

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC COMPANY,)	
MEADE COUNTY RURAL ELECTRIC)	
COOPERATIVE CORPORATION, AND BIG)	
RIVERS ELECTRIC CORPORATION FOR (1))	
APPROVAL OF AN AGREEMENT MODIFYING AN)	CASE NO.
EXISTING TERRITORIAL BOUNDARY MAP AND)	2019-00370
(2) ESTABLISHING MEADE COUNTY RURAL)	
ELECTRIC COOPERATIVE CORPORATION AS)	
THE RETAIL ELECTRIC SUPPLIER FOR NUCOR)	
CORPORATION'S PROPOSED STEEL PLATE)	
MILL IN BUTTERMILK FALLS INDUSTRIAL PARK)	
IN MEADE COUNTY, KENTUCKY)	

ORDER

On October 18, 2019, Louisville Gas and Electric Company (LG&E), Big Rivers Electric Corporation (BREC), and Meade County Rural Electric Cooperative Corporation (Meade RECC) (collectively, Joint Applicants) filed a joint application requesting approval of an agreement modifying an existing territorial boundary map and designating Meade RECC as the exclusive retail electric supplier to serve a disputed area in and around the Buttermilk Falls Industrial Park in Meade County, Kentucky, except for retail electric power service at 34.5 kV and higher to the existing Monument Chemical facility, regardless of change in ownership, which LG&E will continue to serve.

LG&E, BREC, and Meade RECC responded to two rounds of discovery from Commission Staff. There are no intervenors in this matter. The case is now submitted to the Commission for a decision based upon the existing evidentiary record.

BACKGROUND

Joint Applicants note that based on a current territorial boundary map on file at the Commission, electric service at the Buttermilk Falls Industrial Park is provided by either LG&E or Meade RECC. The relevant boundary map, designated as Mauckport Quadrangle, Indiana – Kentucky 24-E-3A (Mauckport Quad), contains the following notation: “Future industrial loads in the area presently owned Olin Corp. requiring 34.5 kV or higher to be served by L.G.&E.. [sic] All other loads below this requirement to be served by Meade County R.E.C.C.” Below the notation are arrows that point to the general area that is currently known as the Buttermilk Falls Industrial Park. The current Mauckport Quad was signed by LG&E and Meade RECC on May 11, 1982, and approved by the Commission on September 22, 1982.

According to the joint application, the only electric consuming facility that takes electric service at 34.5 kV or higher in and around the Buttermilk Falls Industrial Park is the Monument Chemical facility, which currently takes electric service at 69 kV from LG&E. The joint application provides that on March 27, 2019, Nucor Corporation (Nucor) announced its intention to construct a steel plate mill in the Buttermilk Falls Industrial Park. The joint application states that Nucor will invest \$1.3 billion in the steel mill facility that will create approximately 400 new jobs, with an average annual salary of \$72,000.

LG&E and Meade RECC each contends that it has the right to provide retail electric service to the proposed Nucor steel mill plant in the Buttermilk Falls Industrial Park area. Joint Applicants inform that, after extensive negotiations, they have resolved their dispute and entered into a settlement agreement. Pursuant to the terms of the settlement agreement, LG&E agrees to forego any claim to serve the new Nucor steel mill in

exchange for certain valuable consideration from BREC in the form of an initial payment and annual payments over a predefined period. Should Nucor fail to locate its proposed facility in the Buttermilk Falls Industrial Park area, no later than January 1, 2023, LG&E agrees to refund any payment made by BREC, the settlement agreement will be null and void, and the Joint Applicants will return to their respective positions as they existed prior to the execution of the settlement agreement. In return, LG&E agrees to revise the Mauckport Quad to remove the notation and designating Meade RECC as the exclusive retail electric service provider in the area referenced in the map that is in and around the Buttermilk Falls Industrial Park, including the proposed Nucor steel mill facility. The settlement agreement also provides that LG&E will continue to provide electric service to the existing Monument Chemical facility, regardless of change in ownership, for any service requiring electrical power at 34.5 kV or higher. A copy of the current and revised Mauckport Quad maps were attached as exhibits to the settlement agreement.

Joint Applicants contend that the settlement agreement is consistent with and promotes the purposes of KRS 278.016 by allowing the orderly development of retail electric service to the Buttermilk Falls Industrial Park area, avoiding wasteful duplication of facilities and unnecessary encumbering of the landscape, preventing the waste of materials and natural resources, and minimizing disputes over electric service in this area. Joint Applicants further contend that the settlement agreement is a fair, just, and reasonable resolution of their dispute, serves the interests of the public and all interested parties, including Nucor, avoids prolong and costly litigation, and ensures that the Buttermilk Falls Industrial Park area will receive adequate and reasonable service in a timely manner.

