN )  
KENTUCKY LEASING CORP., AND LG&E ) CASE NO. 97-204  
STATION TWO INC. FOR APPROVAL OF )  
WHOLESALE RATE ADJUSTMENT FOR BIG )  
RIVERS ELECTRIC CORPORATION AND )  
FOR APPROVAL OF TRANSACTION )

O R D E R

On June 30, 1997, Big Rivers Electric Corporation ("Big Rivers"), Louisville Gas and Electric Company ("LG&E"), and certain affiliates of LG&E filed a joint application for approval of, among other things: 1) the lease of Big Rivers' generating plants; and 2) interim and permanent tariffs reflecting wholesale rate reductions for service rendered by Big Rivers to its four distribution cooperatives.<sup>1</sup> Big Rivers has requested that its interim rates be effective for service rendered on and after September 1, 1997, and remain in place until the earlier of August 31, 1998 or the closing of its plan of reorganization. Since filing the joint application, Big Rivers has twice revised its proposed tariffs to reflect technical changes and clarifications. Complete copies of its tariffs were filed with each revision, and each tariff filing superseded the prior one.

---

<sup>1</sup> The four distribution cooperatives that purchase their power at wholesale from Big Rivers are: Green River Electric Cooperative ("Green River"), Henderson Union Electric Cooperative Corporation, Meade County Rural Electric Cooperative Corporation, and Jackson Purchase Electric Cooperative Corporation ("Jackson Purchase").

In addition, Big Rivers has requested approval of four changes in its wholesale power contract with Green River to reflect four new retail contracts under the Large Industrial Customer Tariffs. These contracts are for service by Green River to: Commonwealth Aluminum; A-CMI; WorldSource Coil Coating, Inc.; and Willamette Industries, Inc. ("Willamette").

The interim rates reflect a reduction of 11.77 percent to the rural, non-industrial customers, assuming a full passthrough of the savings by the distribution cooperatives. However, since Jackson Purchase has requested authority to retain some of the purchase power savings, the proposed overall rate reduction for its rural customers is less.

The Attorney General's Office of Rate Intervention ("AG") filed comments in support of the interim rates but opposing those provisions in the Big Rivers Henderson Union Smelter Rate and the Big Rivers Green River Smelter Rate that prohibit any rate adjustments for legislative, regulatory or legal action. The basis for the AG's objection is twofold: such provisions impinge on the authority of both the Commission and the courts; and the absence of a similar provision in the rate tariffs applicable to all other customer classes.

Big Rivers, Alcan Aluminum Corporation, Southwire Corporation, and NSA, Inc. filed responses to the AG. They urge acceptance of the interim tariffs without change or suspension due to the interim rate reduction being an integral part of Big Rivers' plan of reorganization, the opportunity to review the merits of the provision during the

investigation of the proposed permanent rates, and the slim likelihood that any adjustments would occur during the interim period absent such provision.

Jackson Purchase filed comments noting that while it objects to the proposed revenue allocation among Big Rivers' class of customers, it does not object to a September 1, 1997 implementation of the proposed interim rates. Willamette filed comments expressing no objection to the interim rates only if they are made effective subject to refund and with no provision for any retroactive increases in the event Willamette is unable to negotiate a five year contract for service under the Large Industrial Customer Tariff.

Based on the application, comments, responses, and being otherwise sufficiently advised, the Commission finds that further proceedings are necessary in order to determine the reasonableness of the proposed rates and transactions and that such proceedings cannot be completed prior to September 1, 1997. In such circumstances, the Commission typically suspends the proposed rates for the maximum period of time provided for in KRS 278.190(2). However, since the proposed rates are lower than Big Rivers' existing rates, there is no good reason to deny Big Rivers' customers the benefits of lower rates on an interim basis while the merits of the joint application are investigated.

Nevertheless, certain specific aspects of the filing have already been characterized by the AG, Jackson Purchase, and Willamette as being unreasonable. Thus, to protect the interests of all concerned while still allowing customers the benefits of lower rates, the Commission will suspend the interim rates for one day and allow them

to become effective subject to change for service rendered on and after September 2, 1997. Any change will operate prospectively only, thereby eliminating any potential for retroactive adjustments.

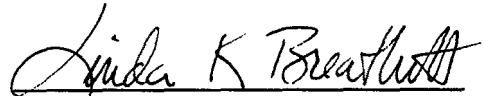
The Commission also finds that since its statutory authority to review rate applications is limited by KRS 278.190(3) to 10 months, and the procedural schedule established by the July 11, 1997 Order should result in a final Order during the first quarter of 1998, the interim rates approved herein should remain in effect only until issuance of a final rate order determining the reasonableness of the proposed permanent rates.

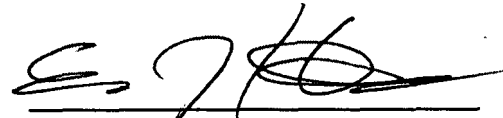
IT IS THEREFORE ORDERED that:

1. Big Rivers' second revised interim rates and tariffs bearing an issue date of August 26, 1997 are suspended for one day, to be effective, subject to change, with service rendered on and after September 2, 1997.
2. Big Rivers' four contract amendments with Green River are approved for service on and after September 2, 1997, subject to change.
3. Within 20 days of the date of this order, Big Rivers shall file its revised tariff sheets setting forth the interim rates and tariffs made effective herein with a notation at the bottom of each page reflecting the effective date and the statement, "Interim rates subject to change."

Done at Frankfort, Kentucky, this 29th day of August, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director