

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF JACKSON PURCHASE)
ENERGY CORPORATION FOR APPROVAL OF)
RETAIL TARIFF RIDERS, REVISED TARIFFS,) CASE NO 2008-00010
NEW TARIFF AND AMENDMENT OF)
WHOLESALE AGREEMENT)

ORDER

On March 14, 2008, Jackson Purchase Energy Corporation ("Jackson Purchase") filed an application requesting approval of certain revisions to its tariff on file with the Commission and approval of a wholesale power supply agreement with Big Rivers Electric Corporation ("Big Rivers"). A procedural schedule was established providing for discovery and the opportunity for the parties to file comments. A public hearing was conducted in this matter on December 2, 2008.

BACKGROUND

Jackson Purchase is a distribution cooperative serving approximately 28,917 customers in the Kentucky counties of Ballard, Carlisle, Graves, Livingston, McCracken and Marshall.¹ Jackson Purchase is a member-owner of Big Rivers and purchases wholesale power from Big Rivers.

¹ See Jackson Purchase 2007 Annual Financial Report on file with the Kentucky Public Service Commission.

In Case No. 2007-00455,² Big Rivers E.ON US, LLC ("E.ON"), and certain E.ON subsidiaries are requesting Commission approval of the early termination of a 25-year lease of Big Rivers' generating units to an E.ON subsidiary. The lease agreement and related transaction documents were approved by the Commission in Case No. 1997-00204.³ The lease termination transaction is commonly referred to as the "Unwind Transaction" and is currently pending before the Commission. As part of Case No. 2007-00455, Big Rivers is proposing tariff revisions that directly affect Jackson Purchase and an amended wholesale power supply agreement between Big Rivers and Jackson Purchase ("Power Supply Agreement").⁴

In the instant matter, Jackson Purchase seeks Commission approval of the same Power Supply Agreement that is under consideration in Case No. 2007-00455, as well as amendments to its tariff made necessary by the Unwind Transaction and tariff revisions sought by Big Rivers in Case No. 2007-00455.

The Power Supply Agreement is currently being reviewed by the Commission in Case No. 2007-00455 and the reasonableness of that agreement will be addressed in

² The Applications of Big Rivers Electric Corporation for: (I) Approval of Wholesale Tariff Additions for Big Rivers Electric Corporation, (II) Approval of Transactions, (III) Approval to Issue Evidences of Indebtedness, and (IV) Approval of Amendments to Contracts; and of E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy Marketing Inc. for Approval of Transactions.

³ See Commission's Order dated April 30, 1998 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 Station Two Inc. for Approval of Wholesale Rate Adjustment for Big Rivers Electric Corporation and for Approval of Transaction.

⁴ Big Rivers' Application in Case No. 2007-00455 at Volume 7 of 10, Tab 27.

that case. Consequently, the Commission will only address Jackson Purchase's requested tariff revisions in this Order.

Jackson Purchase's tariff revisions include the establishment of the following six tariff riders:

- 1) Fuel Adjustment Clause ("FAC tariff")
- 2) Environmental Surcharge ("ES tariff")
- 3) Unwind Surcredit Adjustment Clause ("US tariff")
- 4) Rebate Adjustment ("RA tariff")
- 5) Member Rate Stability Mechanism ("MRSM tariff")
- 6) Unwind Rider – Composite Factor ("URCF")

FAC tariff. In Case No. 2007-00455, Big Rivers is requesting approval of an FAC tariff, pursuant to 807 KAR 5:056, wherein fluctuations in fuel costs will be timely reflected in the rates charged each month to its members. Jackson Purchase seeks approval of its own FAC tariff pursuant to that same regulation to pass through to its customers the monthly charges in fuel costs as billed by Big Rivers.⁵

ES tariff. In Case No. 2007-00460,⁶ Big Rivers was granted approval of an environmental compliance plan and approval to establish its ES tariff pursuant to KRS 278.183. The approval was conditioned upon the Unwind Transaction being approved by the Commission.⁷ The purpose of Big Rivers' ES tariff is to provide for timely rate

⁵ The FAC tariff is presented in Jackson Purchase's Application at Exhibit 1.

⁶ The Application of Big Rivers Electric Corporation for Approval of Environmental Compliance Plan and Environmental Surcharge Tariff (KY PSC June 25, 2008).

