

Contract 74-27
File 1259
116043

U. S. DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION

REA BORROWER DESIGNATION: Kentucky 62 Big Rivers
THE WITHIN: Agreement for Transmission and Transformation
Capacity dated April 11, 1975, between Big Rivers and City of
Henderson Utility Commission

SUBMITTED BY THE ABOVE DESIGNATED BORROWER PURSUANT TO THE
TERMS OF THE LOAN CONTRACT, IS HEREBY APPROVED SOLELY FOR THE
PURPOSES OF SUCH CONTRACT

David H. Askegaard
FOR THE ADMINISTRATOR

DATED: OCT 1 1975
DAVID H. ASKEGAARD
Rural Electrification Administration

27 forms

AGREEMENT FOR
TRANSMISSION AND TRANSFORMATION CAPACITY

THIS AGREEMENT, made and entered into as of the
11th day of April, 1975, by and between
BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation with
offices in Henderson, Kentucky (BIG RIVERS) and CITY OF
HENDERSON UTILITY COMMISSION, a municipal commission established
by the City of Henderson, Kentucky pursuant to KRS 96.520
(COMMISSION).

WITNESSETH THAT:

SECTION 1 - STIPULATIONS:

- 1.1 BIG RIVERS owns and operates an electric generation and transmission system with which it serves its member cooperatives in a 15 county area of Western Kentucky.
- 1.2 COMMISSION manages, operates and controls an electric generation, transmission and distribution system owned by the City of Henderson, Kentucky (City) with which it serves the inhabitants and customers of City, with generation and distribution facilities within the service area of City, additional generation facilities (Station Two) adjacent to BIG RIVERS Reid generating station in Henderson County, Kentucky, (Reid Station), and 69 KV transmission facilities connecting said Station Two to City's service area.

1.3 BIG RIVERS plans to construct a 161-138 KV transmission line and appropriate substation and terminal facilities in order to interconnect its electric system with the electric system of Southern Indiana Gas & Electric Company, an Indiana electric utility (SIGECO). The 161 KV transmission line will extend from BIG RIVERS' Reid Station to a transformer substation near the northern boundary of City's service area. BIG RIVERS' substation will include a 161-138 KV transformer to be used for its interconnection with SIGECO, and a 161-69 KV transformer to be used for its electric service in the state of Kentucky, and as provided in this Agreement.

1.4 COMMISSION desires to acquire the right to use a portion of the capacity of BIG RIVERS' 161-69 KV transformer and related substation facilities and of the 161 KV transmission line connecting said substation to the Reid Station, in order to transmit electricity from City's Station Two to its service area. In exchange therefor, COMMISSION is willing to contribute to the costs of acquisition and construction of said 161 KV transmission line and the 161-69 KV transformer and related substation facilities, and to the costs of operation and maintenance thereof as provided in this Agreement.

1.5 BIG RIVERS is willing to grant to COMMISSION the use of a portion of the capacity of said 161 KV transmission line and 161-69 KV transformer and related substation facilities, under the terms and conditions, and for the considerations recited in this Agreement.

SECTION 2 - FACILITIES:

2.1 Transmission: BIG RIVERS will acquire necessary transmission line right-of-way and construct thereon a 161,000 KV transmission line with minimum of 795 MCM ACSR conductor, from the point of the Paradise bay at Big Rivers Reid Station to the 161-138 KV and 161-69 KV transformer substation referred to in 2.2 hereof.

2.2 BIG RIVERS will acquire an adequate substation site within the vicinity of Larue Road, in Henderson County, Kentucky, and will construct thereon a substation and related facilities, including a 161-138 KV transformer, with which it will provide for the interconnection of its electric system with that of SIGECO, and a 161-69 KV transformer of 30/40/50 MVA capacity, with which it will serve its needs and will provide capacity to COMMISSION under the terms of this Agreement. The 161-69 KV transformer will be physically identified as # G-1 and the 161 KV transmission line as # 16-A.

2.3 BIG RIVERS will complete construction of said transmission and transformation facilities on or about January 1, 1976 and will commence the transmission and transformation services

to be provided to COMMISSION under the terms of this Agreement as soon as said facilities and the facilities to be provided by SIGECO are completed and connected.

SECTION 3 - OPERATION AND MAINTENANCE:

3.1 During the term of this Agreement, BIG RIVERS will operate and maintain said 161 KV transmission line and 161-69 KV transformation facilities so as to provide to COMMISSION the transmission and transformation capacity as recited in Section 4 hereof.

