

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR APPROVAL)	
TO MODIFY ITS MRSM TARIFF, CEASE)	CASE NO.
DEFERRING DEPRECIATION EXPENSES,)	2020-00064
ESTABLISH REGULATORY ASSETS,)	
AMORTIZE REGULATORY ASSETS, AND)	
OTHER APPROPRIATE RELIEF)	

NOTICE OF FILING

Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on June 9, 2020 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on June 9, 2020 in this proceeding;
- A written log listing, inter alia, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on June 9, 2020.

A copy of this Notice, the certification of the digital video record, and hearing log have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://youtu.be/WSDOafxHUMc>.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 23rd day of July 2020.



Kent A. Chandler
Acting Executive Director
Public Service Commission of Kentucky

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

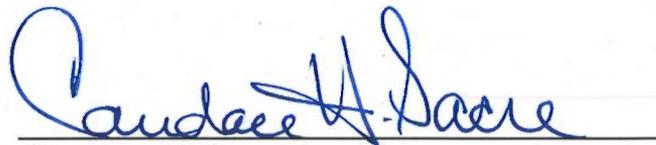
ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR APPROVAL TO)	
MODIFY ITS MRSM TARIFF, CEASE)	CASE NO.
DEFERRING DEPRECIATION EXPENSES,)	2020-00064
ESTABLISH REGULATORY ASSETS,)	
AMORTIZE REGULATORY ASSETS, AND)	
OTHER APPROPRIATE RELIEF)	

CERTIFICATION

I, Candace H. Sacre, hereby certify that:

1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on June 9, 2020. The Formal Hearing Log, Exhibits, and Exhibit List are included with the recording on June 9, 2020;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of June 9, 2020; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of June 9, 2020, and the time at which each occurred.

Signed this 17th day of July, 2020.



Candace H. Sacre
Administrative Specialist III



Stephanie Schweighardt
Notary Public State at Large ID#: 614400
Commission Expires: January 14, 2023



Date:	Type:	Location:	Department:
6/9/2020	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: Mike Chambliss; Lindsay Durbin; Mark Eacret; Paul G. Smith; Mike Pullen; Robert W. Berry; Stephen J. Baron; Daniel Walker
 Judge: Robert Cicero; Talina Mathews
 Clerk: Candace Sacre

Event Time	Log Event	
9:00:54 AM	Session Started	
9:01:06 AM	Commissioner Mathews Note: Sacre, Candace	We are on the record in Case No. 2020-00064, Electronic Application of Big Rivers Electric Corporation for Approval to Modify its MRSRM Tariff, Cease Deferring Depreciation Expenses, Establish Regulatory Assets, Amortize Regulatory Assets, and Other Appropriate Relief.
9:01:27 AM	Commissioner Mathews Note: Sacre, Candace	My name is Talina Mathews. I'm a Commissioner here, at the Public Service Commission, and I'll be presiding today. Joining me today via videoconferencing is Vice Chairman Cicero, I believe I saw, yes, and Chairman Schmitt will be watching live as well, and both will participate in the case.
9:01:50 AM	Commissioner Mathews Note: Sacre, Candace	Due to the current state of emergency in Kentucky, the Commission is hosting this hearing via video conferencing. Since this continues to be a learning experience for everyone, there are a few suggestions I would offer. In addition to the normal courtesies of turning off or setting your phones to silent, these tips may help clarity and avoid feedback issues for the video conference hearing, remembering that our record is the recording of this.
9:02:18 AM	Commissioner Mathews Note: Sacre, Candace	Mute your microphone if you're not speaking. Attorneys, when you interject, please state your name so the video record is clear. If you use a phone for the audio and a computer for the video, make sure your computer audio is turned off. (Click on link for further comments.)
9:03:47 AM	Commissioner Mathews Note: Sacre, Candace	The hearing today is for the purpose of taking evidence on Big Rivers' Application to modify its MRSRM Tariff, cease deferring certain depreciation assets (sic), establish regulatory assets, and amortize existing regulatory assets.
9:04:02 AM	Commissioner Mathews Note: Sacre, Candace	At this time, I'm going to back up here so I can see, we're going to have the entry of counsel, and because we're juggling a lot of people on this screen, it looks like The Brady Bunch, I will ask each party's counsel to identify their witnesses at this time.
9:04:24 AM	Commissioner Mathews Note: Sacre, Candace	For Big Rivers?

9:04:26 AM	Atty Depp BREC Note: Sacre, Candace	Good morning, Your Honor, Edward T. Depp - I have the colorful background behind me here - law firm of Dinsmore & Shohl for Big Rivers Electric Corporation. I have with me my colleague, Brooks Herrick. That's the banner behind him as well, and we have three principal witnesses and four witnesses who sponsored Data Requests who are also present in case they are needed today. The witnesses who sponsored testimony are Robert W. Berry, Paul G. Smith, and Daniel M. Walker, and the Data Request sponsors are Lindsay Durbin, Mike Pullen, Mark Eacret, and Mike Chambliss.
9:05:10 AM	Commissioner Mathews Note: Sacre, Candace	Okay, for the Attorney General?
9:05:13 AM	Asst Atty General West Note: Sacre, Candace	This is Mike West for the Attorney General's Office, and we also have John Horne as well, and we will not be putting on any witnesses today.
9:05:23 AM	Commissioner Mathews Note: Sacre, Candace	Thank you. For KIUC?
9:05:27 AM	Atty Kurtz KIUC Note: Sacre, Candace	Good morning, Your Honor. Mike Kurtz, Kurt Boehm, Jody Cohn, Boehm, Kurtz & Lowry, for KIUC. The two KIUC participating companies in this intervention are the two Western Kentucky paper companies, Kimberly-Clark and Domtar. We are sponsoring one witness, Stephen J. Baron.
9:05:49 AM	Commissioner Mathews Note: Sacre, Candace	Thank you, and for Commission Staff?
9:05:52 AM	Exec Director Chandler PSC Note: Sacre, Candace	Good morning, Commissioner. Making my debut, Kent Chandler on behalf of Commission Staff. Appearing along with me is Nancy Vinsel.
9:06:02 AM	Commissioner Mathews Note: Sacre, Candace	I have been advised that public notice has been given and filed into the record. Is that correct?
9:06:07 AM	Atty Depp BREC Note: Sacre, Candace	That is correct, and, Your Honor, if I may, I neglected to mention Tyson Kamuf for Big Rivers as well.
9:06:13 AM	Commissioner Mathews Note: Sacre, Candace	Thank you. Are there any outstanding motions?
9:06:20 AM	Atty Depp BREC Note: Sacre, Candace	There is, Your Honor, a Motion to tender a Settlement Agreement stipulation recommendation that was unanimously agreed among the parties.
9:06:28 AM	Commissioner Mathews Note: Sacre, Candace	Thank you.
9:06:29 AM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	And, Commissioner Mathews, there also are multiple confidentiality petitions outstanding.
9:06:37 AM	Commissioner Mathews Note: Sacre, Candace	I think that's typically the case, correct.
9:06:42 AM	Commissioner Mathews Note: Sacre, Candace	Now, we have our public comment period. The phones are on, correct?

9:06:50 AM	Commissioner Mathews Note: Sacre, Candace	Should anyone from the public like to provide the Commission with public comment, the phone lines are open. Should you call in, please state your name and address for the record before making your statement, and please keep your comments to five minutes. (Click on link for further comments.)
9:07:43 AM	Commissioner Mathews Note: Sacre, Candace	We're going to wait for a couple of minutes just to see if anybody shows up. (Click on link for further comments.)
9:08:23 AM	Commissioner Mathews Note: Sacre, Candace	This is being live streamed, so should someone like to provide comments, they can always go to the website at psc.ky.gov and submit those comments on the record.
9:08:40 AM	Commissioner Mathews Note: Sacre, Candace	Okay, Mr. Depp, your first witness?
9:08:46 AM	Atty Depp BREC Note: Sacre, Candace	Thank you, Big Rivers calls Robert W. Berry.
9:09:02 AM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
9:09:12 AM	Commissioner Mathews - witness Berry Note: Sacre, Candace	Examination. Could you please state your name and address for the record?
9:09:27 AM	Commissioner Mathews Note: Sacre, Candace	Thank you. Mr. Depp, you may ask.
9:09:31 AM	Atty Depp BREC Note: Sacre, Candace	Thank you,
9:09:32 AM	Atty Depp BREC - witness Berry Note: Sacre, Candace	Direct Examination. Mr. Berry, did you cause direct testimony and settlement agreement and supplemental direct testimony in support of that settlement agreement to be filed with the Commission?
9:09:45 AM	Atty Depp BREC - witness Berry Note: Sacre, Candace	And do you have any revisions or updates to those documents?
9:09:50 AM	Atty Depp BREC - witness Berry Note: Sacre, Candace	And, if I were to ask you today the questions that are in those testimonies, would your responses to those be the same?
9:10:00 AM	Atty Depp BREC - witness Berry Note: Sacre, Candace	The witness is available for cross.
9:10:03 AM	Commissioner Mathews Note: Sacre, Candace	Thank you. KIUC?
9:10:07 AM	Atty Kurtz KIUC Note: Sacre, Candace	No questions, Your Honor.
9:10:10 AM	Commissioner Mathews Note: Sacre, Candace	The Attorney General?
9:10:12 AM	Asst Atty General West Note: Sacre, Candace	No questions.
9:10:14 AM	Commissioner Mathews Note: Sacre, Candace	Commission Staff, Mr. Chandler?
9:10:18 AM	Exec Director Chandler PSC Note: Sacre, Candace	I think Ms. Vinsel has some questions for Mr. Berry.
9:10:19 AM	Commissioner Mathews Note: Sacre, Candace	Okay, sorry.
9:10:21 AM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Thank you, and, yes, we have a few questions.

9:10:24 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	Cross Examination. Good morning, Mr. Berry, I'd like to start with a couple of questions about Coleman Station and Reid Station 1. Can you confirm that it is not economically feasible for the Coleman Station to serve native load?
9:10:50 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	And, Reid Station 1, is the same true? That it's not economically feasible for Reid Station 1 to serve native load?
9:10:59 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	And, in terms of the wholesale market, would you also say that neither Coleman or Reid Station 1 are competitive in the wholesale market?
9:11:17 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	One of the settlement provisions is that the rural customers would receive the new TIER credit allocated on a per-customer basis rather than a per-kilowatt-hour basis. Now, subject to check, we have testimony that says that the rural class consists of about a hundred thousand residential customers and about 18,000 commercial and I'm going to call them small industrial to distinguish from the large industrial class. Given that, could you explain how a per-customer credit is equitable to the commercial and industrial accounts in the rural class?
9:12:45 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	And was there any economic analysis behind that, or is more of a policy decision?
9:13:02 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	Okay, thank you. Do any of Big Rivers' loan covenants include any provisions that Big Rivers has to file a rate case if certain conditions are met, for example, if the MFIR is below a certain percentage over a defined period of time?
9:13:38 AM	VideoConf Mics Normal Mode Activated	
9:13:52 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	So it's more of an inference rather than explicit provision, but the underlying assumption is, if the MFIR falls below that, that you would, of course, need a rate increase. Is that correct?
9:14:14 AM	Asst Gen Counsel Vinsel PSC - witness Berry Note: Sacre, Candace	Okay, thank you, so Big Rivers proposes to file the new TIER credit information no later than February 28 of each year that it's applicable. What is the last day that Big Rivers can alter it's year-end financial statements?
9:14:57 AM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	I don't have any more questions now. I'm going to I may have something on a recross if I get something from my colleagues, but, for now, no more questions.
9:15:09 AM	Commissioner Mathews Note: Sacre, Candace	Okay. Mr. Depp, do you have any redirect?
9:15:15 AM	Commissioner Mathews Note: Sacre, Candace	Excuse me. Mr. Cicero, please, Vice Chairman, forgive me, I forgot to ask if you had any questions.
9:15:15 AM	Atty Depp BREC Note: Sacre, Candace	I do not, Your Honor.
9:15:18 AM	Vice Chairman Cicero Note: Sacre, Candace	I knew you wouldn't forget me forever, so I waited patiently until you got to me.

9:15:37 AM Vice Chairman Cicero - witness Berry
Note: Sacre, Candace Examination. Good morning, Mr. Berry. So, if I look at this whole scenario that's being proposed, this basically accomplishes a couple of different things, doesn't it? It improves your credit rating by improving your balance sheet, and you propose to help out your ratepayers because you've done a pretty good job of increasing off-system sales. Is that basically it?

9:17:13 AM Vice Chairman Cicero - witness Berry
Note: Sacre, Candace So I'm going to touch on the rating agencies just for a second and then go on with some other questions, but, the rating agencies, and I think Ms. Vinsel asked when was the last date to make an entry for your books, from an accounting standpoint, a lot of this seems to revolve around your TIER rating and making certain that the credit agencies are happy that your TIER ratio produces, appears to produce, at least, an operating environment that shows that the utility is healthy and is generating the type of revenue that it needs to and the type of income it needs to be viable and serve its ratepayers, and I guess one of the questions I had was there seems to be a timing implication in this whole scenario that when the 1.3 or the 1.1, whatever it may be, is hit that those extra funds are used to either be put into a regulatory liability or, I think, as you initially proposed, initially goes in to offset the regulatory asset immediately, which there's an accounting question as to whether than can be done.

9:18:29 AM Vice Chairman Cicero - witness Berry
Note: Sacre, Candace But, from a regulatory rating agency perspective, why wouldn't they look at whatever the TIER ratio is prior to making that accounting adjustment so that it - I noticed here that it shows anywhere from the one-point-nines into the two-point-somethings which would show at least average (inaudible) at least compared to other generators, electric co-op generators. Why is that - why is there this timing that seems to be so important on when it's made?

9:20:06 AM Vice Chairman Cicero - witness Berry
Note: Sacre, Candace And I'm sorry to put you in the middle of an accounting question. This might be better for Mr. Smith, but, from an accounting standpoint, the operating ratio is what the operating ratio is, and, if the Commission were to give a direction that these monies can be put into a regulatory liability as part of this case, then the agencies, I think, would look at that and say, "Okay, they're generating this kind of additional revenue; this is going to be used to pay down these regulatory assets," and the Commission is saying that's what it's going to be used for because Big Rivers Electric is going to generate or, at least, by your forecast, you will generate well above the 1.3, at least, during the next five years, wouldn't you agree?

