

Ronald M. Sullivan

Jesse T. Mountjoy

Frank Stainback

James M. Miller

Michael A. Fiorella

R. Michael Sullivan

Bryan R. Reynolds*

Tyson A. Kamuf

Mark W. Starnes

C. Ellsworth Mountjoy

John S. Wathen

*Also Licensed in Indiana

November 17, 2014

Via Federal Express

Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

NOV 18 2014

PUBLIC SERVICE
COMMISSION

Re: *In the Matter of: An Examination of the Application of the
Fuel Adjustment Clause of Big Rivers Electric Corporation
from November 1, 2013 through April 30, 2014*
Case No. 2014-00230

Dear Mr. Derouen:

Enclosed for filing are an original and ten (10) copies of Big Rivers Electric Corporation's motion for deviation in the above-referenced matter. I certify that on this date, a copy of this letter and a copy of the motion were served on each of the persons listed on the attached service list by first-class mail.

Sincerely,



Tyson Kamuf
Counsel for Big Rivers Electric Corporation

TAK/lm
Enclosures

cc: Lindsay Barron
DeAnna Speed
Service List

Telephone (270) 926-4000
Telecopier (270) 683-6694

100 St. Ann Building
PO Box 727
Owensboro, Kentucky
42302-0727

Service List
PSC Case No. 2014-00230

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
Attorneys at Law
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

1 COMMONWEALTH OF KENTUCKY
2 BEFORE THE PUBLIC SERVICE COMMISSION
3

RECEIVED

NOV 18 2014

PUBLIC SERVICE
COMMISSION

4 In the Matter of:

5
6 AN EXAMINATION OF THE APPLICATION
7 OF THE FUEL ADJUSTMENT CLAUSE OF)
8 BIG RIVERS ELECTRIC CORPORATION) Case No. 2014-00230
9 FROM NOVEMBER 1, 2013 THROUGH)
10 APRIL 30, 2014

11
12
13 **MOTION FOR DEVIATION**
14

15 Pursuant to 807 KAR 5:001 Section 22, Big Rivers Electric Corporation (“Big Rivers”)
16 hereby moves the Kentucky Public Service Commission (the “Commission”) for deviation from
17 the requirement in the Commission’s August 13, 2014, order and in 807 KAR 5:001 Section
18 9(2)(b)(2) that Big Rivers publish notice of the hearing in this matter not less than seven nor
19 more than twenty-one days prior to the hearing. In support of this motion, Big Rivers states as
20 follows.

21 Big Rivers had the Kentucky Press Service publish notice of the hearing in newspapers of
22 general circulation in the areas it serves. In twenty-four of the twenty-five newspapers in which
23 the notice was published, the notice was published within the seven to twenty-one day time
24 period specified in the Commission’s regulation. The other newspaper, the Owensboro
25 Messenger Inquirer, which is published in Daviess County, Kentucky, scheduled the notice to
26 run within the specified time period, but failed to actually run the notice. When Big Rivers was
27 informed of the failure of the paper to run the notice, Big Rivers immediately asked the
28 Kentucky Press Service to again have the notice published. The Owensboro Messenger Inquirer
29 published the notice on November 7, 2014, which was five days prior to the hearing.

1 Big Rivers' customers are three distribution cooperative members, none of whom were
2 prejudiced by the failure of the Owensboro Messenger Inquirer to publish the notice within the
3 seven to twenty-one day time period, because all three of the members were aware of the hearing
4 well before the hearing date. In fact, the fuel adjustment clause ("FAC") review hearings for the
5 three members were scheduled for the same date as the hearing in the present case.

6 Big Rivers is not aware of any other entity or person prejudiced by the late notice.
7 Kenergy Corp. ("Kenergy"), the Big Rivers distribution cooperative member whose service
8 territory includes portions of Daviess County, timely published notice of its FAC review hearing
9 in the Owensboro Messenger Inquirer and in its member newsletter. Because no person filed a
10 notice of their intent to attend the Kenergy hearing, that hearing was cancelled.

11 Additionally, Big Rivers' notice was timely published in newspapers in each county
12 surrounding Daviess County, and the notice was published in the Owensboro Messenger Inquirer
13 prior to the hearing, although it was five days prior to the hearing instead of the seven days
14 specified in the regulation. No person has contacted Big Rivers stating that the late notice
15 prevented him or her from attending the hearing.

16 For the foregoing reasons, Big Rivers respectfully requests that the Commission grant
17 deviation from the requirement that Big Rivers publish notice of the hearing not less than seven
18 nor more than twenty-one days prior to the hearing.

19

1 On this the 17th day of November, 2014.

2
3 Respectfully submitted,

4
5
6 
7 _____
8 James M. Miller
9 Tyson Kamuf
10 SULLIVAN, MOUNTJOY, STAINBACK & MILLER,
11 P.S.C.
12 100 St. Ann Street
13 P. O. Box 727
14 Owensboro, Kentucky 42302-0727
15 Phone: (270) 926-4000
16 Facsimile: (270) 683-6694
17 jmiller@smsmlaw.com
18 tkamuf@smsmlaw.com

19 *Counsel for Big Rivers Electric Corporation*

20
21
22 **Certificate of Service**

23
24 I certify that a true and accurate copy of the foregoing was served by regular mail upon
25 the persons listed on the accompanying service list, on or before the date the foregoing is filed
26 with the Kentucky Public Service Commission.

27
28 On this the 17th day of November, 2014,

29
30
31 
32 _____
33 Counsel for Big Rivers Electric Corporation