COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| NOTICE OF AMENDMENTS TO EXISTING TARIFFS OF BIG RIVERS ELECTRIC CORPORATION AND KENERGY CORP. TO IMPLEMENT A VOLUNTARY REAL-TIME PRICING PILOT PROGRAM FOR LARGE COMMERCIAL AND INDUSTRIAL CUSTOMERS | ) ) ) ) ) ) | CASE NO. 2007-00164 |

O R D E R

On April 20, 2007, Big Rivers Electric Corp. ("Big Rivers") and Kenergy Corp. ("Kenergy") (collectively "the Companies") jointly applied for authorization to implement a voluntary real-time pricing ("RTP") pilot program for large commercial and industrial customers pursuant to the Commission's directive in Administrative Case No. 2006-00045.[1] The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), and Kentucky Industrial Utility Customers, Inc. ("KIUC") were granted intervention in this proceeding. On May 15, 2007, the Commission established a procedural schedule that allowed for two rounds of discovery, written comments and the opportunity to request a hearing. The AG filed comments on July 12, 2007, and the Companies jointly filed reply comments on July 23, 2007. An informal conference was held on September 18, 2007. The Companies filed

[1] Administrative Case No. 2006-00045, Consideration of the Requirements of the Federal Energy Policy Act of 2005 Regarding Time-Based Metering, Demand Response, and Interconnection Service, final Order dated December 21, 2006.

supplemental testimony on October 2, 2007. Neither the AG nor KIUC filed a reply to the supplemental testimony and no requests for a hearing were received.

In our Order in Case No. 2006-00045, the Commission found that some large commercial and industrial customers may benefit from RTP tariffs because such customers have greater operating flexibility than smaller customers and the cost of implementing real-time pricing may be cost effective for them. The Commission acknowledged, however, that the potential of commercial and industrial RTP programs had not been adequately investigated. Therefore, we directed Kentucky Utilities Company ("KU"), Louisville Gas and Electric Company ("LG&E"), East Kentucky Power Cooperative, Inc. ("EKPC"), and Kentucky Power Company ("Kentucky Power") as well as Big Rivers to develop voluntary RTP programs for their large commercial and industrial customers that would operate for an initial term of 3 years and to submit them to the Commission for review on or before April 20, 2007. Each company has complied with this directive.[2] Duke Energy Kentucky, Inc. was exempt from this requirement because it already offers an RTP tariff to its commercial and industrial customers.

[2] Case No. 2007-00161, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for an Order Approving a Large Commercial and Industrial Real-Time Pricing Tariff, filed April 20, 2007; Case No. 2006-00165, Application of East Kentucky Power Cooperative, Inc. for an Order Approving a Pilot Real-Time Pricing Program for Large Commercial and Industrial Customers, filed April 20, 2007; and Case No. 2007-00166, Application of Kentucky Power Company for an Order Approving a Pilot Real-Time Pricing Program for Large Commercial and Industrial Customers, filed April 20, 2007.

Summary of Big Rivers and Kenergy's Voluntary RTP Pilot Program

Big Rivers and Kenergy's RTP pilot program will be available to those eligible for Big Rivers' Rate Schedule 10 and Kenergy's Rate Schedule 41, for expanded or new demand. Kenergy has 16 eligible customers. Pursuant to the proposal participants may negotiate a special contract.

Costs are dependent upon whether the participant is served from Kenergy's Distribution System or directly served from Big Rivers' Transmission System. While the utilities will provide load profile meters at no cost to the participants, there will be additional labor costs for meter reading since the load information must be downloaded each month. The method for recovering these costs for Kenergy will be set forth in the special contracts. Big Rivers will recover additional costs through the "Big Rivers Adder" set forth in Section f (4) of Schedule 10, which will be subject to Commission approval.

The real-time price will be determined through a negotiated special contract rate based on market pricing scheduled a day- or week-ahead. Big Rivers will communicate the day-ahead or week-ahead price obtained from ACES Power Marketing to the customer. Market Rates will be charged on a real-time basis as metered. The source of power will be from Big Rivers via its contract with LG&E Energy Marketing or from the market power.

Discussion

The AG supports approval of the pilot RTP program initially proposed by Big Rivers and Kenergy in their application subject to four conditions.

First, Commission approval of the proposed RTP program should not be considered approval of any administrative costs for rate-making purposes in any future rate case proceeding. Second, the RTP program requires continued support and interaction among Big Rivers, Kenergy and participants. The Commission, therefore, should require the Companies to assist participants in their efforts to reduce and/or shift their demand and disseminate to both participants and non-participants successful techniques to reduce and/or shift demand to maximize program benefits.

Third, the AG notes that, unlike some of the other proposed RTP programs, the Companies do not propose to use a Customer Baseline Load approach or a base billing derived from historical data. He expressed his concern that there is no specific end-date for the pilot and that the Companies' use of special contracts may allow for contract terms beyond 3 years. He also notes concern that the proposed program is not cost neutral to participants.

Finally, the AG states that the Companies' objectives for the program are to encourage participants to reduce demand during critical peak hours and shift variable demand to low peak hours. He agrues that the Companies' annual report should include:

(1) The current number of program participants.

(2) The type of industry or primary business activity of each participant.

(3) The number of participants that have withdrawn from the program and the reason for such withdrawal.

(4) and (5) The average, minimum and maximum monthly electrical usage and cost for program participants during each 12-month reporting period and the 12-month period immediately preceding enrollment into the program.