9:22:01 AM Vice Chairman Cicero - witness Berry
Note: Sacre, Candace Well, that's fair enough. I'm not going to pursue that any further. I think the Commission is very happy that this is going in the direction it's going because these regulatory assets had to be addressed sooner than later, and this is the way to do it, so I think we're down to how it's going to be accomplished and some of the variables, how they're going to be assigned and how we're going to go about it.

9:22:29 AM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	I want to go to - there is a portion of expenses that are excluded for regulatory rate making purposes close to about - I don't know if that was confidential or not. I think it might be on - is that something you're excluded from regulatory assets on this one spreadsheet that I have? I think Mary Whitaker is on here. I'm going to ask her that directly.
9:22:57 AM	Vice Chairman Cicero Note: Sacre, Candace	Can you unmute her, Jim?
9:23:02 AM	Exec Director Chandler PSC Note: Sacre, Candace	Vice Chairman, I do believe some of the items were confidential, and we can move into a confidential session if you'd like to have a conversation about them.
9:23:13 AM	Vice Chairman Cicero Note: Sacre, Candace	I do want to ask some questions about those, so, if they're confidential, can we go to confidential session here for very briefly?
9:23:21 AM	Commissioner Mathews Note: Sacre, Candace	Yes.
9:23:24 AM	Private Mode Activated	
9:23:24 AM	Private Recording Activated	
9:24:43 AM	VideoConf Mics Private Mode Activated	
9:25:07 AM	Normal Mode Activated	
9:25:07 AM	Public Recording Activated	
9:25:09 AM	VideoConf Mics Private Mode Activated	
9:25:09 AM	Private Recording Activated	
9:25:34 AM	Private Mode Activated	
9:27:21 AM	VideoConf Mics Private Mode Activated	
9:37:29 AM	VideoConf Mics Normal Mode Activated	
9:37:29 AM	Public Recording Activated	
9:37:37 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, do you have any other redirect on any other issues that are not confidential?
9:37:41 AM	Atty Depp BREC Note: Sacre, Candace	No, Your Honor.
9:37:44 AM	Commissioner Mathews Note: Sacre, Candace	The Attorney General, do you have anything additional?
9:37:50 AM	Asst Atty General West Note: Sacre, Candace	No.
9:37:52 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
9:37:54 AM	Atty Kurtz KIUC Note: Sacre, Candace	No, no, Your Honor.
9:37:57 AM	Commissioner Mathews Note: Sacre, Candace	Ms. Vinsel, nothing?
9:37:59 AM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Nothing further.
9:38:02 AM	Vice Chairman Cicero Note: Sacre, Candace	Commisioner Mathews -
9:38:03 AM	Commissioner Mathews Note: Sacre, Candace	Yes.

9:38:06 AM	Vice Chairman Cicero Note: Sacre, Candace	- so, if I could, and this will be - I'm sure Mr. Smith may be able to add something to it, but, if he is not able, I would like to have a post-hearing data request that if there is a formula for how the four hundred thousand or six hundred thousand was determined and what was included or excluded, I'd like to see that.
9:38:33 AM	Commissioner Mathews Note: Sacre, Candace	Thank you, and, as always, Mr. Berry, if we have a post-hearing data request, it will be given to you in writing.
9:38:53 AM	Commissioner Mathews Note: Sacre, Candace	And, Mr. Berry, are you available to stay should someone have a follow-up question for you?
9:39:02 AM	Commissioner Mathews Note: Sacre, Candace	Okay, thank you. I think, for now, this witness can be excused.
9:39:16 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp?
9:39:18 AM	Atty Depp BREC Note: Sacre, Candace	Thank you, Your Honor, Big Rivers calls Paul G. Smith.
9:39:28 AM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
9:39:35 AM	Commissioner Mathews - witness Smith Note: Sacre, Candace	Examination. Could you state your name and address for the record?
9:39:51 AM	Commissioner Mathews Note: Sacre, Candace	Thank you. Mr. Depp, you may ask.
9:39:54 AM	Atty Depp BREC Note: Sacre, Candace	Thank you.
9:39:55 AM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Direct Examination. Mr. Smith, did you cause direct testimony and supplemental direct testimony in support of a Settlement Agreement to be filed in this matter?
9:40:04 AM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And do you have any revisions or updates to that testimony?
9:40:10 AM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And, if I were to ask you today those same questions, would you answers then be the same?
9:40:16 AM	Atty Depp BREC - witness Smith Note: Sacre, Candace	The witness is available for cross.
9:40:18 AM	Commissioner Mathews Note: Sacre, Candace	Any cross from the Attorney General's Office?
9:40:22 AM	Asst Atty General West Note: Sacre, Candace	No, we do not have any.
9:40:25 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
9:40:26 AM	Atty Kurtz KIUC Note: Sacre, Candace	If you don't mind, Your Honor, I will. I was going through some documents.
9:40:31 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Cross Examination. Mr. Smith, will you turn to paragraph 4 of the Settlement Agreement that Vice Chairman Cicero was asking Mr. Berry about, okay, so what are the three categories of cost that Big Rivers is allowed to incur and it counts towards this one-point-three-zero TIER?
9:41:17 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Well, I notice that you've able to include those not to exceed four hundred thousand, is that correct?

9:41:36 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, do you have the public version of Response to Staff 2-7(b)? I think the historic is public, and I don't want to ask you about the forecasted, which is confidential.
9:42:01 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, for 2019, how much was the promotional advertising actually incurred by Big Rivers?
9:42:12 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And what did that money go towards?
9:42:23 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	How much was the economical development in 2019?
9:42:30 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And what'd you spend that money on?
9:42:40 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Is that intended to help consumers?
9:42:51 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And how much was Touchstone Energy dues?
9:42:59 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	So those three categories add up to about three hundred twenty thousand?
9:43:14 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Those are categories of costs that are excluded in a general rate base case, is that correct?
9:43:23 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	But you're including it in the one-point-three-zero TIER here, in other words?
9:43:34 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, and if you excluded them like you would in a base rate case, you would earn less than a one-point-three on a regular basis?
9:43:58 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay. One last question, on the 401(k) match for defined benefit plan participants, how much money was involved in 2019?
9:44:13 AM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	For the 31 employees?
9:44:20 AM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, Mr. Smith.
9:44:28 AM	Commissioner Mathews Note: Sacre, Candace	Anything further from you?
9:44:32 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?
9:44:34 AM	Exec Director Chandler PSC - witness Smith Note: Sacre, Candace	Cross Examination. Good morning, Mr. Smith. I'll come back to the retirement benefits/regulatory exclusions later, but don't think you're not getting any questions on it, but I'd like to first start with demand side management. Are you aware of, at least, generally, of the demand side management regulatory liability that currently exists on Big Rivers' books?
9:45:13 AM	Exec Director Chandler PSC - witness Smith Note: Sacre, Candace	Okay, and do you understand how that regulatory liability and not just how it was created but how it was created and how it's currently being funded?

9:45:23 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And so do you understand it to be that there were - there was a specific amount, it's a ballpark, about a million dollars, that was included in Big Rivers' base rates from the last - I guess, the 2013 rate case that for which the company is only spending about \$250,000 on DSM now. Is that how you understand the regulatory liability is created?

9:45:57 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and so I think the Application discusses the regulatory liability in terms of approximately \$700,000. Do you all know - well, a couple of questions. Are you all proposing to stop booking the regulatory liability as of the Order in this case or as of December 31st, 2020?

9:46:28 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay. Do you all know what you anticipate the regulatory liability amount to be at the end of 2020?

9:46:42 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Well, so I guess what - so you all said in the Application it was approximately seven hundred thousand. Is that year end 2019 seven hundred thousand?

9:46:52 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, so the approximately seven hundred thousand is the year end, not what it was when you all filed your Application in this case necessarily?

9:46:59 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And do you all make constant - do you all constantly, and I say constantly, you know, at month end, when you close books at month end, are you booking to this regulatory liability, or is it a end year accounting?

9:47:26 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So the expectation is, by the end of this year, this regulatory liability that you are proposing to use to offset the regulatory assets, the smelter mitigation regulatory assets, it would be approximately one and a half million dollars, not approximately seven hundred thousand?

9:48:09 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and so do you all have the per-books December 31, 2019 amount that you can provide instead of an approximate number?

9:48:22 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, we're going to ask that as a post-hearing data request.

9:48:23 AM POST-HEARING DATA REQUEST
Note: Sacre, Candace EXEC DIRECTOR CHANDLER PSC - WITNESS SMITH
Note: Sacre, Candace PER-BOOKS DECEMBER 31, 2019 REGULATORY LIABILITY AMOUNT PROPOSED TO OFFSET REGULATORY ASSETS

9:48:31 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So are you aware are of the Commission's 2018 Order in 2018-00236 that created that regulatory liability?

9:48:47 AM Exec Director Chandler PSC
Note: Sacre, Candace Kabrenda, could you possibly bring up that 2018-00236 Final Order? (Click on link for further discussion.)

9:49:54 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And, Mr. Smith, can you see that paragraph that begins with "The Commission finds it is reasonable. . .?"

9:50:03 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So I'll read it to you just so that - do you see the paragraph that states, "The Commission finds it reasonable to create a regulatory liability for the unspent portion of the \$1 million of DSM Revenues." (Click on link for further comments.)

9:50:39 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Do you see that?

9:50:41 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, so I think you all have noted that this is not a rate case, but you're nevertheless proposing to use the DSM revenues. That aside, what evidence have you all provided that the regulatory liability should not be used for the exclusive benefit of the rural base rates?

9:52:08 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace But, as the industrial class grows, so will their share of the revenues, right?

9:52:43 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, just to be clear, the Commission said for the exclusive benefit of the rural customers, and the proposal here for BREC is for the rural customers to join in on 75 percent of the benefit?

9:53:08 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Well, and so this is money, right? Let's talk about it two different ways. One is the regulatory liability which is exclusively things that the rural customers are paying, right, that they've paid in over the last year or over the year of 2019 that are now going to pay down the regulatory assets and I guess you could say arguably for the benefit of the system, right? We're not try to split - but then what you're talking about is a separate issue, which is, going forward from January 1 of 2020 on that you're talking about the revenues that are going to be charged to the rural class, brought through Big Rivers, any of those in excess of one-point-three or in the event those add to the amounts over a one-point-three-o TIER then roll into a credit where they're split 50/50 between paying down the regulatory assets and going to a TIER credit, wherein they're split again at 75/25? That's what we're talking about? Taking all of the entire amount of the money at the beginning of the year and doing that with it? That's what you're discussing, correct?

9:54:42 AM Vice Chairman Cicero
Note: Sacre, Candace So, for my benefit, let me interject here for a second.

9:54:46 AM Vice Chairman Cicero - witness Smith
Note: Sacre, Candace Examination. For my benefit, Mr. Smith, you're saying that you were - Big Rivers was aware of the Order and how the DSM liability should be looked at and decided that, based on this whole settlement, that you were going to appeal to the Commission to overlook this directive, or how - what was the thought process?

9:55:55 AM Vice Chairman Cicero - witness Smith
Note: Sacre, Candace So, in hindsight, would you say that, since the 2019 funds that were generated were exclusively from the rural ratemakers that, at least, the 2019 shouldn't have been proposed as a passback directly to the rural rather than shared with the industrial regardless of what happens going forward?

9:57:09 AM Vice Chairman Cicero - witness Smith
Note: Sacre, Candace And I understand what you're saying. I'm just curious, on the 2019, here, it's already in the books, it's already been paid for by one rate class, why those monies should be shared when you're speaking primarily to going forward, and I understand your statement, during the past five to seven years, the industrial base has grown, but that's kind of where this excluded from rate making and your lobbying and economic development money goes to improve those sales to the industrial side. I just wanted clarificaton. I'm not really asking.

9:57:46 AM Vice Chairman Cicero - witness Smith
Note: Sacre, Candace I didn't mean to interrupt Mr. Chandlers' cross exam. I'm curious why the 2019 wouldnt' be looked at from a different perspective?

9:58:39 AM Vice Chairman Cicero
Note: Sacre, Candace I'm sorry, Mr. Chandler. Please continue.

9:58:42 AM Exec Director Chandler PSC
Note: Sacre, Candace Yeah, that's fine. No. The conversation did bring me to another question.

9:58:45 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Cross Examination (cont'd). So the proposal is to share margins based off of allocation of revenue in the previous year, but revenue is not necessarily an indication of or correlate directly with margins, correct?

9:59:00 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, insofar as you've had this steady residential customer base, which has been fairly steady, we'll say, since the beginning of Big Rivers' time, and an industrial base which ebbs and flows historically for Big Rivers, would you say that the margins for the residential customers are fairly consistent and the margins for the industrial customers, particularly as it relates to economic development load varies?

9:59:43 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, and, excuse me, I didn't mean to indicate capital-E, capital-D, capital-R rates. I mean rates proposed to customers or to new industrial loads or to even off-system sales, for that matter, right? Are those margins typically larger or smaller than they are for your rural base?

10:00:31 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, but I guess what I'm trying to get to is that you're proposing to pass this back on the basis of revenues, but you're proposing to pay passback margins on the basis of revenues, not margins on the basis of margins?

10:00:47 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, I mean, isn't there an inherent disconnect between those two?

10:01:03 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And I just want to make clear that the \$750,000 wer'e talking about is, by definition, a margin because we know exactly the amount of revenues or at least approximately the amount of revenues that are coming in for this item, about a million dollars a year, as opposed to the explicit cost which is a quarter million dollars.

10:01:36 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, but I just want to make sure we're clear. We're effectively talking about residential customers giving you a dollar and you giving them 75 percent or you're giving them - they're giving you a dollar, you're spending 25 cents of it, and they're only getting 75 percent of their change back?

10:02:22 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Are you all explicitly asking the Commission to reexamine or change their ordering paragraph No. 7 in that Order?