DISCUSSION

Subject to certain exceptions not relevant in this matter, KRS 278.018(1) permits a retail electric supplier to have the exclusive right to furnish retail electric service to all electric-consuming facilities located within the retail electric supplier's certified territory. KRS 278.018(1), however, prohibits a retail electric supplier from furnishing, making available, rendering, or extending its retail electric service to a retail electric consuming facility located within the certified territory of another retail electric supplier. KRS 278.018(6) permits retail electric suppliers to contract with one another, subject to Commission approval, for the purpose of allocating territories and consumers between them, and designating which territories and electric-consuming facilities each retail electric supplier will serve. Pursuant to KRS 278.018(6), the Commission is required to approve such a contract upon finding "that the contract will promote the purposes of KRS 278.016 and will provide adequate and reasonable service to all areas and consumers affected thereby."¹

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the settlement agreement among the Joint Applicants regarding the provision of retail electric service in the Buttermilk Falls Industrial Park area is reasonable and should be approved. Although the territorial boundary lines remain unchanged, the parties have agreed to remove the notation in the Mauckport Quad approved in 1982 and to replace it with the following statement: "Subject to the terms of the Settlement Agreement dated October 18, 2019 and approved by the Commission in Case 2019-00370, Meade RECC shall have the right to serve the retail load in this area,

¹ KRS 278.018(6).

subject to LG&E's right to continue to provide electric service to the existing Monument Chemical facility, regardless of changes in ownership, for any service requiring electric power at 34.5 kV or higher." Based on responses to discovery, neither BREC nor LG&E has existing transmission facilities nearby that are sufficient to serve the new Nucor mill. BREC indicates that the transmission system improvements needed to serve Nucor will also provide significant improvements to its transmission system, including adding a 161 kV source to the existing Meade County Substation, which will make outages less likely during maintenance periods, and adding a new substation in the extreme eastern portion of Meade RECC's service territory, which will break up long 69 kV transmission line circuits resulting in forced outages impacting fewer customers. BREC has filed applications requesting authorization for Certificates of Public Convenience and Necessity to construct the necessary transmission facilities to provide electric service to Nucor.² The terms of the settlement agreement also do not impact any current customer in the Buttermilk Falls Industrial Park area and the proposed changes do not affect any other portion of LG&E's or Meade RECC's certified territory. Nucor is a new customer and has entered into a special contract to receive electric service from Meade RECC and BREC.³

The monetary consideration reflects a fair resolution of the dispute resulting from extensive negotiations among the parties. The consideration provided by BREC ensures

² See Case No. 2019-00270, *Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity to Construct a 161 kV Transmission Line and a 345 kV Transmission Line in Meade County, Kentucky* (Ky. PSC Jan. 23, 2020) and Case No. 2019-00417, *Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity to Construct and Acquire a 345 kV Transmission Line in Meade County, Kentucky* (filed Jan. 17, 2020).

³ See Case No. 2019-00365, *Electronic Joint Application of Big Rivers Electric Corporation and Meade Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with Nucor Corporation; and (2) Approval of Tariff* (filed October 18, 2019).

that electric service to a significant new load will be served within the BREC system and that the revenues generated from serving Nucor will significantly exceed the payment given to LG&E over the term of the Nucor special contract. BREC states that the payments associated with the settlement agreement should be appropriately recorded as Miscellaneous Intangible Plant, and that it does not anticipate amortizing the intangible plant balance or including such payments in its cost of service for ratemaking purposes.

LG&E will receive value in exchange for forgoing any potential rights it may have in providing future retail electric service in and around the Buttermilk Falls Industrial Park area while retaining its rights to serve its existing customer, Monument Chemical. LG&E states that the payments from the settlement agreement will be treated as a regulatory liability, and the ratemaking treatment will be addressed in a future rate proceeding. LG&E requests authority to establish this regulatory liability.

Accordingly, the Commission finds that the proposed changes promote the orderly development of retail electric service and minimizes disputes between retail electric suppliers that would result in inconvenience, diminished efficiency, and higher costs in serving the customer. The Commission also finds that the proposed changes avoid wasteful duplication of facilities, unnecessary encumbering of the landscape, and prevents waste of materials and natural resources. The proposed settlement agreement promotes the purposes of KRS 278.016 and will provide adequate and reasonable service to the area and consumers that it affects. Lastly, the Commission finds that LG&E's request to establish a regulatory liability for the payments associated with the settlement agreement is reasonable and should be approved. The payments should inure to the benefit of ratepayers and allowing LG&E to establish a regulatory liability for those

amounts, for accounting purposes, would permit those funds to be addressed in a future LG&E rate proceeding.

IT IS THEREFORE ORDERED that:

1. The settlement agreement among the Joint Applicants regarding the provision of retail electric service in and around the Buttermilk Falls Industrial Park area as reflected in the revised Mauckport Quad map is approved.

2. All other certified territorial boundaries between Meade RECC and LG&E remain unchanged.

3. A copy of the revised Mauckport Quad, with the revisions signed by representatives of LG&E and Meade RECC on October 23, 2019, and October 24, 2019, respectively, attached as Exhibit 2 to the settlement agreement reflects the agreed-upon amended territorial boundary and the written agreement of LG&E and Meade RECC, and shall be attached to the Commission's official territory boundary map.

4. If Nucor fails to locate its proposed facility in the Buttermilk Falls Industrial Park area, no later than January 1, 2023, the Joint Applicants must notify the Commission that the settlement agreement is null and void, and that the Mauckport Quad in the area in and around Buttermilk Falls Industrial Park has returned to the 1982 provisions.

5. LG&E's request to establish a regulatory liability for the amounts associated with the payments in connection with the settlement agreement is approved.

6. The case is closed and removed from the Commission's docket.

By the Commission



ATTEST:



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