

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 27 2013

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION, INC.)
FOR AN ADJUSTMENT OF RATES)

Case No. 2012-00535

**JOINT MOTION OF ATTORNEY GENERAL, BEN TAYLOR AND SIERRA CLUB
TO RESCHEDULE HEARING**

Come now the intervenors, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and Ben Taylor and the Sierra Club [hereinafter "Joint Movants"], jointly by counsel, and hereby move the Commission to amend the procedural schedule and re-schedule the hearing date in this matter, currently set for Monday July 1, 2013, in order to provide all parties necessary due process to address a major and material change to Big Rivers Electric Corporation's ("Big Rivers") Application as reflected in the rebuttal testimony filed on Monday, June 24, 2013, as well as continued uncertainty regarding Big Rivers planned generation. While intervenor Kentucky Industrial Utility Customers ["KIUC"] does not join in this motion, counsel for KIUC has authorized Joint Movants to represent that he does not object to this Joint Motion.

The Joint Movants are acutely aware that the public hearing on this matter is fast approaching and that public notice has issued. However, during the course of the past week, Big Rivers has engendered a great deal of uncertainty with respect to its plans to address load mitigation and has, *de facto*, amended the application pending for hearing

and for final decision by the Commission. The Commission should not be asked to speculate on what Big Rivers plans *may* be with respect to these issues. Rather, the Commission and the parties are entitled to definitive answers.

In support of this motion, the Joint Movants state as follows:

On Monday, June 24, 2013 Big Rivers filed its rebuttal testimony in this matter. On rebuttal, which subject to a prior amendment to the procedural schedule was filed one (1) week before the hearing, Big Rivers disclosed for the first time (and at the proverbial last minute) that it was withdrawing its plan to mothball the Wilson plant, and instead will consider laying-up one or more of the three (3) the Coleman generating units, depending on the results of certain studies currently being conducted by MISO. This rebuttal testimony represented a major and material change to Big Rivers' application, since, to date, virtually all of the data Big Rivers provided in this matter, which pertained to any plant(s) being shuttered, focused on Wilson being that plant. While Big Rivers held out the possibility that other plant(s), either instead of or in addition to Wilson could be laid-up in some fashion, the vast majority of the data the company provided both in its application and in discovery responses focused solely on Wilson.

One day after filing its rebuttal testimony, Big Rivers then announced yet another plan – to sell or idle *both* Coleman and Wilson.¹ This assertion again belies Big

¹ See "Big Rivers looking to sell two Kentucky coal plants," 25 June 2013 (Platts). <http://www.platts.com/RSSFeedDetailedNews/RSSFeed/Coal/21206797>. "Big Rivers Electric is looking to sell two of its western Kentucky coal-fired power plants, Coleman and D B Wilson, representing nearly 900 MW of generating capacity and plans to idle both baseload facilities next winter if it has no buyers or long-term power purchase agreements in hand by then, a Big Rivers spokesman said Tuesday."

Rivers' own rebuttal, in which it expressly criticizes expert testimony recommending the investigation of plant retirements or the sale of generation in order to reduce Big Rivers total capacity.² Additionally, this announcement represents a material change from the company's professed position to idle one but not both of the plants identified in the article.

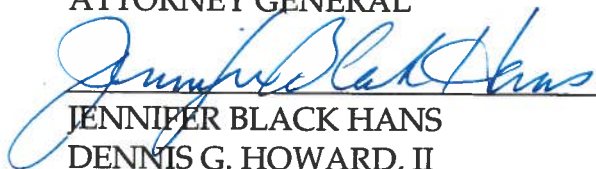
Commission staff and the intervenors are entitled to definitive information and require additional time to conduct further discovery to focus on these material changes to Big Rivers application. These issues include but are not limited to (1) the cost issues that will arise out of the potential lay-up of one or more of the Coleman units as opposed or in addition to the Wilson plant, and (2) the apparent pursuit by Big Rivers to sell or otherwise idle capacity, which was heretofore not explained by the Company, and the implications that decision may have on Big Rivers resource planning going forward. At a minimum, Big Rivers should be required to supplement its responses to data requests by the Commission staff and by the parties to reflect the new plans Big Rivers is now pursuing.

The information sought by the Joint Movants regarding both the Coleman units' costs and the actual total capacity required by Big Rivers are essential to the Commission's decision-making process in this case, and will have direct bearing on the amount (if any) of any new revenues the Commission decides to grant to Big Rivers. For that purpose, the Joint Movants respectfully request the Commission to reschedule the hearing in this matter. For the purpose of rescheduling, the Joint Movants note that the

² See, e.g., Rebuttal Testimony of Billie Richert at p. 12, lines 3-9 (June 24, 2013).

Commission may likely schedule another hearing in a closely-related matter, Case No. 2013-00221, at or near the end of July, 2013. The Joint Movants propose that the two cases are sufficiently related and could be combined and/or and heard sequentially.