SECTION 4 - TRANSMISSION AND TRANSFORMATION SERVICES TO COMMISSION:

4.1 Upon commencement by BIG RIVERS of the operation of the 161 KV transmission and 161-69 KV transformation facilities referred to in Section 2 hereof, and for the term of this Agreement, COMMISSION shall be entitled to the exclusive use of one-half of the transformation capacity of the 161-69 KV transformer and related substation facilities referred to in Section 2 hereof, and to an equivalent amount of capacity in the 161 KV transmission line and the switch-bay connections thereof to Reid Station and Station Two, for purposes of transmitting electric power and energy between Station Two and City's electric service area. Metering of power and energy transmitted to COMMISSION under this Agreement shall be at COMMISSIONS substation meters, with transmission losses to be borne by COMMISSION as provided, from time to time, by the parties' inter-connection agreement.

SECTION 5 - COSTS:

5.1 COMMISSION shall pay to Big Rivers one-half of the total costs to Big Rivers for acquisition and construction of the 161-69 KV transformer and related substation facilities and one-tenth of the total costs to Big Rivers of the acquisition and construction of the 161 KV transmission line and related switch-bay facilities. Commission shall not pay any costs associated with the acquisition and construction of the 161-138 transformer and related substation facilities or the 138 KV transmission line connecting said transformer to the SIGECO interconnection. The costs of facilities associated with both the 161-138 KV and 161-69 KV transformers shall be equitably apportioned to the costs of such transformers. The costs herein referred to shall include also the costs of land and easements acquired in connection with such transmission and substation facilities.

Such costs shall be paid by Commission to Big Rivers as follows:

- (a) Upon the execution of this Agreement, \$80,000.00.
- (b) On May 31, 1975, \$80,000.00.
- (c) On November 30, 1975, one-half of the balance due (as then determined by contracts and/or estimates).
- (d) On May 31, 1976, the balance due.

5.2 During the term of this Agreement COMMISSION shall promptly pay to BIG RIVERS, upon monthly billing therefor, the following designated shares of all costs of operation, maintenance, renewals and replacements of the 161 KV transmission line and 161-69 KV

transformer, and related facilities referred to in Section 2 hereof, but exclusive of any costs applicable to the operation, maintenance, renewals and replacements of the 161-138 KV transformer and related substation facilities and all portions of the 138 KV transmission facilities referred to in Section 2. Commission's share of said costs shall be one-half of all such costs related to the 161-69 KV transformer and related substation facilities and one-tenth of all such costs related to the 161 KV transmission line and related switch-bay connections to Reid Station and Station Two. Energy consumed in the operation of the 161-69 KV transformer (transformer losses) shall be included as costs of operation.

SECTION 6 - GENERAL PROVISIONS:

6.1 Construction and Operating Standards: The facilities which are the subject of this Agreement shall be constructed, operated and maintained in accordance with standards and specifications at least equal to those provided by the National Electric Safety Code of the American National Standards Institute, and as required by the Rural Electrifications Administration and any regulatory authorities having jurisdiction thereof.

6.2 Inspections, Right of Access: Each party hereto shall permit the duly authorized representatives and employees of the other party to enter upon its premises for the purpose of reading or checking meters, inspecting, testing, repairing, renewing or replacing any or all of the facilities and equipment owned.

by the other party located on such premises, or for the purpose of performing any of the work necessary in order to carry out the provisions of this Agreement. Such entries shall be conducted so as not to interfere with the use of the other party's facilities. Each party shall be responsible for the safety of its own representatives and employees when on the premises of the other pursuant to the right of access granted herein, and shall hold harmless and indemnify the party granting access from any loss or damage whatsoever by reason of any injury, including death, of such representatives and/or employees, unless the same shall be due to the negligence or willful misconduct of the party granting such access or its authorized agents or employees.

6.3 Relationship of the Parties: The terms of this Agreement shall not be construed as an agreement for partnership, joint venture, association or other relationship whereby either party shall be responsible for the obligations and/or liabilities of the other party hereto. Neither party to this Agreement shall be liable for any act, omission or legal obligation of the other party hereto. Neither party to this Agreement shall, by reason of the provisions hereof, be deemed a principal, agent, subcontractor or employee of the other party hereto, nor shall either party to this Agreement have the authority to bind the other party to this Agreement to any contract or any other obligation, without specific written authority therefor.

6.4 Uncontrollable Forces: Neither party hereto shall be considered in default or breach with respect to any obligation of this Agreement if prevented from fulfilling such obligation by reason of an uncontrollable force. Any party unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such disability as soon as reasonably possible. The term uncontrollable force shall mean any force which is not within control of any party to this Agreement, and which by exercise of due diligence and foresight would not have reasonably been avoided, including but not limited to: an act of God, fire, flood, earthquake, explosion, strike, sabotage, an act of the public enemy, civil or military authority, including court orders, injunctions and orders of government agencies having proper jurisdiction, insurrection or riot, an act of the elements, failure of equipment, or inability to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers.

