

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	CASE NO.
CORPORATION FOR A GENERAL	)	2009-00040
ADJUSTMENT IN RATES	)	

ORDER

The matter is before the Commission upon Kentucky Industrial Utility Customers, Inc.'s ("KIUC") motion to amend the procedural schedule for processing the request by Big Rivers Electric Corporation ("Big Rivers") for interim rate relief. In support of its motion, KIUC contends that the procedural schedule established pursuant to the Commission's March 16, 2009 Order did not provide KIUC and the Office of the Attorney General ("AG"), the two Intervenor in this matter, an opportunity to file testimony or post-hearing briefs on the request for interim rate relief. KIUC concludes that the failure to allow for Intervenor testimony or briefs amounts to denial of due process.

On March 19, 2009, Big Rivers filed its response to KIUC's motion, expressing its desire to retain the hearing date of March 26, 2009 and the existing procedural schedule for purposes of supporting its case for interim rate relief. Big Rivers states that it intends to file responses to all data requests on the issue of interim rate relief by the established March 24, 2009 deadline. Big Rivers further states that any delay in the implementation of interim relief beyond the proposed April 1, 2009 effective date would require a larger percentage rate increase to produce the \$16.6 million increase needed

by year-end that, according to Big Rivers, is necessary in order to avoid impairing its credit or operations. Thus, Big Rivers' concern is twofold: (1) achieving sufficient cash to operate prudently; and (2) keeping the percentage rate increase necessary to produce that cash as low as reasonably possible.

In its reply, KIUC questions Big Rivers' need for emergency rate relief based on a cash basis methodology as proposed by Big Rivers. KIUC suggests that the Commission should not rush to a hearing but should, rather, take time to thoroughly review the answers to data requests as well as any Intervenor testimony.

Regarding KIUC's request to allow the Intervenor an opportunity to file testimony, the Commission finds this argument to be without merit. The Commission's March 16, 2009 Order established, among other things, the procedural schedule for the processing of Big Rivers' request for interim relief and provides, in relevant part, as follows:

Public hearing to be held at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, **for the purposes of presenting direct testimony by Intervenor** and cross-examination of witnesses of Big Rivers and Intervenor.....03/26/2009

(Emphasis added.)

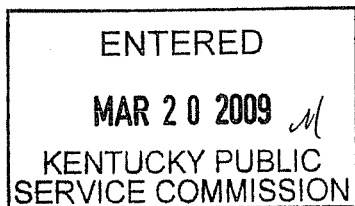
Thus, the current procedural schedule affords the Intervenor the opportunity to provide direct testimony at the hearing scheduled for March 26, 2009 to address any concerns the Intervenor may have regarding Big Rivers' proposed interim rate relief. Accordingly, the Commission finds that KIUC has failed to show good cause to amend the procedural schedule.

With respect to KIUC's request to allow the parties an opportunity to file post-hearing briefs, the Commission will defer ruling on this issue until after the hearing has concluded, as it will not be known until that time whether post-hearing briefs will be necessary or needed by the parties.

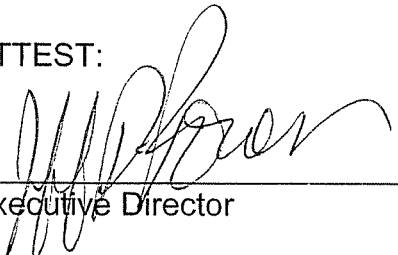
IT IS THEREFORE ORDERED that:

1. KIUC's motion to amend the procedural schedule is denied.
2. The Commission will reserve ruling on the filing of post-hearing briefs until the conclusion of the hearing scheduled for March 26, 2009.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

Mark A Bailey  
President CEO  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024

Douglas Bererford  
Hogan & Hartson, L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

George F Hobday  
Jr  
Hogan & Hartson, L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

Honorable Dennis G Howard II  
Assistant Attorney General  
Office of the Attorney General Utility & Rate  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601-8204

Honorable Michael L Kurtz  
Attorney at Law  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OH 45202

Honorable James M Miller  
Attorney at Law  
Sullivan, Mountjoy, Stainback & Miller, PSC  
100 St. Ann Street  
P.O. Box 727  
Owensboro, KY 42302-0727

David A Spainhoward  
Vice President  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024