10:02:32 AM Exec Director Chandler PSC
Note: Sacre, Candace Kabrenda, if you'll scroll down to ordering paragraph No. 7 -

10:02:34 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace The Commission explicitly ordered that "BREC shall establish a regulatory liability for the benefit of rural customers only in an amount that reflects the difference between BREC's future DSM expenditures and the \$1 million included in rural base rates. .." so it says the regulatory liability for the benefit of rural customers. Are you all asking for that to be amended so that the regulatory liability is for the benefit of the system as a whole?

10:03:25 AM Exec Director Chandler PSC
Note: Sacre, Candace So moving on - thank you, Kabrenda.

10:03:28 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Moving on, in response to Staff DR 1-10, you indicated that you are amenable on behalf of Big Rivers, excuse me, you, on behalf of Big Rivers, indicated you are amenable to including the amortization of the smelter loss mitigation regulatory assets as an explicit component of the calculation of the proposed new TIER credit. Do you remember that?

10:03:58 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And I think that Mr. Walker has discussed this issue. I think you maybe you even said something in response to Staff DR 1-25, and then you mention this again in your settlement testimony on page 3, I believe, lines 10 through 14, and let me get to that, and I'll read it off here. You stated, in your settlement testimony, "For any year in which Big Rivers' TIER is below 1.30, Big Rivers will reduce the amortization of the smelter loss mitigation regulatory asset in an amount that allows Big Rivers to achieve a 1.30 TIER. In any such year which Big Rivers is not forecasting to occur in the near future, Big Rivers will not provide the monthly bill credit." Do you remember saying that?

10:05:11 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Are you aware of ASC 983-40-25-1?

10:05:23 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And would you agree that, in response to questions from Commission Staff in an informal conference that you all filed, and we'll get to it later, that Big Rivers filed on June the 3rd an illustration - more, than - actually, it's not an illustrative example, it's an actual example based off the forecast of this matter, where you implicitly did recognize the amortization expense of - I don't know if I can say the number or not, that you put the amortization expense as an explicit amount in the calculation of the TIER credit. Do you remember that?

10:06:03 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So how does your all's proposal comply with ASC 983-40-25-1?

10:06:55 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Sure, but let me ask it this way, so 983-40-25-1 specifically says that, this is (b), "Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs."

10:07:36 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Now, that first sentence would be arguably, I think you all have argued that, that by including it as an explicit line item in the calculation of the TIER credit, you've satisfied that first sentence, correct?

10:07:50 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace But it also says, the second sentence of (b) says, "If the revenue will be provided through an automatic rate adjustment clause, this criterion requires that the regulator's intent clearly be permitted - intent clearly be to permit recovery of the previously incurred cost." In any year in which Big Rivers has not attained a 1.30 TIER, Big Rivers will not be incurring amortization expense in its entirety, correct?

10:09:11 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, a couple of items. You would agree depreciation is governed by a different accounting standard, correct?

10:09:19 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And you would agree that a change in Big Rivers' depreciation rates would be explicitly approved by the Public Service Commission, correct?

10:09:31 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And we will come back to that June 3rd filing later when we go into the confidential session.

10:09:41 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Can you explain, as it relates to - and I think Mr. Baron touched on this for a bit in his direct testimony, but I don't believe that Big Rivers has addressed it necessarily - how Big Rivers - how equity is created and how it grows beyond the required level as it relates to Big Rivers?

10:10:31 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So let's talk about it a little deeper than that though, so the proposal here is for our TIER to be set at 1.30, correct?

10:10:39 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Is - the entire amount of whatever amount it takes to get to 1.30, is that, for equity purposes, considered to be your net margin?

10:10:54 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So I was going to say let's make up a number, so ten, 11 million dollars a year, right, so, if in 2020, it's going to be \$11 million a year, the entirety of that for - and it's not cash. It's not cash, Just for book purposes, the entirety of that \$11 million net margin at 1.30 TIER becomes your addition to equity?

10:11:15 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And how much are you required in any given year of net margins to add to equity?

10:11:25 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And what is that - under what documents is that a requirement?

10:11:33 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and has that been recently amended?

10:11:38 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And did that term stay consistent?

10:12:16 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And so, just to be clear, is it 50 percent of that given year's has to be added to equity or 50 percent of 2019 each subsequent year has to be added to equity?

10:12:46 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, but, just so I understand from the settlement, you will continue to book the entirety of net margins to equity in any given year?

10:13:02 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Correct, okay, and is it your credit facility also the document that sets the requirement for what your minimum equity amount is?

10:13:23 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and so, for your minimum equity, you all are proposing to take your minimum equity, right, and whatever you have net of that, in excess of that, you're proposing to use 80 percent of that excess to write down the regulatory assets?

10:13:42 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, so you all know with reasonable certainty what that amount is, and I think it's been thrown out as approximately \$91 million, correct?

10:13:51 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So 91 - sorry, I don't have the numbers in front of me. An extra 20 percent. It's a \$100 million you have in excess?

10:14:06 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace A hundred and thirteen that you have in excess of what's required. What's the - if you are proposing to earn a 1.30 TIER every given year, moving forward, until you have, you know, a subsequent rate proceeding, right, then, by definition, will your equity only grow?

10:14:50 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Right, the amount will vary. I just want to make sure directionally it can only increase?

10:14:55 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace What's the benefit of the 20 percent cushion, or, I won't call it a cushion, only using 80 percent of the equity headroom to write down the regulatory assets?

10:15:15 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, my point is what's the benefit of having that excess 20 percent? If it's expected in subsequent years to only increase and it won't be diminished because you're proposing, effectively you're proposing, an automatic rate adjustment that guarantees a 1.30 TIER in any given year, what are you guarding against with an additional 20 percent over the minimum requirement?

10:16:14 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace But I want to be clear. What you're saying is, if you have an expense that is not provided regulatory accounting or cannot otherwise be amortized, that's your issue, right, is that you're worried about the hit to a one-time expense that is not otherwise booked?

10:16:38 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And so what do you have available that you are worried about the Commission not granting deferral accounting for that can happen in any given year that would - you know, that you would need, so what's that cushion, twenty million, twenty, thirty, twenty-five million dollars for, approximately?

10:17:03 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace What's the fear? I mean, so you said a retired generator. You're proposing to retire two generators, effectively, in this case, and you're proposing to book them, correct?

10:17:16 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So what is it that's the concern?

10:17:46 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Let's move on to TIER verse MFI. TIER stands for Time - well, go a head and tell me what TIER stands for.

10:17:58 AM Exec Director Chandler PSC - witness Smith?
Note: Sacre, Candace And MFIR?

10:18:06 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And your covenants require you to calculate an MFIR in any given year, correct?

10:18:14 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So at least one Data Request indicated that the only difference between MFIR and TIER is the inclusion of income tax, but that's not necessarily the case, right?

10:18:32 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and extraordinary items are included in MFIR or not included in MFIR?

10:18:47 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And I can speak with Mr. Walker about this in more indepth later, but it was my understanding - well, I'll say it this way. I believe it was, what? 2014 and 2015 TIER and MFIR were different, is that -

10:19:21 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And the difference was interest expense, right - or income tax? Excuse me. Income tax?

10:19:39 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And is there a rule in which you can determine whether TIER or MFIR is always going to be higher than the other?

10:20:14 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace MFIR higher than the TIER?

10:20:25 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So that was my impression after looking at Staff DR 2-10. Mr. Walker indicated - was explaining the difference in MFIR between - or the difference between MFIR and TIER for Corn Belt. Are you aware of that portion of the settlement testimony?

10:20:48 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, I'll speak with Mr. Walker about it. That's fine.

10:21:09 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So let me get through a couple of these nonconfidential questions, and we'll try to do all the confidential at one time.

10:21:16 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Have you discussed or has anybody at Big Rivers, to your personal knowledge, discussed the per-meter credit with Kenergy, Meade, and Jackson Purchase?

10:21:27 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And have they made representations about the per-meter credit?

10:21:38 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So let me ask - let me ask a more direct question. Are they supportive of it or indifferent?

10:22:12 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, so, on page 6 - 7 of your settlement testimony, you noted that the difference between a 1.30 TIER and a 1.10 MFIR, which I assume - you're assuming that the TIER and MFIR are identical in that sentence, correct?

10:22:44 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace - is only approximately \$7 million?

10:22:50 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So this is going to be a silly question. Are you indicating in that that every one-tenth of TIER is worth approximately three and a half million dollars under Big Rivers' current financials?

10:23:39 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Three-point-five to three-point-seven?

10:23:46 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, on that, then if one-tenth of TIER is approximately three and a half million dollars, on the next page, on 7 - 8, you discuss that a one-point-three-one TIER is approximately \$11 million. That assumes that point-one of TIER is seven hundred and eighty, approximately, seven hundred and eighty thousand, eight hundred thousand dollars, right? If one-point-three-o TIER is \$11 million of margin, \$11 million divided by 13 is approximately \$800,000?

10:24:37 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So can you help me here understand which one of them is right. If 1.3 is eleven million, then I don't understand how the difference between 1.1 and 1.3 is seven million.

10:25:07 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So we're going to ask that you check page 6 , page 7, and page 8 to make sure that it's, first, accurate, but, second, we're going to specifically ask a post-hearing data request as to what margin .1 of TIER under your current calculation on your current financials, or we'll say probably end of year 2020 will be but then also what it's going to be expected - can you all do a forecast through 2026 for what your expected interest expense is going to be? I mean, you all, I assume, already have placeholders for those.

10:25:54 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So we're going to ask for each year through 2026 for what that one-tenth of TIER looks like in any given year using the assumptions of the settlement agreement so that the Commission can understand what that margin looks like at 1.1 or 1.3 or 1.5 but also that we understand what's being added to equity, correct?

10:26:00 AM POST-HEARING DATA REQUEST
Note: Sacre, Candace EXEC DIRECTOR CHANDLER PSC - WITNESS SMITH
Note: Sacre, Candace ACCURACY OF PAGES 6, 7, AND 8 OF WITNESS SMITH SETTLEMENT TESTIMONY AND END-OF-YEAR 2019 THROUGH 2026 ONE-TENTH OF TIER AMOUNTS USING ASSUMPTIONS OF SETTLEMENT AGREEMENT

10:26:28 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So can we go to page 11 of your settlement testimony and particularly page 11, line 16, so line 16 states - so let me take a step back. You're talking about Moody's here, and Moody's is the only one that has not given Big Rivers an investment grade credit rating, right, or Moody's is someone who has not given Big Rivers an investment grade credit rating, correct?

10:26:59 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Moody's has not, and, in a report, they specifically - this is your language, in the report, quote, "Specifically noted the Commission support of a 1.30 TIER as one of the credit positives, stating," and this is Moody's quote, "the KPSC rates approved in the April 2014 Rate Order are designed to enable Big Rivers to achieve a 1.3 TIER, a level that is 20 basis points higher than the 1.1 times margins for interest, essentially the equivalent of TIER," they're talking about MFIR, "essentially the equivalent of TIER, required as defined under Big Rivers' indenture." (Click on link for further comments.)

10:27:52 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So, specifically, in the 2013 rate case, the 1.30 TIER being in excess of the 1.1 indenture requirement served at least two purposes. One that it provided a cushion for those rates in the future that were unexpected or were at unexpected levels, but it also provided for recovery of costs not explicitly approved but expected to be incurred in the rate case, correct?

10:28:23 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace In this matter, you're proposing only to incur, let's say, \$180,000 of costs that are not going to be realized in the calculation of the TIER, correct?

10:28:46 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So approximately \$580,000 of regulatory exclusions net of the four hundred you're allowed to recover.

10:29:02 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, so we're talking about a hundred thousand dollars of expenses you expect to incur but will not recover?

10:29:07 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Otherwise, the calculation as proposed will cover all costs, all expenses, in any given year?

10:29:16 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So a 1.30 TIER now is far more generous than the 1.30 TIER used in the 2013 rate case?

10:29:40 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Well, let's take it this way, so in terms of exclusions that were not allowed for rate making in the 2013 rate case, like, things that the Commission probably expected you to continue to incur but did not allow for ratemaking purposes, you would agree that your proposal in this case those amounts are lower?

10:30:01 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace But the TIER is identical and the indenture requirements are identical?

10:30:07 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And you would agree, between 2013 and I guess even today, if you incur costs that were not at levels or that weren't even identified to be incurred in the 2013 rate case, you take the risk that those exceed the cushion between a 1.1 and a 1.3?

10:30:49 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And that's fair enough. We can talk about how the path's cut or how it's recoverable. We're talking about actually the sort of revenue requirement soup, right? We'll talk about that first. Specifically, if you incur costs in a later year that are - who knew a hundred-year pandemic was gonna come this time last June, right, but, if you incur costs going forward under the current proposal over what's proposed here, those costs will be allowable for the calculation of the 1.3 TIER; whereas, for the last seven years, if you incur costs in amounts or a type that were not anticipated, those are not reflected in the revenue requirement?

10:31:48 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So the purpose of this case, one of the primary purposes, is to begin the paydown of the regulatory assets, correct?

10:31:57 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace The creation of and the amortization of those regulatory assets. Would you agree that in any year in which Big Rivers doesn't reach a 1.30 TIER that those regulatory assets will not even - that those regulatory assets will be amortized at a pace that would not allow it to reach full amortization by 2043?

10:32:26 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So would you agree - let me take a step back. The amortization amount that's included in the calculation of the TIER credit is the amount of amortization required to amortize the regulatory assets by the end of the all requirements contract, correct?

10:32:42 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Would you agree that any year in which Big Rivers does not reach a 1.30 TIER that you will not amortize at that necessary rate?

10:32:53 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And you would depend then on the amounts, that extra 50 percent, to pay down quicker in those years in which you do reach a 1.30 TIER or exceed a 1.30 TIER to amortize it on time?

10:33:39 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace What is our FFO to debt and debt service coverage look like in the near term horizon through 2026? I don't want numbers, I just mean objectively how are they going to be viewed?

10:33:56 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Are they better than they were the last few years?

10:34:12 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And so would you agree that the FFO is benefited by larger margins that increase our cash flow?

10:34:42 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So from 2020 to 2026, do you expect your FFO to debt ratios to increase or stay steady?

10:35:03 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace So let me ask about how the calculation of the TIER credit relates to the FFO to debt ratio? Since you're not actually earning the higher TIER in any given year, you're only actually earning the 1.30 TIER. Is the passback of those credits the 50 percent over the net margins or 50 percent over 1.30 TIER? Are those taken out prior to the calculation of the FFO to debt?

