

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	CASE NO.
CORPORATION FOR AN ADJUSTMENT OF RATES	)	2012-00535

ORDER

In its October 29, 2013 Order in this matter, the Commission granted Big Rivers Electric Corporation ("Big Rivers") a base rate increase to generate additional annual revenues of \$54,227,241. On November 20, 2013, Ben Taylor and Sierra Club ("Sierra Club"), Kentucky Industrial Utility Customers, Inc. ("KIUC"), and the Attorney General for the Commonwealth of Kentucky ("AG"), (collectively, "Intervenors") filed a request for rehearing on three issues. Our December 10, 2013 Order granted rehearing on one of the issues raised in the Intervenors' petition, relating to revenues to be received from the operation of the Coleman Generating Station ("Coleman"), and denied rehearing on the two other issues raised by the Intervenors.<sup>1</sup>

A procedural schedule established for the rehearing phase of this proceeding provided for two rounds of discovery on Big Rivers, written comments on the rehearing issue, a response to any comments by Big Rivers, and the opportunity to request a formal hearing. With this Order the Commission finds that there is a relatively small amount of double recovery related to Coleman revenues (property taxes and property insurance expense) and that \$45,933 should be included in Big Rivers' Economic

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<sup>1</sup> The issues that were denied involved the deferral of the Coleman depreciation expense and a request to establish certain specific parameters for Big Rivers' load mitigation plan.

Reserve fund in a manner consistent with our Order of April 25, 2014, in Case No. 2013-00199.<sup>2</sup> We deny the remainder of the Intervenors' revised request, as set forth in their written comments, for a reduction of \$2.63 million in claimed double recovery for Coleman. We also deny the Intervenors' untimely request to add a new issue on rehearing related to Big Rivers' 2014 off-system sales revenues and the Intervenors' request for a formal hearing.

#### INTEVENORS' REHEARING REQUEST

Our December 10, 2013 Order granted the Intervenors' request on Big Rivers' potential double recovery of costs related to the operation of its Coleman Generating Station ("Coleman") as a System Support Resource ("SSR") under a decision of the Mid-Continent Independent System Operator, Inc. ("MISO"), the Regional Transmission Organization of which Big Rivers is a member.<sup>3</sup> According to the Intervenors' rehearing petition, pursuant to the SSR Agreement between Big Rivers and MISO that was filed with the Federal Energy Regulatory Commission ("FERC") on November 1, 2013, Big Rivers was to receive \$40.974 million annually from MISO for fixed and capital cost recovery related to the operation of Coleman as an SSR, or \$12.313 million more than the amount estimated by Big Rivers and accepted by the Commission in setting Big Rivers' revenue requirement in this case. Our December 10, 2013 Order granted rehearing "to explore the issue of when the amount of SSR revenues was determined

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<sup>2</sup> Case No. 2013-00199, Application of Big Rivers Electric Corporation for an Adjustment of Rates (Ky. PSC Apr. 25, 2014).

<sup>3</sup> MISO's decision reflected the reliability needs of Century Aluminum's ("Century") Hawesville smelter, which is located near the Coleman Generating Station.

and known to Big Rivers and whether any such additional revenues should be recognized in establishing Big Rivers' revenue requirement."<sup>4</sup>

After two rounds of discovery, in their March 4, 2014 written comments, the amount by which the Intervenors claimed the increase granted Big Rivers should be reduced had been lowered to approximately \$2.63 million. This amount consisted of: (1) \$1.804 million for "A&G Headquarters" expenses related to MISO's and Century's reimbursement to Big Rivers of the cost of 15 employee positions, which the Intervenors claim represents a double recovery through the SSR agreement and from Big Rivers' customers through its base rates; (2) \$716,000 via a 7.85 percent return on fuel and material and supplies inventory, which the Intervenors claim is incremental income that should be returned to customers instead of being retained by Big Rivers; and (3) \$110,000 of avoidable property taxes and property insurance expense during the time of the SSR agreement, reductions which Big Rivers' discovery responses indicated that it had negotiated based on how the Coleman Station was valued by the Kentucky Revenue Department when Coleman Station was considered idled. In their comments, the Intervenors raised a new issue, stating that Big Rivers' off-system sales revenues from Coleman likely exceeded its SSR costs during January and February of 2014 due to a significant weather-related increase in wholesale power prices.<sup>5</sup> The Intervenors claimed that the "Commission should credit customers for any profits from off-system sales that Big Rivers receives as a result of running its excess capacity."

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<sup>4</sup> Order of December 10, 2013 at 6.

<sup>5</sup> Comments on Rehearing and Request for Hearing by Kentucky Industrial Utility Customers, Inc., Attorney General, Ben Taylor, and Sierra Club at 6.

## BIG RIVERS' REPLY TO INTERVENORS

In its response to the Intervenor's comments, Big Rivers stated that discovery in the rehearing phase of this proceeding showed that there is no "newly discovered evidence" supporting any adjustment to its revenue requirement. It claimed that the Intervenor largely ignore the fact that it did not know the amounts or types of SSR reimbursements it might receive until after the evidentiary hearing and issuance of the Commission's October 29, 2013 Order.<sup>6</sup> Big Rivers stated that MISO reimburses it only for actual costs incurred, not the budgeted amounts contained in the SSR agreement. It provided a timeline of the negotiations and the filing of the SSR agreement in which all dates post-dated the formal hearing by at least two months.

Regarding the three items the Intervenor cited in their written comments, Big Rivers asserted that: (1) it identified the headquarters positions that would be eliminated with Coleman idled after September 26, 2013; (2) it first calculated its proposed 7.85 percent return of fuel and materials and supplies inventories on September 4, 2013; and (3) it was October 1 and 3, 2013, respectively, when it became aware that its property taxes and property insurance costs would be lower with Coleman idled.

