

1 with the Commission in October of 2019. During that time period, as Big Rivers’
2 application for Commission approval of the Nucor contract stated, the expectation
3 was that “[t]he rates proposed to be effective during that period [would] cover the
4 incremental costs associated with the special contracts in addition to making
5 some contribution to Big Rivers’ fixed costs....”¹

6 Through discussions between Big Rivers’ transmission personnel and
7 Nucor during Nucor’s construction phase (2019-2022), Big Rivers anticipated that
8 Nucor would begin commercial operations in late 2022 or early 2023. The date
9 Nucor began commercial operations was significant because that date would
10 trigger the Service Commencement Date in Nucor’s Agreement for Electric
11 Service and begin the time period under which Nucor would be charged a fixed
12 rate for energy not including the charge or benefit of any riders, including the
13 FAC.

14 Upon establishing that commercial operations would begin late 2022 or
15 early 2023, Big Rivers worked to incorporate expected sales to Nucor in its 2023
16 budget and 2024-2026 financial plan. Big Rivers began its budgeting process for
17 the 2023 budget and 2024-2026 financial plan in the second quarter of 2022, and
18 concluded that process in December of 2022. In a review meeting for the draft
19 budget and financial plan in October of 2022, Big Rivers’ then-Chief Executive
20 Officer (CEO) asked budgeting personnel whether Big Rivers could recover the

¹ *In the Matter of: Electronic Application of Big Rivers Electric Corporation and Meade
Conty Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with
Nucor Corporation; and (2) Approval of Tariff*, PSC Case No. 2019-00365, Joint Application (Oct.
19, 2019) at pp. 8-9.

1 fuel and purchased power cost to serve Nucor through the FAC. A follow-up
2 meeting was held the following day (October 4, 2022) to discuss the issue. That
3 meeting included Big Rivers' General Counsel, Chief Financial Officer (CFO), and
4 budgeting and accounting personnel. During the discussion on how Nucor sales
5 should be treated in the calculation of the FAC, the majority concluded it was
6 improper to recover through the FAC. That recommendation was relayed to Big
7 Rivers' then-CEO, who made the decision that Nucor sales should be excluded
8 from the FAC calculation while the fuel and purchased power costs to serve Nucor
9 should be included in the FAC calculation because Nucor was a Member. The
10 result of this decision meant that fuel and purchased power costs to serve Nucor
11 would be recovered from other Members until the end of 2031,² when Nucor will
12 begin paying the FAC and other adders.

13 The decision was not discussed with Big Rivers' Board of Directors until
14 after the current CEO arrived at the company at the beginning of 2024, and it
15 was brought to his attention. Currently, Big Rivers' management now reports
16 monthly to the Board, as well as to the CEO's of Big Rivers' Members, on the
17 impact to other Members of excluding Nucor sales from the FAC calculation. The
18 Board and the Member CEO's were also informed of the Commission cases where

² The Commission previously granted confidential treatment for the date that Nucor's special contract rate ends. *See In the Matter of: Electronic Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with Nucor Corporation; and (2) Approval of Tariff*, PSC Case No. 2019-00365, Order (March 12, 2020). However, Big Rivers anticipates that that date will be included in the new Interim Energy Adjustment tariff that the Commission directed that Big Rivers file in the May 29, 2026, Order in this case. As such, Big Rivers is filing that 2031 date publicly in this report.

1 this issue was raised and apprised of the implications should there be any refund
2 or change in recovery (i.e., that it could lead to a rate case resulting in a
3 permanent increase in rates instead of Big Rivers recovering the Nucor-related
4 costs through the FAC or other tariff mechanism temporarily through the end of
5 2031). In fact, the Member CEO's filed a public comment in this case describing
6 their concerns should Big Rivers be required to refund or otherwise not collect the
7 fuel and purchased power costs incurred to serve Nucor.³

8 **Management of BREC's Generation Fleet in the MISO Market and**
9 **Support for Culture of Compliance**

10 As the Commission noted in its May 29 Order in this case, the settlement
11 agreement with FERC involved alleged violations of FERC's Anti-Market
12 Manipulation Rule arising from two incidents spanning from June 2023 through
13 July 2023 – the first was an allegation that Big Rivers falsely characterized an
14 extension of a planned outage at Big Rivers' Green Unit 2 as a forced outage to
15 avoid Capacity Replacement Non-Compliance Charges as a result of MISO's new
16 rule limiting planned outages to 31 days during a Season, and the second was an
17 allegation that Big Rivers falsely submitted Green Unit 2 at full availability at a
18 time when Big Rivers knew or should have known it could not perform at full
19 availability.

20 Significant personnel changes have occurred since the incidents involving
21 Green Unit 2. Big Rivers' CEO at the time of the incidents retired after the

³ See Joint Public Comment of Jackson Purchase Energy Corporation, Kenergy Corp., and Meade County RECC filed October 28, 2024.