10:35:40 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, and so are you - you're paying back the subsequent year for the previous year's credit, is that right?

10:35:47 AM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And so are you going to have a spike in 2020 in your FFO to debt ratio?

10:36:38 AM	Exec Director Chandler PSC - witness Smith Note: Sacre, Candace	So let me ask a related question, so if the bill credit at 50/50, the actual cash that's being passed back to customers is a hit to your FFO to debt, right, because, in an given month, you're gonna have all this great free cash flow from operations, but you're - coming to the front door, but you're simultaneously passing a credit back out the back door that's a cash hit, right, or a hit to cash, but your debt service coverage is a book amount, not necessarily a free - a cash calculation, and we know about TIER. Are the Moody's and the S&Ps going to be looking at what your books look like prior to passing back and paying down these amortizations? Are they going to be - if you earn a 2.50 TIER and then you cause yourself pursuant to your mechanism to only earn a 1.30 TIER at the end of the year, there's that one second that, all of a sudden, you went from earning a 2.5, you do a single accounting entry or you know what I mean, a swift accounting entry and you're down to 1.30, are the gauging you off of the pre - for debt service coverage TIER, are they looking at you in terms of health prior to that accounting entry or after that accounting entry?
10:38:58 AM	Exec Director Chandler PSC - witness Smith Note: Sacre, Candace	Okay, they're book transactions, not cash transactions is what you're saying?
10:39:28 AM	Exec Director Chandler PSC - witness Smith Note: Sacre, Candace	For the cash flow metrics, depreciation and amortization are treated identically, is that right?
10:39:50 AM	Exec Director Chandler PSC Note: Sacre, Candace	Commission, it's 10:30. Do you want to take a break before we do all the confidential questions?
10:39:57 AM	Commissioner Mathews Note: Sacre, Candace	Yes, let's take a ten-minute break. We'll start back at 10:50.
10:40:11 AM	Session Paused	
10:49:35 AM	Session Resumed	
10:49:38 AM	Commissioner Mathews Note: Sacre, Candace	And we are back in 2020-00064, and I believe Mr. Smith is still on the stand.
10:49:50 AM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?
10:49:51 AM	Exec Director Chandler PSC Note: Sacre, Candace	Can you hear us, Mr. Smith?
10:50:11 AM	Exec Director Chandler PSC Note: Sacre, Candace	So the first thing I'd like to do, Commissioner, is to move to introduce, because I won't have any more, I don't believe, move to introduce Staff Exhibit 1, which is the Final Order fom 2018-00236, if there's no objections.
10:50:23 AM	Commissioner Mathews Note: Sacre, Candace	Do I hear any objections?
10:50:28 AM	Commissioner Mathews Note: Sacre, Candace	Okay, consider that Staff Exhibit 1.
10:50:29 AM	COMMISSION STAFF EXHIBIT 1 Note: Sacre, Candace Note: Sacre, Candace	EXEC DIRECTOR CHANDLER PSC - WITNESS SMITH 2018-00236 COMMISSION FINAL ORDER
10:50:34 AM	Exec Director Chandler PSC Note: Sacre, Candace	And, with that, I would like to move the hearing on to the confidential session, please.
10:50:42 AM	VideoConf Mics Private Mode Activated	
10:50:42 AM	Private Recording Activated	

12:21:16 PM VideoConf Mics Normal Mode Activated
12:21:16 PM Public Recording Activated
12:21:18 PM Commissioner Mathews
Note: Sacre, Candace Okay, and we are back on the record in 2020-00064, and I believe we're going to take a seven-minute break and be back at 12:30.

12:21:39 PM Session Paused
12:30:06 PM Session Resumed
12:30:12 PM Commissioner Mathews
Note: Sacre, Candace Okay, we are back on the record. I believe Staff has indicated they have about one more additional question for Mr. Smith, and then we'll see if any of - the Vice Chairman has any left.

12:30:36 PM Exec Director Chandler PSC
Note: Sacre, Candace Mr. Smith, can you hear me?
12:30:40 PM Commissioner Mathews
Note: Sacre, Candace Can anyone hear us?
12:30:49 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Cross Examination. Mr. Smith, are you there? Okay, one question, and I apologize for not asking this earlier. It got pushed off to you for Mr. Berry. You can thank him. In any of your loan covenants, is there an explicit requirement that, upon earning a specific TIER or MFIR, that triggers a rate case requirement?

12:31:39 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Let me ask about the timing of that. Your books are as of end year, right, calendar year; you all close your books; you end up at a 1.09, right, MFIR? Your books still have to be audited; you can make adjustments through the time it's audited, I think that's what Mr. Berry indicated, and all of the, you know, reduction in TIER to change amortization that you're proposing, everything else, all of those occur when?

12:32:52 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace And that would be the same time in which you would discover you're in violation of your debt covenants if you didn't meet a 1.1 MFIR?
12:33:04 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, and so you would have to take some action prior to the actual close of the audited books to bring above a 1.1 or you would be in violation of it, technically, right? You're not in violation when you realize it; you're in violation when your books close permanently, is that correct?

12:33:39 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Okay, but is it all of your lenders that you'd be in violation of or particular ones?
12:33:54 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace That's not a problem. So that would put you in violation of them, and, in order to not be in violation of your loan covenants, you just have to get that next year would have to be above it, or is it, strike one, you're out?

12:34:24 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Well, let me ask this question, so in how to cure the default is one thing, is that explicit in your debt covenants, your loan covenants?
12:34:37 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Are your debt covenants on file with the Commission?
12:34:45 PM Exec Director Chandler PSC - witness Smith
Note: Sacre, Candace Yeah, and, if we can't find that answer, we'll follow up in a post-hearing data request.
12:34:50 PM Exec Director Chandler PSC
Note: Sacre, Candace That's all I have. Commissioner Mathews.

12:34:56 PM	Commissioner Mathews Note: Sacre, Candace	Okay. Vice Chairman, did you have anything additional?
12:35:03 PM	Vice Chairman Cicero Note: Sacre, Candace	No, I don't have any - I don't think I have anything additional at this point.
12:35:07 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, did you have redirect?
12:35:11 PM	Atty Depp BREC Note: Sacre, Candace	I do, and I think it'll be fairly brief, Your Honor.
12:35:16 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Redirect Examination. Mr. Smith, I'm going to back up and try and reframe the forest a little bit, here, but is it Big Rivers' position that the Settlement Agreement that's been presented to the Commission as a whole is reasonable?
12:35:36 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and it's a product of a settlement with the Attorney General and KIUC, correct?
12:35:43 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and does the rural class - there was talk early on in the Executive Directors' questioning about DSM mechanism in the rural class. Does the rural class have a representative counsel to your knowledge in this case?
12:35:58 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and with respect to the proposed use of that DSM regulatory liability, were there some other factors about the settlement that could help offset the effects that the rural class would feel from that?
12:36:42 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And it's certainly not Big Rivers' position, is it, that everything - you know, first of all, Big Rivers is not requesting a change in its revenue requirement, is it?
12:36:52 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	It's not seeking to adjust its base rates?
12:36:59 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Does the Settlement Agreement give Big Rivers any discretion, you know, as the new TIER credit is applied to the amortization amounts that that will be utilized each year, or is it more of a formula approach?
12:37:31 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and I believe there were some questions about the accounting standard, and I won't attempt to see if I wrote down the numbers correctly, but the accounting standard associated with recovery of the, what I refer to as the, smelter liability or Smelter Loss Mitigation Regulatory Assets, the assets that are associated with those, the physical assets, those have indeed benefited Big Rivers' members for years, haven't they?
12:38:19 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and the mechanism that Big Rivers or that the parties have proposed as part of the Settlement Agreement, the new TIER credit is tied off of a 1.30 TIER, and I believe there's evidence in the record that's roughly an eleven-million-dollar margin, is that right?
12:38:37 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay. Do you have - I don't know if you do or not. Do you have any sense of how that eleven-million-dollar margin might compare to a typical return on equity that some other (inaudible) similar in size to Big Rivers might have?

12:39:26 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and I believe Mr. Walker had in his testimony indicated that Big Rivers and GNTs, in general, compete in the credit markets with (inaudible). Is that your understanding as well?
12:39:56 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And Big Rivers, in the 2013 rate case, it was approved to seek a 1.30 TIER, is that correct?
12:40:09 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and, with respect to the ratings agencies, you know, the parties have their views on this. Obviously, the ratings agencies are going to have their views. Your testimony indicated one of the principal objectives of this proceeding is to get its investment grade credit ratings back. That's right?
12:40:28 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, if they see the TIER - so, here, we have a TIER metric proposed at 1.30, we have a rate case from seven years ago that authorized a 1.30, and I believe we heard Mr. Berry testify earlier that there's a 1.59, roughly, average TIER of GNTs around the country. How do you think rating agencies will react if they see the Commission take that TIER of 1.30 below that number?
12:41:26 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and is there any reason to think that the credit rating agencies would have a special interest in looking at a TIER before that adjustment or after the fact?
12:42:03 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And do you think that's possible because perhaps it gives the a better understanding of the complete picture of Big Rivers' financial activities?
12:42:24 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, there were some questions about what would, in a rate case, ordinarily be excluded from a cost of service study but that Big Rivers has proposed to be addressed as part of this Settlement Agreement, and I think you conceded earlier that, yes, there are some differences between those two. That much is right, correct?
12:42:48 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and, you know, one of those that got a lot of discussion here a few moments ago was pertaining to Touchstone, lobbying, and the \$400,000 of expenses that are addressed in paragraph 4 of the Settlement Agreement that's economic development expenses, promotional advertising expenses, and Touchstone Energy dues. I don't know if you're the best person for this, to answer this, or not, but could you perhaps - to get to the Vice Chairman's emphasis on the prudence of the expenditure here in the first place, I think that's a good focus, could you talk about why those expenditures may be prudent to Big Rivers, if you believe they are?
12:43:59 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And I apologize. I'm switching gears here briefly, but there was some discussion as well under questioning from the Executive Director about the Station 2 settlement and, if I heard right, I'm not attempting to put words in his mouth, but that it resulted essentially from a windfall. Do you know what Big Rivers would have earned on Station 2 if it had not been shut down?

12:45:00 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and on one other topic that came up earlier pertained to employee benefits, and I don't have the chart in front of me, but I expect you may know this off the top of your head, with respect to healthcare coverage, for example, in the past five years, could you characterize generally, up or down or static, whether Big Rivers' portion of contribution to healthcare benefits has generally - what it has done, which direction has it gone, if any?
12:45:48 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, I don't want to put words in your mouth, so let me just ask this this way, the relief that's been requested here, and all the parties have agreed on this, from Big Rivers' perspective, how would you characterize the amount of wiggle room, that's my official legal term, that Big Rivers has in order to achieve its objectives of regaining its investment grade credit ratings?
12:47:10 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Okay, and was there ever an alternative consideration to filing the relief sought in this case?
12:47:54 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	And, speaking of cost effectiveness, I was involved in that 2013 rate case, and I had to go back and look, and, subject to check on this, it looked like from the Commission's Order in that case, last night, when I was looking into the rate case expenses that were approved for recovery, we're in the neighborhood of \$1.4 million.
12:48:19 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	Correct, and so that's in 2013 dollars. I don't know that you know the exact number, but how would you characterize the anticipated expense for the present case in relation to it?
12:48:36 PM	Atty Depp BREC - witness Smith Note: Sacre, Candace	You are correct. I would stipulate my billing rate has gone up, but the total expense of prosecuting this case in comparison to prosecuting the 2013 rate case, can you compare those, what you anticipate?
12:49:26 PM	Atty Depp BREC Note: Sacre, Candace Note: Sacre, Candace	Okay. Your Honor, if I could have one moment, please. That's all we have at the moment.
12:49:41 PM	Commissioner Mathews Note: Sacre, Candace	Does the Attorney General have any recross?
12:49:48 PM	Asst Atty General West Note: Sacre, Candace	No, Your Honor.
12:49:49 PM	Commissioner Mathews Note: Sacre, Candace	Does KIUC?
12:49:51 PM	Atty Kurtz KIUC Note: Sacre, Candace	Yes, Your Honor, very briefly, if I could.
12:49:56 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Recross Examination. Mr. Smith, if I could, I want to turn you back to sort of the big picture. At the end of 2019, Big Rivers had regulatory assets of \$371.9 million, is that right?
12:50:11 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	That's money that consumers owe Big Rivers, ratepayers owe Big Rivers?

12:50:22 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And so what this case does, it recovers - it's a step towards recovering that \$371.9 million plus putting into your cost structure \$21 million of depreciation on Wilson plus about \$12 million of ongoing write off of the regulatory assets, amortization of the regulatory assets, is that correct?
12:50:51 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And you've done all that without raising rates; that's the essence of your structure?
12:51:01 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	If the Commission approves this settlement, do you believe there's a good possibility - can't know for sure - that Big Rivers will achieve investment grade credit rating?
12:51:16 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, how much money will consumers save if Big Rivers achieves investment grade credit rating?
12:51:48 PM	Atty Depp BREC Note: Sacre, Candace	Excuse me, if I might jump in real quick, pardon me, this is Tip, I think that the numbers of the savings have been treated as confidential, and I wanted to jump in on that.
12:51:57 PM	Commissioner Mathews Note: Sacre, Candace	Thank you.
12:52:01 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Give me an approximation that you're comfortable with on the public record of savings to consumers to achieve investment grade credit status.
12:52:17 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	What does that translate into revenue requirements given a 1.3 TIER?
12:52:40 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, Big Rivers is a pretty small system, 3.3 million megawatt hours annual sales?
12:52:49 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	So, if you save 3.3 million, that's a dollar a megawatt hour, correct?
12:52:57 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	So, if an average residential customer on the Big Rivers system uses 1300 kilowatt hours a month, that'd be about a dollar-thirty a month savings to the average customer, correct?
12:53:22 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Is the RUS obligated to refinance half of the \$245 million in 2023?
12:53:47 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	If that were not legally binding, would an investment grade credit rating make financing that in the public debt markets easier?
12:54:05 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Your 2019 interest on long-term debt was \$37 million. That's in your settlement testimony at page 7?
12:54:14 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, so at a one-point-(inaudible) TIER that translates into margins of \$11 million a year?
12:54:27 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	At a 1.1 TIER or MFIR, which is basically the same, it's about \$3.7 million of margin per year to Big Rivers?
12:54:40 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, and so it's about a seven-point-three-million-dollar difference between 1.3 and 1.1?