Respectfully submitted,
JACK CONWAY
ATTORNEY GENERAL



JENNIFER BLACK HANS
DENNIS G. HOWARD, II
LAWRENCE W. COOK
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT KY 40601-8204
(502) 696-5453
FAX: (502) 573-8315
Jennifer.Hans@ag.ky.gov
Dennis.Howard@ag.ky.gov
Larry.Cook@ag.ky.gov

-AND-



Thomas J. Cmar
Earthjustice
5042 North Leavitt Street, Suite 1
Chicago, Illinois 60625
(215) 717-4520
tcmar@earthjustice.org

Shannon Fisk
Earthjustice
1617 John F. Kennedy Blvd.
Suite 1675
Philadelphia, PA 19 10.3
(215) 527-9922
sfisk@earthjustice.org

Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Mark A. Bailey
President and CEO
Big Rivers Electric Corporation
201 Third St.
Henderson, KY 42420

Hon. Donald P. Seberger
8770 West Bryn Mawr Ave.
Mail Code 07J
Chicago, IL, 60631

Billie Richert, CFO
Big Rivers Electric Corporation
201 Third St.
Henderson, KY 42420

Gregory Starheim
President and CEO
Kenergy Corp.
P. O. Box 18
Henderson, KY 42419-0018

Hon. James M. Miller
Sullivan, Mountjoy, Stainback & Miller,
PSC
P.O. Box 727
Owensboro, KY 42302-0727

Hon. J. Christopher Hopgood
Dorsey, King, Gray, Norment &
Hopgood
318 Second St.
Henderson, KY 42420

Hon. Edward Depp
Dinsmore & Shohl, LLP
101 South 5th St.
Ste. 2500
Louisville, KY 40202

Burns Mercer
Meade County RECC
P.O. Box 489
Brandenburg, KY 40108

Hon. Michael L. Kurtz
Boehm, Kurtz & Lowry
36 E. 7th St.
Ste. 1510
Cincinnati, OH 45202


Hon. Thomas C. Brite
Brite and Hopkins PLLC
P.O. Box 309
Hardinsburg, KY 40143

Hon. David C. Brown, Esq.
Stites & Harbison, PLLC
400 W. Market St., Suite 1800
Louisville, KY 40202

Kelly Nuckols
President & CEO
Jackson Purchase Energy Corp.
PO Box 3188
Paducah, KY 42002-3188

Hon. Melissa Yates
P.O. Box 929
Paducah, KY 42002-0929

this 27th day of June, 2013



Assistant Attorney General



UserName: Password:
[Access My Subscriptions](#) | [Register](#) | [Contact Us](#) | [Forgot?](#) | [Help](#)

[Advanced Search](#)

Big Rivers looking to sell two Kentucky coal plants

Louisville, Kentucky (Platts)--25Jun2013/336 pm EDT/1936 GMT

Big Rivers Electric is looking to sell two of its western Kentucky coal-fired power plants, Coleman and D B Wilson, representing nearly 900 MW of generating capacity, and plans to idle both baseload facilities next winter if it has no buyers or long-term power purchase agreements in hand by then, a Big Rivers spokesman said Tuesday.

With the impending loss of its two largest customers, aluminum smelters in Hawesville and Sebree owned by Century Aluminum, the Henderson, Kentucky-based generation and transmission co-op has no need for the output of the 444-MW Coleman plant and 443-MW D.B. Wilson plant to serve its predominantly rural load, Big Rivers spokesman Marty Littrel said.

He said Big Rivers recently responded to a number of electric utility requests for proposals by offering to sell power from Coleman and Wilson and/or the plants themselves.

Article continues below...

Request a free trial of: Coal Outlook

Coal Outlook is delivered daily and focuses on marine fuel prices and supply in major ports worldwide. It is essential reading for those who require accurate and timely data on this market sector.

"The offers are out, the proposals are given," Littrel said. "We haven't been turned down," although Big Rivers also does not yet have a tentative PPA/plant sale agreement.

Earlier this month, Big Rivers asked the Public Service Commission to allow Century to bypass the co-op and buy less expensive electricity from the wholesale power market for the Hawesville smelter. The electric market is fully regulated in Kentucky.

Century says it will shutter the 260,000 mt/year smelter on August 20 unless it is purchasing power from the market by then. On January 31, Century's newly acquired 205,000 mt/year Sebree smelter will cease buying power from Big Rivers. Big Rivers is expected to ask state regulators for a similar wholesale market power arrangement for Sebree.

Together, the two smelters consume about 850 MW, or roughly 70% of Big Rivers' total load.

If the two plants are sold or idled next year, Big Rivers will continue operating the 454-MW Green baseload coal plant, Littrel said.

Big Rivers also operates the 310-MW Station Two coal plant owned by the city of Henderson and previously announced plans to convert its smallest facility, the 100-MW Reid coal and gas plant, to natural gas in the next couple of years.

Big Rivers supplies three member co-ops that serve more than 112,000 customers in 22 western Kentucky counties.

--Bob Matyl, newsdesk@platts.com

--Edited by Jason Lindquist, jason.lindquist@platts.com

0

Tweet