Specifically concerning the issue of headquarters positions, Big Rivers stated that it had removed five of the 15 employees from its revenue requirement when it filed its application in this case, meaning only ten positions were included both in its revenue requirement and in the SSR budget. Big Rivers also stated that it does not budget for its full complement of employees. In the forecast Big Rivers relied upon in this case, it had assumed that an average of 14.67 positions would be vacant in each month of the

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<sup>6</sup> The evidentiary hearing was held on July 1, 2, and 3, 2013.

forecasted test period, and stated that removal of those costs more than made up for the costs of the ten positions included in both the forecast and the SSR budget.

With regard to the return on fuel and materials and supplies inventory, Big Rivers stated that the return reimburses it for incremental carrying costs incurred to operate Coleman during the term of the SSR agreement. Big Rivers claimed that, if it were not required to operate Coleman, it would not have to use its internal funds for the fuel, reagent, and materials and supplies required to operate the station. Big Rivers also claimed that, although the amount it is budgeted to receive for the carrying costs is not included in its revenue requirement, the reimbursement from MISO is not a profit; it serves only to make Big Rivers whole and ensures that the incremental costs of operating Coleman under the SSR agreement are not borne by ratepayers.

Concerning the property taxes and property insurance that are reduced when Coleman is idled, Big Rivers asserted that, as with the other two items, the Intervenor's base their argument on recovery of annual budgeted amounts and overlook, or ignore, that the SSR agreement will not be in place for a full year. It stated that, if the SSR agreement is approved by FERC as filed, its reimbursement would be \$9,186.50 per month for the five months during which the rates approved in the October 29, 2013 rate order were in effect, which for that period would equal \$45,933. It demonstrated that if the full amount were applied to the demand charges of both its rate classes, the monthly demand charges would be reduced by only \$0.00136 per kW.

On the issue of off-system sales from Coleman during January and February of 2014, Big Rivers pointed out that this was not an issue on which the Intervenor's sought rehearing and that it relates to events which occurred after the date by which the parties

could seek rehearing. Big Rivers stated that, based on prior Commission rulings, an issue may not be raised for the first time on rehearing. Big Rivers reiterated that it makes no profit under the SSR agreement: it is reimbursed for its marginal cost of generation and receives no benefits from any price spikes in the market.

### ANALYSIS AND DECISION

Based on Big Rivers' responses to questions from Commission Staff and the Intervenors' March 4, 2014 comments, the Commission finds that there is no over-recovery or double recovery by Big Rivers of costs related to "A&G Headquarters" employee positions or the 7.85 percent return on fuel, reagent, and materials and supplies inventory. Big Rivers had removed positions, or effectively reduced headcount, by 19.67<sup>7</sup> in developing its revenue requirement, meaning there was no double recovery of the cost of 15 employees, as the Intervenors allege. The return is related to costs that were incurred only because Coleman was required to operate as an SSR unit for reliability purposes. Coleman was not run to serve Big Rivers' native load customers.

As to property taxes and property insurance expense, Big Rivers acknowledged that there will be a monthly double recovery of \$9,186.50 if the SSR agreement is approved as filed. At that level, for the five months the rates approved in this case were in effect, the amount of the double recovery will be \$45,933. Such a relatively small amount would have a negligible impact on Big Rivers' rates. Therefore, rather than to reduce Big Rivers' revenue requirement, the Commission finds that Big Rivers should

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<sup>7</sup> Big Rivers had already removed five of the 15 positions in question from its revenue requirement, plus it assumed that an average of 14.67 positions would be vacant in each month of the forecasted test period. Thus, the total reduction in positions reflected by Big Rivers is 19.67 (5 + 14.67).

be required to place that amount, or, alternatively, the final amount approved by FERC if it modifies the proposed SSR agreement, in Big Rivers' Economic Reserve ("ER") fund in a manner consistent with the Commission's decision in Big Rivers' more recent rate case, Case No. 2013-00199.<sup>8</sup>

The Commission finds that the Intervenors' attempt to raise Big Rivers' off-system sales during the first two months of 2014 as an issue should be rejected because it was raised in an untimely manner and because it is beyond the scope of the issue on which we granted rehearing. Finally, the Intervenors have not shown that there are any significant facts in dispute to warrant the granting of their request for an evidentiary hearing. All of the issues raised on rehearing can be, and have been, fully addressed in this Order based on the existing record without an additional hearing.

Based on the evidence of record and the findings set for herein, it is HEREBY ORDERED that:

1. No adjustment of Big Rivers' revenue requirement or rates shall be made in conjunction with "A&G Headquarters" employees or the return on fuel, reagent, and materials and supplies inventory included in the proposed SSR agreement with MISO.

2. Big Rivers shall place \$45,933 in its ER fund as described in the findings above. If this amount changes due to modifications to the SSR agreement by FERC, Big Rivers shall notify the Commission of the changed amount; provide supporting calculations thereof; and state the remaining amount that will be deposited in, or

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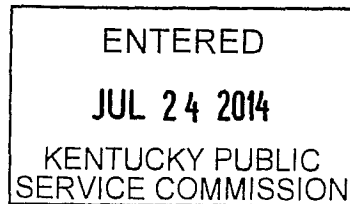
<sup>8</sup> The amount deposited in the Economic Reserve in this case, however, would not be required to be allocated to the rate classes based on the 12 coincident peak basis, as was required in Case No. 2013-00199.

removed from, the ER fund in order to avoid double recovery of property taxes and property insurance expense.

3. The Intervenors' attempt to raise as an issue on rehearing Big Rivers' level of off-system sales during the first two months of 2014 is rejected as untimely under KRS 278.400.

4. The Intervenors' request for a formal hearing is denied.

By the Commission



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