12:54:51 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay. Normally, a lower rate of return or a lower TIER helps consumers, but if a one-point-one TIER caused you to not get investment grade credit status and your borrowing costs went up, wouldn't lowering the TIER hurt consumers?
12:55:22 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And then, that seven-point-three-million-dollar annual difference between one-point-three TIER and one-point-one TIER, that still goes back to consumers, does it not, through a higher member equity ratio?
12:55:48 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	It's not like that \$7.3 million is going to a New York bank or equity shareholders from around the country; it stays right with the members, does it not?
12:56:01 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And your financial model does show using the increased member equity is a lump sum write-off on the regulatory asset balance at some future time, correct?
12:56:11 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay. If this were a rate case, by regulation, Big Rivers could not recover promotional advertising, economic development, lobbying donation, or Touchstone Energy dues of approximately \$500,000 a year, correct?
12:56:27 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, the Settlement Agreement allows Big Rivers to effectively recover promotional advertising, economic development, Touchstone Energy dues not to exceed four hundred thousand, correct?
12:56:40 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, and Big Rivers is essentially going to (inaudible) the lobbying donation of about, it looks like, about a hundred and sixty thousand a year essentially, is that correct?
12:56:52 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	If this were a rate case, would Big Rivers be asking for the same TIER that East Kentucky got of 1.5?
12:57:13 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	At a 1.5 TIER, would that result in margins to Big Rivers of eighteen-and-a-half-million dollars a year at thirty-seven-million long-term debt?
12:57:26 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Okay, and, at 1.45, it would be 16.5 million in margins to Big Rivers?
12:57:37 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	So is it better for consumers to have a lower TIER of 1.1 and higher borrowing costs for Big Rivers or the 1.3 and lower borrowing costs?
12:58:16 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	To the extent you have a little reserve, it goes back to your members; it's booked to member equity; it's money that Big Rivers owes the ratepayers?
12:58:41 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	But you will use additional member equity to the extent allowed by your debt covenants to reduce the regulatory assets in the future?
12:58:59 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	So this whole case really started back in 2012-13 when both smelters changed their wholesale generation supplier, and they still buy their power through Kenergy. Kentucky's not deregulated. They still have to buy through Kenergy, correct?

12:59:19 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	And you lost about - they were about 70 percent of Big Rivers' retail sales at that time, 2012-2013?
12:59:35 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Well, they were, like, seven-point-three million megawatt hours a year; everybody else was three-point-three, so it's about 70 percent, right?
12:59:46 PM	Atty Kurtz KIUC - witness Smith Note: Sacre, Candace	Is approving this settlement, in your mind, an important step towards moving forward to regaining status of away from teetering on bankruptcy and away from noninvestment grade to being a more stable utility for the State of Kentucky?
1:00:32 PM	Atty Kurtz KIUC Note: Sacre, Candace	And I didn't mean to misstate that. With that clarification, thank you.
1:00:37 PM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, Your Honor. No more questions.
1:00:41 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler, do you have any additional recross?
1:00:44 PM	Exec Director Chandler PSC Note: Sacre, Candace	I do not.
1:00:46 PM	Commissioner Mathews Note: Sacre, Candace	Vice Chairman, do you have any?
1:00:48 PM	Vice Chairman Cicero Note: Sacre, Candace	Just one last question.
1:00:52 PM	Vice Chairman Cicero - witness Smith Note: Sacre, Candace	Examination. Mr. Depp touched on health care, one of my favorite subjects. He asked whether the employee participation was going up or down, and I think Mr. Smith said it was going up, and I'm curious what the percentage is for the average employee and their health care. What percent is participation?
1:01:37 PM	Vice Chairman Cicero Note: Sacre, Candace	Okay, thank you.
1:01:40 PM	Exec Director Chandler PSC Note: Sacre, Candace	And, Vice Chairman, we can certainly ask Ms. Durbin the question, but I do believe Commission Staff's Data Requests indicate that in 2012 nonbargaining employees pay 12 percent and an employer pays 88, and then for the bargaining for generation employees paid twelve-and-a-half and employer paid eighty-seven-and-a-half, and then for bargaining-transmission, the employees pay ten percent, the employer pays 90 percent, and that's per the Response to Staff's Third Request for Information, Item 7, and then that was - I think that's the one that also identifies that the bargaining contract comes up in a couple of years.
1:02:33 PM	Atty Depp BREC Note: Sacre, Candace	(Inaudible).
1:02:34 PM	Vice Chairman Cicero Note: Sacre, Candace	Okay, thanks, Mr. Chandler. I don't have any other questions.
1:02:42 PM	Commissioner Mathews Note: Sacre, Candace	Okay, may this witness be excused? Any objection?
1:02:46 PM	Exec Director Chandler PSC Note: Sacre, Candace	I have no objection. I would ask, since there are a couple of questions that he pushed off to Mr. Eacret, that Mr. Smith stay around in addition to Mr. Berry.
1:02:54 PM	Commissioner Mathews Note: Sacre, Candace	Okay, Mr. Smith, are you willing to stick around?

1:03:00 PM	Commissioner Mathews Note: Sacre, Candace	Okay, you're excused for now.
1:03:10 PM	Atty Depp BREC Note: Sacre, Candace	Your Honor, we have one more witness scheduled to call subject to whatever the Commission determines we need to do with Data Request Response sponsors.
1:03:19 PM	Commissioner Mathews Note: Sacre, Candace	Okay, just one second.
1:03:20 PM	Exec Director Chandler PSC Note: Sacre, Candace	So I would just ask Ms. Vinsel how many questions that she has for her additional witnesses.
1:03:27 PM	Commissioner Mathews Note: Sacre, Candace	Ms. Vinsel?
1:03:29 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	I've just got really one question for Mr. Baron.
1:03:35 PM	Commissioner Mathews Note: Sacre, Candace	Push through or take a break, Ken?
1:03:39 PM	Exec Director Chandler PSC Note: Sacre, Candace	I would propose that we continue to push through, but I also know that it's one o'clock, and other people have a meeting, so I'll defer to the Commissioners. (Click on link for further discussion.)
1:04:59 PM	Atty Depp BREC Note: Sacre, Candace	Okay, we call Daniel M. Walker.
1:05:15 PM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
1:05:45 PM	Commissioner Mathews - witness Walker Note: Sacre, Candace	Examination. Mr. Walker, if you'd state your name and address for the record as well?
1:06:23 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, you may ask.
1:06:37 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Direct Examination. Mr. Walker, could you identify your employer or whether you're self-employed, please?
1:06:48 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Thank you, and did you cause testimony in support of the Settlement Agreement that was filed in this matter to be filed?
1:06:56 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Thank you, and do you have any revisions or updates to your testimony?
1:07:01 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	So, if I were to ask you those questions today, your responses would be the same as they reflect on paper?
1:07:08 PM	Atty Depp BREC Note: Sacre, Candace	The witness is available for cross.
1:07:11 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West?
1:07:15 PM	Asst Atty General West Note: Sacre, Candace	We have no questions.
1:07:17 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
1:07:18 PM	Atty Kurtz KIUC Note: Sacre, Candace	No questions, Your Honor.
1:07:21 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?

1:07:22 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Cross Examination. It's afternoon now, Mr. Walker. Good afternoon. In an ordinary rate making proceeding, what's the purpose of the cushion between a TIER required for the loan and the TIER target used to calculate rates?

1:08:22 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So that's under a ratemaking, you know, an ordinary revenue requirement paradigm. Is the cushion - all else being equal, is the cushion fundamentally different in an event, or, in a case such as here or as you mentioned with ODEC and their 1.2 TIER, is there a fundamental difference in using a TIER target for revenue requirement purposes verse a mechanism such as this?

1:09:29 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Right, but let me ask you this way. Is there a fundamental difference between the Commission using 1.30 to determine the revenue requirements in the 2013 rate case as compared to using 1.3 as the guaranteed tier that Big Rivers will meet in this matter?

1:10:04 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So let me ask it this way. In setting rates in a regulated rate case, it's based off a number of assumptions. Effectively, all of it are assumptions, correct?

1:10:17 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace And so, let's say, the last case, Big Rivers anticipates that their sales are going to be x in a given year, and they take those, that forecast, and they use it, the Commission uses it, to determine what rates are required per that forecast to equal a 1.30 TIER. Sales come in 20 percent less, right?

1:10:40 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace They aren't going to make their 1.30 TIER. In this matter, the proposal before the Commission in the settlement is that Big Rivers will meet a 1.30 TIER. Isn't that fundamentally different?

1:11:08 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace You see it as the same, so actually guaranteed to meet a 1.3 is equally risky to the risk that you won't meet a 1.3 TIER?

1:11:44 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace But you would agree that the latter example you just provided has been Big Rivers over the last seven years as opposed to the former, being what is proposed in this case?

1:11:57 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Assuming that credit ratings are objective, and I know that may be a big jump for us here, but, assuming that credit ratings are objective, are credit ratings relative to other firms, or are they absolute determinations of credit worthiness of individual firms?

1:12:47 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So, bondholders aside because they have an inherent interest, right, in the risk, I' m talking about an objective credit rating, is it absolute as to the firm's credit worthiness, or is it relative to other firms in that they compete or that do the same - that are in the same industry?

1:13:09 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace It's all relative?

1:13:11 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So, for instance, when The Tax Cuts and Jobs Act came out, would you agree that, for the vast majority of utilities that are investor owned, the industry as a whole got downgraded or almost all of them downgraded because of a reduction in cash flow?

1:13:40 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Okay, so if Big Rivers increases their credit ratings, that's gonna have to increase somebody else's credit ratings because they're relative, correct?

1:13:49 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So it's objective? So I'm trying to make sure I understand here. Can Big Rivers consistently increase their credit ratings without it being any effect on someone else's credit ratings, so the other credit ratings, for instance, the 25 G&Ts you studied?

1:15:03 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So do they publicly indicate that that's not the case?

1:15:58 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace On page 7 of your testimony, I'll give you a chance to look at that, on page 7 of your testimony, on lines - we'll just say the first paragraph in the answer there, you discuss that the average TIER for G&Ts with similar risk profile in 2012 was 1.61, and then it's 1.63 now, which indicates that the (inaudible) TIER has increased, so those are just two data points that are about a percent apart. What other information or evidence do you have that TIERS have increased?

1:18:28 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Well, but that's effectively looking at the difference between median and average, correct? That your average exceeds your medium indicates that the upper 50 percentile is higher from the median than your lower 50 percentile on average?

1:19:09 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Okay, but you would agree that - well, so let me say it this way, so you indicate you have additional evidence other than moving .02 TIER in eight years that TIERS have increased across the board?

1:19:31 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace What was the screen you used for these 25 G&Ts?

1:20:59 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace And what do you mean by a market-based indenture? That their indenture is for debt other than RUS?

1:23:15 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Okay, how many credit ratings does a G&T generally need to be able to get market credit?

1:25:37 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So that's what I wanted to make sure of, so you're saying that there's still the availability for those that are that are - that there are opportunities to be able to get credit market rate debt for those G&Ts that are either not ranked, not rated, or rated by one or two agencies?

1:26:29 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace At least, by two or by three?

1:27:59 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Were you on earlier when Mr. Smith and I were discussing the differences between MFIR and TIER?

1:28:14 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace And that he indicated in his testimony that MFIR, historically, if it differs from Big Rivers TIER that it's been that MFIR is higher than their TIER. You mentioned on page 8 of your settlement testimony the TIER and MFIR of Corn Belt?

1:28:29 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Are you aware of why their TIER was lower - or that their MFIR was lower than their TIER?

1:28:37 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Can you tell us why?

1:28:52 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So is that their choice, or is that included in their covenants?

1:29:14 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Okay, so do you have any expectation, with your understanding of Big Rivers, that MFIR will be lower than TIER in the next few years?

1:29:35 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Do you have an understanding or belief that credit agencies would believe that the rates set by a utility using a different calculation than the one in their loan covenant is inherently risky?

1:30:18 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace But I guess what - we were talking about the benefit of a cushion reducing risk. What good is a cushion if, using the exact same numbers, you actually meet a TIER, but it causes you to miss your MFIR when your MFIR is your debt covenant?

1:30:36 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace I would tend to agree, but that's what I'm asking about, the inherent risk that, if the TIER credit is using - if the credit mechanism proposed is using TIER when the debt covenants require a calculation of the MFIR, is there an inherent risk of using - would you agree there's an inherent risk of using that TIER insofar as it could differ from the MFIR?

1:31:04 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace But that's not the purpose of the question. The idea is which is riskier? Having a debt covenant with MFIR and using TIERS as the credit calculation, or having a debt covenant that uses MFIR and using MFIR as the TIER - as the credit calculation?

1:31:51 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace So, in your testimony, you state that, something along the lines that, you believe the new TIER credit is very likely to be viewed as a credit positive by the credit rating agencies. Would you agree with that?

1:32:05 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Is the 50 percent over a 1.3 TIER that is passed back to customers considered a credit positive, particularly since the regulatory asset balances are significant credit negative and that Big Rivers maintains its rates are currently competitive?

1:33:17 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Yeah, and I don't - I'm not asking about that. I'm saying, specifically, as you understand it - I just want to make sure you understand, the proposal is that a 1.3 TIER, insofar as they exceed that 1.30 TIER, half of that savings, half of that margin is passed back as a credit, and the other half is used to reduce - to accelerate the amortization of the regulatory assets. That's how you understand the proposal, correct?

1:33:44 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace Would you say that the proposal, based off your experience, that the proposal to pass back half of those margins as a credit to customers is considered a credit positive, a credit negative, or that credit rating agencies will be indifferent?

1:35:10 PM Exec Director Chandler PSC - witness Walker
Note: Sacre, Candace And so, comparatively, would you say that an additional amount over the 1.3, say, instead of 50 percent, it'd be 60 or 70 percent being used to offset the regulatory assets, would be a credit positive or a credit negative?