⁷ See Final Order of the Commission in Case No. 2007-00460 dated June 25, 2008 at 10.

recovery for Federal Clean Air Act compliance costs, as well as compliance costs relating to federal, state, or local environmental requirements that apply to coal combustion wastes and by-products from facilities utilized for the production of energy from coal. Pursuant to the same statutory authority, Jackson Purchase requests approval of its proposed ES tariff to flow through to its customers on a monthly basis the impact of Big Rivers' ES tariff.⁸

US tariff. Included as a part of Big Rivers' application in Case No. 2007-00455 are proposed service agreements through which Big Rivers and Kenergy Corp. will provide electric service to Alcan Primary Products Corporation and Century Aluminum of Kentucky General Partnership (collectively "Smelters") subsequent to the Unwind Transaction. These service agreements will be referred to as Smelter Agreements.⁹ Pursuant to section 4.11 of the Smelter Agreements, the Smelters will pay a monthly surcharge to Big Rivers through Kenergy. These surcharges are extra amounts the Smelters will pay each month under the Smelter Agreements that will flow through the US tariff as a credit to offset the fuel charges payable by Big Rivers' non-smelter member load. Pursuant to KRS 278.455(1) and 807 KAR 5:007, Big Rivers is requesting Commission approval in Case No. 2007-00455 for a US tariff to flow this surcharge revenue back to its members. In the instant case, Jackson Purchase seeks

⁸ The ES tariff is presented in Jackson Purchase's Application at Exhibit 2.

⁹ Case No. 2007-00455, Big Rivers' Original Application at Volume 5 of 10, Tab 20.

approval of the US tariff to flow the credits received from Big Rivers through to its non-smelter customers.¹⁰

RA tariff. Jackson Purchase requests approval of the RA tariff¹¹ to provide a vehicle to pass through to its non-smelter customers any TIER-related rebates received from Big Rivers pursuant to the Smelter Agreements.¹²

MRSM tariff. Pursuant to the Unwind Transaction, Big Rivers will establish an Economic Reserve account in the approximate amount of \$157 million.¹³ In Case No. 2007-00455, Big Rivers is requesting approval of an MRSM tariff to flow the Economic Reserve account through to its members to "offset the monthly impacts of the FAC and Environment Surcharge on each non-smelter bill, net of the credits received under the Unwind Surcredit and Rebate Adjustment."¹⁴ Jackson Purchase seeks approval of the MRSM tariff to flow through to its non-smelter customers the effects of the Big Rivers MRSM tariff.¹⁵

URCF tariff. Jackson Purchase's original application proposed a URCF tariff that would be applied to all non-smelter rate schedules of Jackson Purchase for billings to

¹⁰ The US tariff is presented in Jackson Purchase's Application at Exhibit 3.

¹¹ The RA tariff is presented in Jackson Purchase's Application at Exhibit 4.

¹² Jackson Purchase's Application, Exhibit 10, Page 6, Lines 7-8.

¹³ See Big Rivers' Motion to Amend the Original Application filed in Case No. 2007-00455 dated October 9, 2008, Book 1 of 8, Page 15, Paragraph 24.

¹⁴ Application of Big Rivers in Case Number 2007-00455, Volume 6 of 10, Exhibit 24, PSC KY. NO. 23, Original Sheet No. 77.

¹⁵ The MRSM tariff is presented in Jackson Purchase's Application at Exhibit 5.

customers served from non-dedicated delivery points. The URCF tariff is the composite of the FAC tariff, the ES tariff, the US tariff, the RA tariff and the MRSM tariff.¹⁶

Jackson Purchase requested that it be allowed to present the aforementioned six tariff riders on customers' bills in any one of the following three methods:

- 1) Each of the first five tariff riders separately without the URCF tariff;
- 2) The URCF tariff without the first five tariff riders; or
- 3) Each of the first five tariff riders separately along with the URCF tariff rider, setting the amount of the first five riders to zero.

FINDINGS

At the hearing of this matter, Jackson Purchase made an oral motion to withdraw its request to seek authorization to establish the URCF tariff.¹⁷ Originally, it was Big Rivers' intent to utilize the Economic Reserve to offset any charges reflected through the FAC and the ES for a period of five years after the consummation of the Unwind Transaction. Big Rivers subsequently decided to apply the Economic Reserve to fully offset any increase in rates resulting from the FAC and the ES for only one year after the completion of the Unwind Transaction. The rationale for this change is to allow for a gradual increase in Big Rivers' wholesale rates in order to prevent a sharp increase in rates once the Economic Reserve has expired. Based on this set of circumstances, Jackson Purchase states that it would not be reasonable to apply the URCF tariff for only one year. The Commission finds that good cause has been shown to allow Jackson Purchase to withdraw its proposed URCF tariff.

¹⁶ The URCF tariff is presented in Jackson Purchase's Application at Exhibit 6.

¹⁷ Jackson Purchase subsequently filed a formal motion to withdraw the proposed URCF on December 8, 2008.

The Commission finds Jackson Purchase's proposed FAC tariff, ES tariff, US tariff, RA tariff and MRSM tariff to be reasonable for flowing through to Jackson Purchase's customers the wholesale tariff changes proposed by Big Rivers in Case No. 2007-00455. If the Commission approves the Unwind Transaction and the revised tariffs proposed by Big Rivers in Case No. 2007-00455, Jackson Purchase's five tariffs will be necessary and appropriate to coordinate Jackson Purchase's tariffs with those of Big Rivers. Therefore, these tariffs will be conditionally approved, subject to the Commission's decision in Case No. 2007-00455. However, if the Commission denies the Unwind Transaction and the revised tariffs proposed by Big Rivers in Case No. 2007-00455 do not become effective, the Commission finds that Jackson Purchase's proposed five tariffs will be unnecessary.