1 incidents but prior to the settlement agreement, and was replaced with Big
2 Rivers' current CEO. Big Rivers' Chief Operating Officer (COO), Vice President of
3 Energy Services, and Green's Plant Manager at the time of the incidents, who
4 were all involved in the decisions of how to report Green's outage status and
5 availability, left the company. The COO position was eliminated, and was
6 replaced by a Vice President of Production role filled from outside the company.
7 The Vice President of Energy Services role was also filled from outside the
8 company. Big Rivers' Director of Engineering transitioned into the Green Plant
9 Manager position.

10 There have been significant changes in the management and culture at Big
11 Rivers, even above the personnel changes. For example, the current CEO led the
12 Board in developing a new strategic plan, which resulted in the Board adopting
13 Big Rivers' Seven Strategic Priorities:

- 14 • Rate Management
- 15 • Financial Strength
- 16 • Member Relations & Economic Development
- 17 • Operational Excellence
- 18 • Enterprise Risk Management
- 19 • People & Culture
- 20 • Risk Managed Portfolio

21 Safety is not one of the strategic priorities because the strategic priorities
22 can change, whereas safety is a foundational principle for Big Rivers and is listed

1 as such in the strategic priorities. After the settlement agreement with FERC,
2 “Compliance is Mandatory” was also added as a foundational principle, shifting
3 from an assumed expectation to an expressed mandate.

4 Big Rivers has been guided by the Seven Strategic Priorities and the
5 foundational principles, and reports monthly to the Board progress in each of the
6 areas. Specifically, at least two principles address the deficiencies that gave rise
7 to the settlement agreement with FERC.

8 In the area of Enterprise Risk Management, and as part of the settlement
9 agreement with FERC, Big Rivers agreed to institute additional training. Big
10 Rivers utilized ACES Power Marketing (“ACES”) and outside counsel to provide
11 in-person compliance trainings regarding FERC’s Anti-Manipulation Rule, which
12 included topics related to the prohibitions on market manipulation, fraud,
13 disruptive trading practices, relevant case law highlighting the consequences of
14 engaging in such practices, and discussion questions designed to further develop
15 Big Rivers’ understanding of the market behavior rules. Big Rivers intends for
16 this to be an annual training for senior staff and relevant staff from Energy
17 Services, Energy Control, and Production.

18 ACES also provided MISO Tariff compliance training on MISO Outages &
19 Derates and the MISO Capacity Market. These trainings covered the 31-day outage
20 rule, FERC’s market behavior rules, outage types, outage obligations under various
21 circumstances, derate obligations, an overview of the Control Room Operations
22 Window (“CROW”) ticket system, best communication practices, FERC’s market

1 behavior and anti-manipulation rules, MISO’s capacity auction timelines, MISO’s
2 “must offer” requirements for capacity resources, the role of Capacity Replacement
3 Non-Compliance Charges, new developments to the MISO capacity auction, and
4 current MISO capacity market conditions.

5 In the areas of Enterprise Risk Management and Risk Managed Portfolio,
6 Big Rivers has modified its procedures for how capacity and energy are bid into the
7 MISO markets. For example, instead of the Vice President of Energy Services being
8 solely responsible for entering capacity values, two Energy Service personnel who
9 report to the Vice President of Energy Services now monitor and enter capacity
10 values, and the Vice President of Energy Service verifies the accuracy of the
11 capacity values, thereby ensuring that capacity values are reviewed by at least
12 three individuals before Big Rivers submits this information to the annual MISO
13 capacity auction.

14 In addition, Big Rivers has transferred responsibility for many market
15 functions to ACES. ACES now manages Big Rivers’ routine and time-sensitive
16 market obligations including: (1) hourly load forecasts for Owensboro Municipal
17 Utilities (“OMU”) and the public power customers Big Rivers serves in Nebraska;
18 (2) hourly forecasts and demand bids for power Big Rivers receives from Unbridled
19 Solar; (3) generation offers for Wilson and Green; (4) hourly scheduling and
20 tracking for hydro-power Big Rivers receives from the Southeastern Power
21 Administration (“SEPA”); and (5) rural hourly load forecasts. Big Rivers’ Energy
22 Services department retains responsibility over industrial forecasts. Additionally,

1 Big Rivers had ACES review Big Rivers' Board of Directors' policies on delegation
2 of authority for energy and capacity transactions.

3 **Conclusion**

4 Big Rivers appreciates the Commission's review and consideration of these
5 sensitive topics in this case, and Big Rivers is committed to continuous training on
6 relevant topics and assessments of its compliance procedures to identify potential
7 improvements.

8 On this the 18th day of June, 2026.

9 Respectfully submitted,

10
11 */s/ Tyson Kamuf*

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VERIFICATION

I, Talina R. Mathews, verify, state, and affirm that the Report filed with this verification is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Talina R. Mathews

Talina R. Mathews
Chief Financial Officer
Big Rivers Electric Corporation

COMMONWEALTH OF KENTUCKY)
COUNTY OF DAVIESS)

SUBSCRIBED AND SWORN TO before me by Talina R. Mathews on this the 18th day of June, 2026.

Senthia Towery Santana

Notary Public, KY State at Large
Kentucky ID Number: KYNP113611
My Commission Expires: 4-27-2030