1:35:44 PM	Exec Director Chandler PSC - witness Walker Note: Sacre, Candace	Yeah, back to my question earlier about we have to assume their objective, right?
1:35:53 PM	Exec Director Chandler PSC - witness Walker Note: Sacre, Candace	Other than the (inaudible) part?
1:36:01 PM	Exec Director Chandler PSC - witness Walker Note: Sacre, Candace	Commissioner Mathews, those are all the questions I have for Mr. Walker. Thank you, Mr. Walker.
1:36:05 PM	Commissioner Mathews Note: Sacre, Candace	Vice Chairman, do you have any questions? Vice Chairman, do you have any questions?
1:36:30 PM	Vice Chairman Cicero - witness Walker Note: Sacre, Candace	Examination. My only question is really in regard to the 50/50 split. Do you have any other opinion besides that it's feel good for the rating agencies?
1:37:47 PM	Vice Chairman Cicero - witness Walker Note: Sacre, Candace	I'm going to infer from your answer that, at this point, there's feel good or not, we're not really certain, but I would guess that, if I was a rating agency person, I would want it to be extinguished as quick as possible.
1:38:03 PM	Vice Chairman Cicero Note: Sacre, Candace	I don't have any other questions, Commissioner Mathews.
1:38:13 PM	Vice Chairman Cicero Note: Sacre, Candace	Thank you.
1:38:16 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, do you have any redirect?
1:38:18 PM	Atty Depp BREC Note: Sacre, Candace	I can be very, very quick. I do.
1:38:23 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Redirect Examination. Mr. Walker, if the PSC were to approve a TIER mechanism at a level below the current 1.30 that's proposed, do you believe it creates a risk to Big Rivers' ability to regain its investment grade ratings?
1:38:39 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Not in your lifetime that they would regain them?
1:38:54 PM	Atty Depp BREC - witness Walker Note: Sacre, Candace	Okay, thank you, and then the last question for you is, we talked about the sense of feel that you have for the ratings agencies. Can you just give the Commission some sense of the years of experience and the depth of experience that you've had in the financial and utility regulation field that gives you - that helps inform that sense of feel?
1:40:31 PM	Atty Depp BREC Note: Sacre, Candace	Thank you, Mr. Walker. No further questions, Your Honor.
1:40:35 PM	Commissioner Mathews Note: Sacre, Candace	AG, did you have any recross?
1:40:40 PM	Asst Atty General West Note: Sacre, Candace	No, Your Honor.
1:40:43 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz, did you have any recross?
1:40:47 PM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, but very briefly.

1:40:48 PM	Atty Kurtz KIUC - witness Walker Note: Sacre, Candace	Cross Examination. Mr. Walker, if the Commission approved the 50/50 split in this case, based on your understanding of rate making, would that be set in stone through the year 2043 when the member contracts expire, or could that be modified at some point mid-course if the regulatory asset did not look like it was getting written down fast enough?
1:41:16 PM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, Your Honor. No more questions.
1:41:19 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler, last bite at the apple.
1:41:22 PM	Exec Director Chandler PSC Note: Sacre, Candace	No, thank you.
1:41:25 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Cicero, last bite at the apple.
1:41:33 PM	Vice Chairman Cicero Note: Sacre, Candace	No, thank you.
1:41:36 PM	Commissioner Mathews Note: Sacre, Candace	May this witness be excused?
1:41:46 PM	Commissioner Mathews Note: Sacre, Candace	Thank you, Mr. Walker, and you are excused.
1:41:52 PM	Commissioner Mathews Note: Sacre, Candace	I would propose that we take that half-hour break now, so we'll be back at 2:15. Thank you.
1:42:15 PM	Session Paused	
2:20:47 PM	Session Resumed	
2:20:55 PM	Commissioner Mathews Note: Sacre, Candace	I think we are back on the record in 2020-00064. I believe we are on Staff and Intervenor. (Click on link for further discussion.)
2:22:38 PM	Commissioner Mathews Note: Sacre, Candace	Ms. Vinsel, do you have a question? I believe Mr. Berry was your witness, correct?
2:22:49 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	That's correct. No, I had no further questions for Mr. Berry.
2:22:54 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West?
2:22:56 PM	Asst Atty General West Note: Sacre, Candace	No questions.
2:23:01 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz? Mr. Boehm?
2:23:05 PM	Atty Kurtz KIUC Note: Sacre, Candace	Yes, really quickly.
2:23:08 PM	Atty Kurtz KIUC - witness Berry Note: Sacre, Candace	Recross Examination. I have never understood what the lock box provision is, but, obviously, presumably, it's bad. What is it, and why is it bad?
2:23:19 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Berry, you're still under oath.
2:23:24 PM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, Your Honor.
2:24:08 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?

2:24:09 PM	Exec Director Chandler PSC Note: Sacre, Candace	I don't have any questions for Mr. Berry. I think the next witnesses that we would have questions for are Mr. Chambliss, Mr. Pullen, Mr. Eacret, and Ms. Durbin, whichever, however Mr. Depp would like to call them.
2:24:23 PM	Vice Chairman Cicero Note: Sacre, Candace	I have a question.
2:24:26 PM	Commissioner Mathews Note: Sacre, Candace	I was getting to you next, sir. Mr. Vice Chairman?
2:24:30 PM	Vice Chairman Cicero Note: Sacre, Candace	Thank you.
2:24:32 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	Examination. So, Mr. Berry, while RUS has the ability to do that, like any good business, as long as the covenants are set up and followed by those that are under them, which, in this case, is Big Rivers Electric, and you're doing your job and they're happy with it, there's probably slim to no chance that RUS would come in and exercise a lockbox clause. Is that correct?
2:26:29 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	How often do you speak to the representatives of RUS about your situation?
2:26:51 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	My only point is, as long as you're doing what you're supposed to do, a lockbox clause is highly unlikely to be exercised? I mean, you would have to really fall backwards?
2:27:13 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	Everybody protects themselves, which is why legal agreements tend to be so long and why we have so many lawyers, because there's always protecting ourselves to the Nth degree, and I understand the covenants that are in documents like that. I also dealt with a lot of bankruptcies, and the one thing that a creditor wants to receive is his money, and he wants to do it in a way that sustains the business that he's trying to support, or there probably wouldn't have been an agreement in the first place,
2:27:49 PM	Vice Chairman Cicero Note: Sacre, Candace	That's all I have, Commissioner Mathews.
2:28:06 PM	Atty Depp BREC Note: Sacre, Candace	If Staff doesn't have a preference, Mike Chambliss, may not be a fan of this, but I usually default to alphabetical order by last name.
2:28:15 PM	Commissioner Mathews Note: Sacre, Candace	Well, I think Staff had indicated that perhaps Mr. Baron would be a short witness.
2:28:24 PM	Atty Depp BREC Note: Sacre, Candace	We'd have no objection to that.
2:28:26 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	That's true, I just have one question for Mr. Baron.
2:28:41 PM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
2:28:54 PM	Commissioner Mathews - witness Baron Note: Sacre, Candace	Examination. Please state your name and address for the record.
2:29:13 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz, you may ask.
2:29:16 PM	Atty Kurtz KIUC Note: Sacre, Candace	Thank you, Your Honor.

2:29:17 PM	Atty Kurtz KIUC - witness Baron Note: Sacre, Candace	Direct Examination, Mr. Baron, did you prepare or prepare under your direct supervision direct testimony and settlement testimony?
2:29:26 PM	Atty Kurtz KIUC - witness Baron Note: Sacre, Candace	Do you have any changes or corrections you'd like to make to the testimony?
2:29:32 PM	Atty Kurtz KIUC - witness Baron Note: Sacre, Candace	If I were to ask you the same questions as those contained therein, would your answers be the same?
2:29:40 PM	Atty Kurtz KIUC Note: Sacre, Candace	Your Honor, I tender the witness for cross.
2:29:43 PM	Commissioner Mathews Note: Sacre, Candace	Okay. Ms. Vinsel?
2:29:48 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Thank you, Commissioner Mathews.
2:29:52 PM	Asst Gen Counsel Vinsel PSC - witness Baron Note: Sacre, Candace	Cross Examination. Good afternoon, Mr. Baron. one of the settlement provisions is that the proposed rate design for the large industrial class would not apply to fossil fuel industries, and the fossil fuel industries would continue to be served under the current large industrial customer rate, correct?
2:30:15 PM	Asst Gen Counsel Vinsel PSC - witness Baron Note: Sacre, Candace	Did you prepare a cost justification to determine that fossil fuel industries could be exempt from the large industrial class rate design?
2:30:56 PM	Asst Gen Counsel Vinsel PSC - witness Baron Note: Sacre, Candace	Pardon me, I didn't mean to talk over you. In your settlement testimony, you speak specifically about fossil fuel industries?
2:32:39 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Thank you. I think you've answered my question. I have no further questions at this time. I'm going to check with my colleagues though by text.
2:32:53 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, did you have questions?
2:32:57 PM	Atty Depp BREC Note: Sacre, Candace	I might do one quick one, Your Honor, please.
2:33:02 PM	Atty Depp BREC - witness Baron Note: Sacre, Candace	Cross Examination. Mr. Baron, thanks. Are you aware of - I don't know if you're aware of a Data Request Response, a Post-Informal-Conference Data Request filed by KIUC on May 28th of this year.
2:33:21 PM	Atty Depp BREC - witness Baron Note: Sacre, Candace	Yes, it is, and I believe, as the last part of that, on page 5, and some of the information, the actual customers are confidential, and I'm not gonna get into that. Staff will be able to see who those are because they have the confidential document, but do you see, on the far right side of that page, an estimation of impact of the various customers served there?
2:33:44 PM	Atty Depp BREC - witness Baron Note: Sacre, Candace	And you don't have any reason to disagree with those numbers, do you?
2:33:49 PM	Atty Depp BREC Note: Sacre, Candace	Thank you. No further questions, Your Honor.
2:33:52 PM	Commissioner Mathews Note: Sacre, Candace	Thank you.

2:33:53 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West?
2:33:56 PM	Asst Atty General West Note: Sacre, Candace	We don't have any questions of this witness.
2:33:59 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Cicero?
2:34:03 PM	Vice Chairman Cicero Note: Sacre, Candace	I do not have any questions.
2:34:10 PM	Commissioner Mathews Note: Sacre, Candace	Then may this witness be excused?
2:34:15 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Yes.
2:34:31 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz, did you have any redirect? I neglected to ask you.
2:34:37 PM	Atty Kurtz KIUC Note: Sacre, Candace	No, I do not. Thank you.
2:34:40 PM	Commissioner Mathews Note: Sacre, Candace	Thank you. Feel free to tell me when I forget to do that.
2:35:04 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, I believe we were getting ready to introduce Mr. Chambliss?
2:35:12 PM	Atty Depp BREC Note: Sacre, Candace	That's fine with us, yes, please.
2:35:15 PM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
2:35:39 PM	Commissioner Mathews - witness Chambliss Note: Sacre, Candace	Examination. Your name and address for the record, please?
2:35:51 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, you may ask.
2:35:54 PM	Atty Depp BREC Note: Sacre, Candace	Thank you.
2:35:55 PM	Atty Depp BREC - witness Chambliss Note: Sacre, Candace	Direct Examination. Mr. Chambliss, what's your title at Big Rivers?
2:36:00 PM	Atty Depp BREC - witness Chambliss Note: Sacre, Candace	Thank you, and did you sponsor certain Data Request Responses that were filed in this proceeding?
2:36:08 PM	Atty Depp BREC - witness Chambliss Note: Sacre, Candace	And do you have any revisions or updates to those Responses?
2:36:12 PM	Atty Depp BREC - witness Chambliss Note: Sacre, Candace	And, if I were to ask you those questions today, would your responses to them be the same?
2:36:18 PM	Atty Depp BREC - witness Chambliss Note: Sacre, Candace	The witness is available for cross.
2:36:23 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West?
2:36:26 PM	Asst Atty General West Note: Sacre, Candace	No questions.
2:36:28 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
2:36:30 PM	Atty Kurtz KIUC Note: Sacre, Candace	No questions, Your Honor.
2:36:32 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?

2:36:33 PM	Exec Director Chandler PSC Note: Sacre, Candace	Yes, ma'am.
2:36:54 PM	Exec Director Chandler PSC - witness Chambliss Note: Sacre, Candace	Cross Examination. Good afternoon, Mr. Chambliss.
2:37:04 PM	Exec Director Chandler PSC Note: Sacre, Candace	Well, to kick it off, I think I'm gonna have to ask to onto the confidential record. I don't know that I can lay any foundation on the public record, so I would move that we do so.
2:37:13 PM	Commissioner Mathews Note: Sacre, Candace	We'll go into confidential session, our regular session, and introduce the witness.
2:37:18 PM	VideoConf Mics Private Mode Activated	
2:37:18 PM	Private Recording Activated	
2:42:15 PM	Exec Director Chandler PSC - witness Chambliss Note: Sacre, Candace	Well, so let me ask it this way. Has Kimberly-Clark indicated to the companies that a reduction in their energy rate would lead them to maybe not do the cogen unit? Is that your understanding, or did you take away from the conversations that they seem intent on doing the small cogen unit?
2:47:24 PM	VideoConf Mics Normal Mode Activated	
2:47:24 PM	Public Recording Activated	
2:47:32 PM	Commissioner Mathews Note: Sacre, Candace	Back on the record in 2020-00064. I believe, Mr. Depp, you were calling Ms. Durbin.
2:47:46 PM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
2:47:54 PM	Commissioner Mathews - witness Durbin Note: Sacre, Candace	Examination. If you would state your name and address for the record, please.
2:48:04 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, you may ask.
2:48:08 PM	Atty Depp BREC Note: Sacre, Candace	Thank you.
2:48:09 PM	Atty Depp BREC - witness Durbin Note: Sacre, Candace	Direct Examination. Ms. Durbin, can you state your title at Big Rivers, please?
2:48:15 PM	Atty Depp BREC - witness Durbin Note: Sacre, Candace	Thank you, and did you sponsor some Data Request Responses that were filed in this case?
2:48:20 PM	Atty Depp BREC - witness Durbin Note: Sacre, Candace	Do you have any revisions or updates to those Responses?
2:48:24 PM	Atty Depp BREC - witness Durbin Note: Sacre, Candace	So, if I were to ask you those questions today, your responses would be the same?
2:48:29 PM	Atty Depp BREC Note: Sacre, Candace	Thank you. The witness is available for cross.
2:48:32 PM	Exec Director Chandler PSC Note: Sacre, Candace	And, Commissioner, can I just ask, before we move on to cross, can I ask Jim to go back to see everyone and wait for Ms. Vinsel? (Click on link for further comments.)
2:49:38 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West, did you have anything while we're getting people sitting down here?
2:49:43 PM	Asst Atty General West Note: Sacre, Candace	No, I do not.