In addition to the establishment of the tariff riders, Jackson Purchase requested amendments to its existing tariff Schedules SPC-A, SPC-B and SPC-C.

Schedule SPC-A. The proposed revisions to Schedule SPC-A¹⁸ are necessary to include the base payment of \$0.0204 per kWh (the base energy rate of Big Rivers) and to properly add the proposed FAC tariff, ES tariff, US tariff and MRSM tariff.¹⁹ The Commission finds that the revisions to Schedule SPC-A should be conditionally approved, subject to the approval of the related tariffs for Big Rivers in Case No. 2007-00455.

¹⁸ Schedule SPC-A applies to Small Power Production or Cogeneration less than 100 kW, Member Sells Energy to Jackson Purchase, and is presented in Jackson Purchase's Application at Exhibit 7.

¹⁹ See Application at Exhibit 10, Page 10, Lines 19 and 20.

Schedule SPC-B and Schedule SPC-C. Jackson Purchase is proposing to revise Schedule SPC-B²⁰ in order to coordinate with Big Rivers' proposed tariffs in Case No. 2007-00455 related to Big Rivers' purchase of electricity from generating facilities operated by Jackson Purchase customers. Jackson Purchase also proposed revisions to Schedule SPC-C²¹ to allow it to pass the wholesale tariff proposed by Big Rivers in Case No. 2007-00455 through to all Jackson Purchase customers to which the wholesale tariff applies. In addition, Schedule SPC-C includes a provision allowing Jackson Purchase to determine the retail adder on a case-by-case basis. The revisions to Schedule SPC-B and Schedule SPC-C incorporate all the necessary changes to coordinate with Big Rivers' proposed Small Power and Cogeneration tariffs in Case No. 2007-00455.²² The Commission will conditionally approve the revisions to Schedule SPC-B and Schedule SPC-C as proposed by Jackson Purchase, subject to the approval of the related tariff revisions requested by Big Rivers in Case No. 2007-00455.

Motion to Amend

On November 12, 2008, Jackson Purchase filed a motion requesting permission to amend its application. In its motion, Jackson Purchase states that the original application needs to be amended to address matters that have occurred since the filing of the original application and to confirm that the five proposed tariff riders are still

²⁰ Schedule SPC-B applies to Small Power and Cogeneration Greater Than 100 kW, Member Sells Power and Energy to Big Rivers, and is presented in Jackson Purchase's Application at Exhibit 8.

²¹ Schedule SPC-C applies to Small Power and Cogeneration Greater Than 100 kW, Member Buys Power from Jackson Purchase, and is presented in Jackson Purchase's Application at Exhibit 9.

²² Jackson Purchase Application, Exhibit 11, Page 11, Lines 16 and 17.

applicable and do not need modification. More specifically, the amendment reflects a minor revision to one of Jackson Purchase's proposed tariffs and supplements the testimony of one of its witnesses. The Commission finds that good cause has been shown to permit Jackson Purchase to amend its application.

IT IS THEREFORE ORDERED that:

1. Jackson Purchase's proposed FAC tariff, ES tariff, US tariff, RA tariff and MRSM tariff are conditionally approved subject to the Commission's approval of the Unwind Transaction in Case No. 2007-00455.

2. Jackson Purchase's proposed revisions to Schedules SPC-A, SPC-B, and SPC-C are conditionally approved subject to the Commission's approval of the Unwind Transaction in Case No. 2007-00455.

3. In the event that the Commission approves the Unwind Transaction in Case No. 2007-00455, all of Jackson Purchase's conditionally approved tariffs shall become effective on the same date that the tariffs proposed by Big Rivers in Case No. 2007-00455 become effective.

4. In the event that Jackson Purchase's conditionally approved tariffs become effective, Jackson Purchase shall file the monthly reports for the FAC tariff, ES tariff, US tariff, RA tariff and MRSM tariff in the same formats as provided at Exhibits JDG-2 through JDG-6 of Jackson Purchase's Application at Exhibit 10.

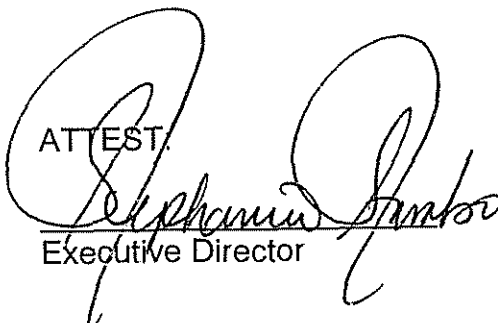
5. Jackson Purchase's Motion to Withdraw Its Proposed URCF tariff is granted.

6. Jackson Purchase's Motion to File an Amended Application is granted.

7. Jackson Purchase shall file all revised tariffs with the Commission within 30 days after their effective dates.

Done at Frankfort, Kentucky, this 12th day of December, 2008.

By the Commission

ATTEST.

Executive Director

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