(6) All comments and suggestions received from program participants.

(7) An evaluation of the program's effect on Big Rivers' peak and/or base demand as compared to its historical data for the 12-month period immediately preceding implementation of the program.

(8) A statement by Big Rivers of whether the program is achieving the stated objectives and an evaluation of the comments and suggestions of the program participants.

(9) The program costs to the date of the report, along with the details of any deviations from the program budget contained in the application submitted herein.

(10) A cumulative comparison of the information furnished in Items 4 and 5 above to allow year-to-year comparison of program results.

The AG suggests that such reports be submitted to the Commission and distributed to all parties to this proceeding and that the reports be made a part of the record in this matter. The Commission finds the AG's reporting suggestions reasonable and necessary for a full and complete review of the pilot.

Big Rivers and Kenergy note that the AG recommends approval of their pilot RTP program and agree with the AG on the importance of support and interaction with their customers. The Companies state they will advise participants regarding the tariff, and that they already work with and will continue to work with customers on finding ways to reduce demand. The Companies agree with the AG that the Commission needs to be able to evaluate their RTP program and agree to collect the data and report the results of their program to the Commission as requested by the AG.

The Companies disagree with the AG's proposal to impose an expiration date on the tariffs and argue that an expiration date is inappropriate. Big Rivers and Kenergy state that the Commission may limit any special contract to 3 years if appropriate. However, imposing a 3-year limitation on the tariff would leave no tariff rate for customers to fall back on and could prevent potential customers from locating in the Big Rivers service area.

The Commission agrees that interaction between the Companies and the participants is important to the program. However, we believe that the steps the Companies plan to take are satisfactory.

The Companies note that their current tariffs, Big Rivers' Schedule 10 and Kenergy's Schedule 41, already provide for RTP through special contracts. Therefore, the Companies propose to amend their current Schedules 10 and 41 to clarify that RTP is an option for qualifying large industrial customers.

KIUC supports Big Rivers' proposed use of special contracts. It asserts that not all customers operate under the same conditions and special contracts allow Big Rivers to tailor an energy product to best suit a customer's needs.

Big Rivers explained that no customers are currently using Tariff 10, but that several companies have expressed interest.

The Companies filed amended tariffs on October 2, 2007 proposing simple modifications to Big Rivers' Schedule 10 and Kenergy's Schedule 41 as well as new Schedules 10A and 41G respectively for the RTP pilot program.

The Commission has reviewed the tariffs proposed by the Companies and finds that it is unnecessary for the Companies to maintain two separate tariffs addressing market power. We find that the modifications proposed by the Companies in their supplemental testimony to Big Rivers' Schedule 10 and Kenergy's Schedule 41 are reasonable and should be accepted with the following modifications:

1. All references made to Rate Schedule 10A and 41G should be eliminated.

2. The definition section of both tariffs should contain the definitions of real - time pricing and special contract rate as presently set forth in the proposed Rate Schedules 10A and 41G.

3. The introductory language of Section f of the current Schedules 10 and 41 shall include the statement that the expansion rate and charges shall be based on real-time pricing.

4. The Companies shall include the proposed language regarding meters in their current tariffs.

The Commission agrees with the Companies' position that there is no need to have a defined end-date for the pilot RTP program tariff. Consistent with our decision in the other RTP cases, we find that the tariffs shall remain in effect until otherwise ordered by the Commission. The Commission will review each special contract submitted and will review the program after the initial 3-year pilot period. While the Companies have indicated that with the exception of meter costs, all program costs will be recovered, the Commission finds that all unrecovered program costs may only be considered for recovery in a future base rate proceeding, if those costs are accrued as a regulatory asset. Since the Commission directed the Companies to file a proposed RTP program, we find that the Companies should be allowed the opportunity to establish a regulatory asset for all unrecovered program costs and to present them for consideration in their base rate proceeding.

Subject to the revisions set forth above, the Commission finds that the proposed RTP program should be permitted on a pilot basis. After the program has been in operation for 3 years, the Commission will re-examine the program and determine whether it should continue. The Commission finds that Big Rivers should file with the Commission tariff sheets that contain all rates, charges, regulations, and requirements related to the program no later than 30 days before the program's effective date. Big

Rivers should also file with the Commission a report on the pilot program annually within 90 days of the plan year-end and a detailed evaluation of the program within 90 days of the end of the plan's third year.

IT IS THEREFORE ORDERED that:

1. Big Rivers and Kenergy are authorized to implement an RTP pilot program under their current Rate Schedules 10 and 41 as modified herein.

2. The proposed Rate Schedules 10A and 41G are denied.

3. Big Rivers shall file with the Commission by June 30 of each year an annual report that shall include, at a minimum, the 10 items requested by the AG listed previously in this Order and shall serve a copy of the annual report upon all parties to this proceeding.

4. Big Rivers shall submit a detailed evaluation of the RTP pilot to the Commission no later than June 30, 2011, and shall distribute a copy of the detailed evaluation to all parties to this proceeding.

5. Big Rivers, after providing written notice to the Commission, is authorized to establish deferred accounts in which to record unrecovered costs associated with the pilot RTP program.

6. Big Rivers and Kenergy shall file, within 20 days of the date of this Order, revised tariff sheets consistent with this Order showing their date of issue and that they were issued by the authority of this Order.

Done at Frankfort, Kentucky, this 1st day of February, 2008.

By the Commission

ATTEST:

Executive Director