2:49:45 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
2:49:47 PM	Atty Kurtz KIUC Note: Sacre, Candace	No questions.
2:49:50 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler, do we need to go into confidential session before you ask?
2:50:02 PM	Exec Director Chandler PSC Note: Sacre, Candace	Yeah, I would like to move, Commissioner, to confidential session now that Ms. Vinsel is back.
2:50:10 PM	VideoConf Mics Private Mode Activated	
2:50:10 PM	Private Recording Activated	
2:59:19 PM	VideoConf Mics Normal Mode Activated	
2:59:19 PM	Public Recording Activated	
2:59:27 PM	Commissioner Mathews Note: Sacre, Candace	Okay. We are back on the record in 2020-00064, Mr. Depp?
2:59:34 PM	Atty Depp BREC Note: Sacre, Candace	Big Rivers calls Mark Eacret.
2:59:50 PM	Commissioner Mathews Note: Sacre, Candace	Witness is sworn.
2:59:58 PM	Commissioner Mathews - witness Eacret Note: Sacre, Candace	Examination. Could you please state your name and address for the record?
3:00:08 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, you may ask.
3:00:10 PM	Atty Depp BREC Note: Sacre, Candace	Thank you.
3:00:12 PM	Atty Depp BREC - witness Eacret Note: Sacre, Candace	Direct Examination. Mr. Eacret, what's your title at Big Rivers?
3:00:16 PM	Atty Depp BREC - witness Eacret Note: Sacre, Candace	And did you sponsor certain Responses to Data Requests in this matter?
3:00:22 PM	Atty Depp BREC - witness Eacret Note: Sacre, Candace	And do you have any revisions or updates to those Responses?
3:00:26 PM	Atty Depp BREC - witness Eacret Note: Sacre, Candace	And, if I were to ask you those same questions today, would you respond the same?
3:00:31 PM	Atty Depp BREC Note: Sacre, Candace	The witness is available for cross.
3:00:36 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West?
3:00:39 PM	Asst Atty General West Note: Sacre, Candace	We have no questions of this witness.
3:00:41 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Kurtz?
3:00:43 PM	Atty Kurtz KIUC Note: Sacre, Candace	No questions, Your Honor.
3:00:46 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?
3:00:47 PM	Exec Director Chandler PSC Note: Sacre, Candace	Just a few.
3:00:48 PM	Exec Director Chandler PSC Note: Sacre, Candace	Good afternoon, Mr. Eacret. (Click on link for further comments.)
3:01:13 PM	VideoConf Mics Private Mode Activated	

3:01:13 PM	Private Recording Activated	
3:05:39 PM	Commissioner Mathews	
	Note: Sacre, Candace	May I ask one?
3:13:29 PM	Atty Depp BREC	
	Note: Sacre, Candace	Thank you.
3:14:06 PM	Atty Kurtz KIUC	
	Note: Sacre, Candace	No questions, Your Honor.
3:14:07 PM	Commissioner Mathews	
	Note: Sacre, Candace	Mr. Chandler?
3:14:08 PM	Exec Director Chandler PSC	
	Note: Sacre, Candace	I have questions, but, first, I want to make sure that I understand that we're on the public session.
3:14:14 PM	Exec Director Chandler PSC	
	Note: Sacre, Candace	Okay, that's why I wanted to make sure. We probably need to have Mr. Pullen introduce himself again.
3:14:35 PM	VideoConf Mics Normal Mode Activated	
3:14:35 PM	Public Recording Activated	
3:14:37 PM	Commissioner Mathews	
	Note: Sacre, Candace	We're back on the record in 2020-00064. If you would raise your right hand, please.
3:14:41 PM	Commissioner Mathews	
	Note: Sacre, Candace	Witness is sworn.
3:14:53 PM	Commissioner Mathews - witness Pullen	
	Note: Sacre, Candace	Examination. Would you please state your name and address for the record?
3:15:02 PM	Commissioner Mathews	
	Note: Sacre, Candace	Mr. Depp, you may ask.
3:15:04 PM	Atty Depp BREC	
	Note: Sacre, Candace	Thank you.
3:15:05 PM	Atty Depp BREC - witness Pullen	
	Note: Sacre, Candace	Direct Examination. Mr. Pullen, what's your title with Big Rivers?
3:15:10 PM	Atty Depp BREC - witness Pullen	
	Note: Sacre, Candace	Thank you, and did you sponsor certain Data Requests Responses that were filed in this matter?
3:15:15 PM	Atty Depp BREC - witness Pullen	
	Note: Sacre, Candace	Do you have any revisions or updates to those Responses?
3:15:19 PM	Atty Depp BREC - witness Pullen	
	Note: Sacre, Candace	And, if you were to be asked those again today, your responses would be the same, I take it?
3:15:25 PM	Atty Depp BREC	
	Note: Sacre, Candace	Thank you. The witness is available for cross.
3:15:28 PM	Commissioner Mathews	
	Note: Sacre, Candace	Mr. Chandler?
3:15:29 PM	Exec Director Chandler PSC	
	Note: Sacre, Candace	Yeah, can I ask that we go into confidential session?
3:15:31 PM	Commissioner Mathews	
	Note: Sacre, Candace	Thank you. We are going to go into confidential session again.
3:15:39 PM	VideoConf Mics Private Mode Activated	
3:15:39 PM	Private Recording Activated	
3:25:02 PM	VideoConf Mics Normal Mode Activated	
3:25:02 PM	Public Recording Activated	
3:25:04 PM	Commissioner Mathews	
	Note: Sacre, Candace	We are back on the record in 2020-00064, and I believe we want to ask Mr. Berry to come back.

3:25:23 PM	Commissioner Mathews Note: Sacre, Candace	Remember, you are still under oath.
3:25:26 PM	Exec Director Chandler PSC Note: Sacre, Candace	I would ask, Commissioner, since all of the questions for Mr. Berry now have almost all been deferred from the other people that I had to cross, does counsel have an objection to me asking those questions of Mr. Berry?
3:25:38 PM	Atty Depp BREC Note: Sacre, Candace	No, no objection.
3:25:42 PM	Exec Director Chandler PSC Note: Sacre, Candace	Thanks, Commissioner.
3:25:45 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Recross Examination. Mr. Berry, to the question that was asked of Mr. Pullen earlier or in that neighborhood, does the - dependence is the wrong word, but the significant amount of megawatts that make up Big Rivers' fleet that are coal fired, does that raise the credit risk or make it harder to get investment grade credit ratings from credit agencies, credit rating agencies?
3:26:41 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Okay, one of the questions earlier was about on the - about how the board's per diem for training was calculated or was determined. Are those preapproved programs that are set out at the beginning of the year, are there parameters around them, or do people identify what kind of a training they would like to participate in, and then the board subsequently approve it or deny it?
3:27:21 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Are there any rules that currently put guardrails on what type of training can be approved, or is it just ad hoc?
3:28:41 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	You heard the discussion earlier about the, as Big Rivers refers to them, the regulatory exclusions?
3:28:50 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Would you agree that the vast majority of those that were expended in 2019 were not done so in accordance with the contract or were not required to be expended in terms of a contract?
3:29:07 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	So I'll take a step back, so the political - or the advertising, lobbying, economic development, the group of five hundred to six hundred thousand dollars of expenses that were incurred in 2019 that I think you all have deemed regulatory exclusions, would you agree that the vast majority of those are not determined by a requirement under any contract?
3:29:32 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Okay, and that, I think the word I used and I think maybe Mr. Smith may have disagreed, but that - I'll try not to use the word again - they're at management's discretion for the most part?

3:29:59 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	Well, so I'm trying to understand, so I can't find any of them that would seem to be - would arise out of a contractual requirement. I think, you know, for instance, there are their costs that were discussed earlier, bargaining units, for bargaining employees who might have two contributions to different retirement. It could be argued at least one of those is done, you know, those contributions are done pursuant to a contract or some contractual requirement, right? As it relates to the 2019 expenses that were provided in the record, the donations, Touchstone Energy dues, (inaudible) dues, you know, a number of them, are you aware of any of them that arise under a requirement or under a contract?
3:31:46 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	So let me ask it this way, and beneficial/preferential aside, would you agree that - of the five to six hundred (sic) dollars of what has been deemed regulatory exclusions at the outset by Big Rivers, would you agree that those costs are not required to provide service?
3:32:24 PM	Exec Director Chandler PSC - witness Berry Note: Sacre, Candace	And that's - I wanted to say, you know, management preference aside, I just want to make sure that we're on the same page about, you know, required for the provision of service.
3:33:00 PM	Exec Director Chandler PSC Note: Sacre, Candace	Those are all the questions I have, Commissioner Mathews. Thank you, Mr. Berry.
3:33:07 PM	Commissioner Mathews Note: Sacre, Candace	Vice Chairman, do you have any questions?
3:33:10 PM	Vice Chairman Cicero Note: Sacre, Candace	I do not have any additional questions for Mr. Berry. Thank you, Mr. Berry.
3:33:16 PM	Commissioner Mathews Note: Sacre, Candace	I think I have one, and it may be one that we have to put in a post-hearing data request for someone else. The provision - well, let me make sure I can ask.
3:33:49 PM	Commissioner Mathews Note: Sacre, Candace	Well, if I have a question, we'll put it in the post-hearing data request.
3:34:00 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, did you have any recross - or redirect?
3:34:02 PM	Atty Depp BREC Note: Sacre, Candace	Just one very brief one. Thank you. One brief one.
3:34:08 PM	Atty Depp BREC - witness Berry Note: Sacre, Candace	Mr. Berry, the economic development expenses and these expenses, generally, do they help you grow your load under your load mitigation plan?
3:34:40 PM	Atty Depp BREC Note: Sacre, Candace	Thank you. No further questions.
3:34:43 PM	Vice Chairman Cicero Note: Sacre, Candace	May I ask one last question?
3:34:46 PM	Commissioner Mathews Note: Sacre, Candace	Yes.

3:34:47 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	Examination. Mr. Berry, you refer to the Nucor project and maybe some other ancillary projects, but the contributions made to economic development are going to the three co-ops and the economic development authorities in those local areas. How much did those contribute to bringing in something like Nucor? Were those dollars spent on those types of projects, or was that a higher level?
3:36:18 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	For the Nucor project, were the only funds that were used for economic development out of the funds that are identified as being the hundred and seven thousand or - let me see here how much was it. Well, all put in and arranged in this file - a hundred and fifty to a hundred and seventy-five thousand, those were what I could - those show up for 2020, so they aren't even for past years. Were there other funds that were used besides those?
3:37:03 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	Right, and I just wondered if - I understand that those are going to develop on a local basis. I'm just looking at the Nucor project in particular if there was some - Nucor has been brought up a couple of times during this testimony today, and I'm curious if there is any other funds scheme that were spent at Nucor other than economic development (inaudible).
3:37:42 PM	Vice Chairman Cicero - witness Berry Note: Sacre, Candace	I'm just curious if there's any other funds that are being used other than those three funds that are identified for those three localities for Nuco?
3:37:54 PM	Vice Chairman Cicero Note: Sacre, Candace	All right, thank you. I don't have any other questions. Thank you, Mr. Berry.
3:38:00 PM	Commissioner Mathews Note: Sacre, Candace	Thank you, Mr. Berry. Pending someone speaking up, I don't believe anybody else has any questions. You're excused again.
3:38:13 PM	Commissioner Mathews Note: Sacre, Candace	Does anybody have any additional witnesses? Mr. Depp?
3:38:19 PM	Atty Depp BREC Note: Sacre, Candace	No, Your Honor.
3:38:23 PM	Commissioner Mathews Note: Sacre, Candace	Mr. West? Mr. Kurtz?
3:38:26 PM	Asst Atty General West Note: Sacre, Candace	No, that's it for us.
3:38:28 PM	Commissioner Mathews Note: Sacre, Candace	Ms. Vinsel?
3:38:33 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Chandler?
3:38:34 PM	Exec Director Chandler PSC Note: Sacre, Candace	No, Your Honor.
3:38:46 PM	Commissioner Mathews Note: Sacre, Candace	Okay, I guess now we need to talk about scheduling of these post-hearing data requests, which there are a few, and Staff does issue those in written form. When can we get those, Ms. Vinsel, Mr. Chandler? (Click on link for further discussion.)
3:39:12 PM	Commissioner Mathews Note: Sacre, Candace	Okay, so by June 10. (Click on link for further discussion.)
3:39:21 PM	Commissioner Mathews Note: Sacre, Candace	And how long do you believe the witnesses will need to respond to those? (Click on link for further discussion.)