6.5 Arbitration: Any controversy or claim arising out of, or relating to this Agreement or to the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties. Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in court of law or equity or proceedings

before any governmental agency or regulatory body having jurisdiction thereof.

6.6 Default: In the event of a default by either party in the performance of any one or more of the provisions of this Agreement, the aggrieved party shall, in addition to the remedies specified in this Agreement, have the right to use and employ all rights and remedies available through courts of law and/or equity, governmental agencies and/or regulatory bodies having jurisdiction thereof.

6.7 Waiver: The failure of either party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect.

6.8 Notices: Any payment, written notice, demand or request required or permitted under this Agreement shall be deemed properly given to or served upon the recipient when posted through the regular United States mail affixed with postage and properly addressed as follows:

To BIG RIVERS: President, Big Rivers Electric Corporation
 P. O. Box 24
 Henderson, Kentucky 42420

To COMMISSION: General Manager, Municipal Power & Light
 P. O. Box 8
 Henderson, Kentucky 42420

SECTION 7 - OTHER PROVISIONS:

7.1 Insurance: BIG RIVERS shall insure the transformation and transmission facilities which are the subject of this Agreement against loss or damage by fire, storm or other insurable casualty, in some good and solvent insurance company or companies, to the maximum insurable value thereof, with loss payable clause to COMMISSION as its interest may, from time to time, appear, and the costs of such insurance shall be considered a part of the operating costs of such facilities and shall be apportioned to the parties as provided in Section 5 of this Agreement.

7.2 Term and Termination: The term of this Agreement shall commence upon the execution hereof by BIG RIVERS and COMMISSION and shall terminate thirty (30) years after the date of commencement of transformation and transmission services to COMMISSION under the terms of this Agreement. Upon termination of this Agreement COMMISSION shall have no further rights in or to any of the transmission and transformation facilities which are the subject of this Agreement.

7.3 Sale or Other Disposition of Facilities:

If, during the term hereof, BIG RIVERS desires to sell or otherwise dispose of the transformation and transmission facilities which are the subject of this Agreement, it shall first give COMMISSION notice in writing of its desire or intention to make such sale or disposition, specifying therein the terms and consideration to be received therefor, and thereafter, COMMISSION shall have a period of ninety (90) days within which to elect to purchase or otherwise acquire said facilities in

accordance with the consideration and provisions of said written offer. In the event COMMISSION shall fail to exercise its right to purchase or otherwise acquire said facilities, then BIG RIVERS shall be entitled to proceed with the sale or other disposition to another party or parties, provided that if such sale or other disposition by BIG RIVERS is not made within one year after the expiration of such ninety (90) day period, no such sale or other disposition shall be made thereafter without again first offering the same to COMMISSION as hereinabove provided. Any sale, assignment or other disposition by BIG RIVERS of the transformation and/or transmission facilities through which capacity is provided to COMMISSION under the provisions of this Agreement, to any party other than COMMISSION, shall be made subject to all of the rights, obligations, terms and conditions of this Agreement and any amendments or additions thereto which are then applicable, and it shall be a condition of such sale or other disposition that the purchaser or acquirer thereof assume all of the obligations of BIG RIVERS under the terms of this Agreement.

7.4 Expansion of Facilities: In the event that BIG RIVERS shall, during the term of this Agreement, elect to construct additional 161-69 KV transformation capacity at the substation site herein referred to, COMMISSION shall have the right and option to participate in such expansion by contributing to the

costs of acquisition, construction, operation, maintenance, renewals and replacements thereof in direct proportion to the share of the capacity of such additional transformer and related facilities as is reserved to COMMISSION. The amount of capacity available to COMMISSION under this option shall not exceed the lesser of one-half the total capacity of such additional transformer and related facilities or 25 MVA. The option herein granted is for transformation capacity only and specifically excludes any additional capacity in the 161 KV transmission facilities referred to in this Agreement. The portion of costs of acquisition and construction of the additional transformer and related facilities to be paid by COMMISSION shall be reduced in proportion to the number of years remaining in the term of this Agreement at the time of completion of construction of such additional transformer and related facilities, as compared to thirty (30) years.

7.5 Default:

Should COMMISSION fail to make any payment herein required then, in addition to any other remedies which BIG RIVERS may have at law or equity, or with any administrative or regulatory body, board, commission, agency or authority, BIG RIVERS shall have the right upon thirty (30) days written notice to COMMISSION to terminate COMMISSION'S use of the transformation and transmission facilities herein referred to, which use shall, at BIG RIVERS' option, remain terminated until such default is remedied by payment of all amounts past due, with interest

at ten percent (10%) per annum from due date until paid.

Should BIG RIVERS fail to perform any provision of this Agreement on its part then, in addition to any other remedies which COMMISSION may have at law or equity or with any administrative or regulatory body, board, commission, agency, or authority, commission shall have the right, upon thirty (30) days written notice to BIG RIVERS, to cease making any payments due hereunder until such default is remedied by BIG RIVERS.

7.6 Amendment:

No amendments of this Agreement shall be effective unless reduced to writing and executed by the parties hereto. It is understood that BIG RIVERS may not agree to any amendment, modification or alteration of this Agreement without first obtaining approval of the Administrator of the Rural Electrification Administration.

7.7 Severability:

In the event that any part of this Agreement is declared illegal or no longer in force by reason of an order issued by a court or regulatory body or competent jurisdiction, all remaining portions of this Agreement which are not affected by such order shall continue in full force and effect. This Contract shall be interpreted under the laws of the State of Kentucky.

7.8 Assignment:

This Agreement shall be binding upon the parties

hereto, their respective successors and assigns. Provided, however that this Agreement shall not be assigned by either party (except for an assignment by BIG RIVERS to the United States of America) without the written consent of the other party, and any such assignment shall be subject to the provisions of Section 7.3 of this Agreement.

7.9 Approvals:

This Agreement shall be subject to the approval of all local, state or federal regulatory bodies having jurisdiction thereof and shall become effective only upon the execution thereof by the parties and approval by the Administrator of the Rural Electrification Administration.

SECTION 8 - CONDITIONS PRECEDENT:

8.1 This Agreement shall be subject to the condition precedent that BIG RIVERS is able to obtain a loan from the Rural Electrification Administration of sufficient sum, together with the amounts to be paid by COMMISSION hereunder, to enable it to finance the construction and acquisition of all transformation and transmission facilities herein referred to.

SECTION 9 - AUTHORITY TO EXECUTE:

9.1 This Agreement is executed by the duly authorized officers or representatives of the parties pursuant to authority granted to each of them by the lawful action of their respective official commissions or boards.

EXECUTED at Henderson, Kentucky, this 11th day
of April, 1975.

BIG RIVERS ELECTRIC CORPORATION

By: [Signature]
President

ATTEST:

[Signature]
Secretary

CITY OF HENDERSON UTILITY COMMISSION

By: [Signature]
Chairman

ATTEST:

[Signature]
Secretary

This Instrument Prepared by

[Signature]
of WEST AND TERNES, CHARTERED
Suite 380 - Imperial Building
110 Third Street
Henderson, Kentucky 42420

Approved file

LOUIS B. HATCHETT
CHAIRMAN

RICHARD S. WATHEN
VICE-CHAIRMAN

DUDLEY H. EVERSON
SECRETARY-TREASURER

B. L. PERRY
GENERAL MANAGER



MUNICIPAL POWER & LIGHT

OPERATED BY CITY UTILITY COMMISSION

P.O. BOX 8

HENDERSON, KENTUCKY 42420

*Cont. No. 278
HMP&L - Big River
Sharing of Facilities
LIFE Inc*

July 27, 1973

Mr. W. W. Rumans, General Manager
Big Rivers Electric Corporation
Third Street
Henderson, Kentucky 42420

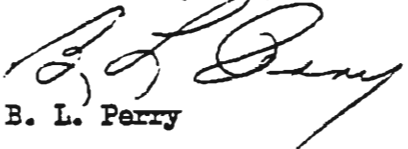
RE: Participation of HMP&L in
Big Rivers' planned 161 kv
interconnection and related
facilities

Dear Bill:

Reference is made to our recent conversations in the above mentioned matter. The participation of the Henderson Municipal Power & Light System in this project was considered by the Utility Commission at a meeting on July 12, 1973. It is our understanding that you desire a letter of intent for submission to the Rural Electrification Administration. This letter will outline our present understanding of the project and our participation therein subject to a formal agreement having been reached by the parties.

The Utility Commission has tentatively agreed to participate financially in the project of constructing a 161 kv transmission line from our joint facilities near Sebree, Kentucky to interconnect with Southern Indiana Gas and Electric Company. The consideration for this participation will be the construction by Big Rivers of a 161-69kv substation near the corporate limits of the City of Henderson and the equipable joint use thereof. The projected maximum expenditure to be made by HMP&L would be \$320,000.00. Of course, the Utility Commission would be responsible for its proportionate part of the costs and expenses of operating the 161kv line and 69kv substation.

I trust that this letter will meet your immediate requirements for the commencement of this project and, if you have any questions, please contact me.

Very truly yours,

B. L. Perry

cc: Mr. Henry Neel