3:39:37 PM	Atty Depp BREC Note: Sacre, Candace	I've got in my head, for whatever reason, that if we respond by next Wednesday, we very well may be able to do it sooner, and we're certainly not going to hold it up just to be holding it up because we've asked for an expedited decision, so next Wednesday with the idea we would perhaps get it sooner, that would be fine.
3:39:53 PM	Commissioner Mathews Note: Sacre, Candace	Will that work for you, Ms. Vinsel?
3:39:55 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	That works.
3:39:59 PM	Commissioner Mathews Note: Sacre, Candace	Staff, do you believe there will be any briefs?
3:40:04 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	No, Staff does not believe that there will be a need for briefs.
3:40:09 PM	Commissioner Mathews Note: Sacre, Candace	Mr. Depp, do you agree with that?
3:40:12 PM	Atty Depp BREC Note: Sacre, Candace	I was going to propose if we could have a short brief, probably by the end of next week, if that would work.
3:40:21 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	The 19th? Can you get it in by the 17th? I know that's pushing you, but the Staff is going to need time to get an order if we're going to get it out by the 29th, and getting a brief on the 19th won't give us enough time, unfortunately.
3:40:41 PM	Atty Depp BREC Note: Sacre, Candace	Let's do the 17th.
3:40:44 PM	Commissioner Mathews Note: Sacre, Candace	And, if anyone else files briefs, they will be simultaneous also due on the 17th, correct?
3:40:54 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Yes.
3:40:58 PM	Exec Director Chandler PSC Note: Sacre, Candace	I don't see the need for anybody to respond since all the parties are on the same page, right?
3:41:13 PM	Commissioner Mathews Note: Sacre, Candace	The 17th will end the record, how's that?
3:41:18 PM	Commissioner Mathews Note: Sacre, Candace	Ms. Vinsel, do we need to do the settlement questions before I ask everyone to repeat after me or to answer affirmatively?
3:41:30 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Yes, we do, and I do believe you have them with you.
3:41:36 PM	Commissioner Mathews Note: Sacre, Candace	And I will ask them of everyone simultaneously, and, if we could get responses back from each of the parties at the end of each question, that would be wonderful.
3:41:58 PM	Commissioner Mathews Note: Sacre, Candace	So, if you would raise your hand, were you aware of and did you have an opportunity to participate in all of the negotiations that resulted in the Settlement Agreement?
3:42:16 PM	Commissioner Mathews Note: Sacre, Candace	Did you voluntarily sign the Settlement Agreement, and do you fully support each and every provision contained therein?
3:42:26 PM	Commissioner Mathews Note: Sacre, Candace	Are there any provisions in the Settlement Agreement that you do not understand, object to, or take issue with?

3:42:36 PM	Commissioner Mathews Note: Sacre, Candace	Was any consideration of any kind offered or were any promises made other than what was expressly set forth in the Settlement Agreement to induce you to negotiate and sign the Settlement Agreement?
3:42:50 PM	Commissioner Mathews Note: Sacre, Candace	Are you aware of any reason why the Commission should not adopt and approve the Settlement Agreement in its entirety?
3:43:00 PM	Commissioner Mathews Note: Sacre, Candace	Thank you. That is the end of the questions, and I think that's the end of the hearing. I think we can adjourn, correct, Mr. Chandler, Ms. Vinsel?
3:43:15 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Correct.
3:43:17 PM	Commissioner Mathews Note: Sacre, Candace	Thank you very much, and this meeting is adjourned.
3:43:26 PM	Session Paused	
3:43:42 PM	Session Ended	



Exhibit List Report

2020-00064 09June 2020

Big Rivers Electric Corporation
(BREC)

Name:**Description:**

PSC Exhibit 1

2018-00236 Commission Final Order

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEMAND-SIDE MANAGEMENT FILING OF BIG)	
RIVERS ELECTRIC CORPORATION ON)	
BEHALF OF ITSELF, JACKSON PURCHASE)	CASE NO.
ENERGY CORPORATION, AND MEADE)	2018-00236
COUNTY R.E.C.C. AND REQUEST TO)	
ESTABLISH A REGULATORY LIABILITY)	

ORDER

On July 6, 2018, Big Rivers Electric Corporation (BREC) filed on behalf of itself and two of its member distribution cooperative-owners, Jackson Purchase Energy Corporation (Jackson Purchase Energy) and Meade County Rural Electric Cooperative Corporations (Meade County RECC), an application for approval of revised tariffs to discontinue certain demand-side management (DSM) programs effective August 6, 2018. The application also requested approval for BREC to use DSM revenues to fund two new DSM programs, for BREC to establish a regulatory liability, and for a deviation from 807 KAR 5:001, Section 8, that requires Jackson Purchase Energy and Meade County RECC to publish a customer notice of their respective revised tariffs no later than the date of the tariff filing. Jackson Purchase Energy and Meade County RECC (jointly, Member Systems) also filed revised tariffs to phase out their respective remaining DSM programs by June 30, 2019, by reducing the available customer rebates.¹

¹ BREC third member distribution cooperative-owner, Kenergy Corp. made a separate DSM tariff filing, TFS 2018-00293, withdrawing all of its existing DSM Programs.

By Order entered on July 31, 2018, the Commission approved revised tariffs to discontinue seven DSM programs for BREC, eight DSM programs for Jackson Purchase Energy, and seven DSM programs for Meade County RECC, all effective August 6, 2018, due to the fact that they are no longer cost-effective. The discontinued DSM programs are as follows:

A. For BREC:

- DSM-01: High Efficiency Lighting Replacement Program;
- DSM-02: ENERGY STAR® Clothes Washer Replacement Incentive Program;
- DSM-03: ENERGY STAR® Refrigerator Replacement Incentive Program;
- DSM-06: Touchstone Energy® New Home Program;
- DSM-07: Residential and Commercial Heating, Ventilation and Air Conditioning (HVAC) & Refrigeration Tune-Up Program;
- DSM-09: Commercial/Industrial General Energy Efficiency Program; and
- DSM-13: Residential Weatherization A La Carte Program.

B. For Jackson Purchase Energy:

- DSM-01: High Efficiency Lighting Replacement Program;
- DSM-02: ENERGY STAR® Clothes Washer Replacement Incentive Program;
- DSM-03: ENERGY STAR® Refrigerator Replacement Incentive Program;
- DSM-05: Touchstone Energy® New Home Program;
- DSM-06: Residential and Commercial Heating, Ventilation and Air Conditioning (HVAC) & Refrigeration Tune-Up Program;

- DSM-08: Residential Weatherization Program – All Electric;
- DSM-09: Residential Weatherization Program – Non-Electric Heating; and
- DSM-10: Commercial/Industrial General Energy Efficiency Program.

C. For Meade County RECC:

- Schedule 26: High Efficiency Lighting Replacement Program;
- Schedule 27: Clothes Washer Replacement Incentive Program;
- Schedule 28: Refrigerator Replacement Program;
- Schedule 30: Residential Weatherization A La Carte Program;
- Schedule 31: Touchstone Energy® New Home Program;
- Schedule 32: Residential & Commercial Heating, Ventilation and Air Conditioning (HVAC) & Refrigeration Tune Up Program; and
- Schedule 34: Commercial/Industrial General Energy Efficiency Program.

That Order also found that the Commission had not completed its investigation of Jackson Purchase Energy's and Meade County RECC's revised tariffs to phase out their respective remaining DSM programs. Consequently, those tariffs were suspended for one day and allowed to become effective, subject to change prospectively, as follows:

For Jackson Purchase Energy:

- DSM-04: Residential High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program;
- DSM-07: Commercial/Industrial High Efficiency Lighting Replacement Incentive Program; and

- DSM-11: Commercial High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program.

For Meade County RECC:

- Schedule 29: Residential High Efficiency Heating, Ventilation, and Air Conditioning (HVAC) Program;
- Schedule 33: Commercial/Industrial High Efficiency Lighting Replacement Incentive Program;
- Schedule 37: Commercial High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program; and
- Schedule 38: High Efficiency Outdoor Lighting Program.

Finally, the July 31, 2018 Order found that BREC's proposed two new DSM programs, the request for the regulatory liability, the motion for deviation, and the request to phase out certain DSM programs required further review. Therefore, these matters would be the subjects of further proceedings, and a procedural schedule was established. There are no intervenors in this proceeding, and BREC responded to one round of discovery from Commission Staff. On October 26, 2018, BREC, Jackson Purchase Energy, and Meade County RECC requested that the matter be submitted for a decision based on the existing record. This case now stands submitted for a decision based on the evidentiary record.

DISCUSSION

The pending application was filed in response to the Commission's Order entered December 21, 2017, in Case No. 2017-00278.² That Order directed BREC and its Member Systems, including Kenergy Corp., to review their DSM programs, determine

² Case No. 2017-00278, *Tariff Filing of Big Rivers Electric Corporation to Revise Certain Demand-Side Management Programs*, (Ky. PSC Dec. 21, 2017).

which programs should be continued and which should be discontinued, and file a tariff detailing their findings by June 30, 2018, along with a plan to earmark the annual difference between the DSM expenditures for the remaining programs, and the amount included in BREC's base rates for DSM expenditures.

For all DSM programs not discontinued as of August 6, 2018, BREC proposes to phase them out by June 30, 2019, even though the Total Resource Cost (TRC) score for each of these programs is greater than one.³ This phase-out will allow commercial and industrial customers who have already begun DSM/energy-efficient investments in anticipation of receiving incentives to still receive such benefits after the completion of the project.⁴ BREC anticipates filing revised tariff sheets no later than the end of the June 30, 2019 phase-out period. These programs include the following tariff sheets for BREC:

- DSM-04: Residential High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program;
- DSM-08: Commercial/Industrial High Efficiency Lighting Replacement Incentive Program;
- DSM-11: Commercial High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program; and
- DSM-12: High Efficiency Outdoor Lighting Program.

For their corresponding programs, Jackson Purchase Energy and Meade County RECC are proposing to revise their tariff sheets to include "up to" language in reference to the amount of customer rebates. The Member Systems contend that with this addition, the tariffs will match the corresponding BREC tariffs and allow for the flexibility to reduce

³ A TRC score greater than one indicates the program is cost-effective.

⁴ Application at 8.

the available incentive in a gradual phase-out of the programs.⁵ Like BREC, Jackson Purchase Energy's and Meade County RECC's tariffs for these programs will be withdrawn no later than June 30, 2019.⁶

For Jackson Purchase RECC, the DSM programs to be revised and phased out are as follows:

- DSM-04: Residential High Efficiency Heating Ventilation and Air Conditioning (HVAC) Program;
- DSM-07: Commercial/Industrial High Efficiency Lighting Replacement Incentive Program; and
- DSM-11: Commercial High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program.

For Meade County RECC the DSM programs to be revised and phased out are as follows:

- Schedule 29: Residential High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program;
- Schedule 33: Commercial/Industrial High Efficiency Lighting Replacement Incentive Program;
- Schedule 37: Commercial High Efficiency Heating, Ventilation and Air Conditioning (HVAC) Program; and
- Schedule 38: High Efficiency Outdoor Lighting Program.

The Commission agrees with the proposal to phase out these programs by June 30, 2019, and approves the proposed revision to the rebate language in Jackson Purchase Energy's and Meade Country RECC's corresponding tariffs. Once BREC's four remaining programs are phased out, BREC, Jackson Purchase Energy, and Meade

⁵ *Id.*

⁶ Application, Exhibit A, Direct Testimony of Russell L. Pogue (Pogue Testimony), pp. 45 and 7-8.

County RECC are to file through the Commission's electronic Tariff Filing System the revised tariff sheets eliminating these programs.

BREC is proposing to implement two new DSM programs—an Energy Use Education initiative and a Low-Income Weatherization initiative—and proposes to expend a total of \$250,000 for both programs. In regards to the educational program, BREC states that with the phasing out of its remaining DSM programs, additional communication efforts will be necessary to educate retail members about the efficient use of energy. BREC believes that this education program will also allow for the opportunity to share information about power for electric vehicles, renewable energy, and how to continue efficient electric use. Funds provided through this DSM program will be used for education and communication purposes.⁷

The Commission finds no merit in the proposed expenditure for the Energy Use Education program. BREC has not yet developed any of the educational material or specific budgets to be used in this program⁸ and has provided no analysis to demonstrate that the expenditures will be cost-effective. Thus, BREC has not provided sufficient justification to create a new DSM program to provide education efforts geared towards new technology and renewable energy.

The proposed Low-Income Weatherization Assistance Program will involve BREC working with Community Action Agencies within its members' respective service territories to provide weatherization assistance for weatherization-related measures that otherwise would not be completed and increase the efficiency of systems or eliminate

⁷ Pogue Testimony at 9.

⁸ BREC's Response to Staff First Request, Item 3.

health and safety issues.⁹ BREC will provide funds to Community Action Agencies with the requirement that they only use the funds to support weatherization measures for low-income households served by one of BREC's member systems, and the funds only support weatherization measures that would not otherwise be completed.¹⁰ General guidelines regarding transactions with Community Action Agencies have been discussed, but no executed agreement or contract has been established. BREC's current budget target is an average of \$1,000 per home weatherized for health and safety issues, plus an additional \$1,000 per home to upgrade the home's heating system to a high-efficiency heat pump.¹¹

The Commission has encouraged utilities to provide DSM programs that are designed to reduce energy consumption by low-income customers, similar to BREC's proposed Low-Income Weatherization Assistance Program, and we will approve this proposal by BREC. Based on our decision to deny the creation of the Energy Use Education program, the Commission finds that the most beneficial use of the proposed \$250,000 budget for the two programs is to redirect the entire budget to the Low-Income Weatherization Assistance Program.

In response to the Commission's directive in Case No. 2017-00278 for BREC to earmark the difference between its future DSM expenditures and the amount included in base rates for DSM expenditures, BREC proposes to defer any DSM savings into a regulatory liability. The regulatory liability would be offset in BREC's next rate case

⁹ *Id.*

¹⁰ *Id.* at 10.

¹¹ BREC's Response to Staff's First Request for Information (Staff's First Request), Item 4.

against the regulatory asset associated with the annual depreciation expense for the Wilson Generating Station (Wilson Regulatory Liability). Currently, BREC's rates contain a DSM component based on forecasted annual DSM spending of approximately \$1 million. Once the remaining DSM programs are phased out in 2019 and with the two new DSM programs, BREC anticipates achieving an annual savings of approximately \$750,000.¹²

The Commission finds it reasonable to create a regulatory liability for the unspent portion of the \$1 million of DSM revenues. However, the Commission notes that since those DSM revenues are being collected only in the rural base rates, the regulatory liability should be used in BREC's next rate case exclusively for the benefit of rural customers. Further, the Commission finds that a decision on the particular use of those funds to benefit rural customers in BREC's next rate case should not be made at this time, but rather deferred to that next rate case.

Finally, because of timing differences, Jackson Purchase Energy's and Meade County RECC's customer notices of the proposed tariff changes were not to be published until after this application was filed. Therefore, BREC, Jackson Purchase Energy, and Meade County RECC request a deviation from the requirements of 807 KAR 5:011, Section 8(2).¹³ Based on the fact that the proposed revised tariffs in this case set forth terms and conditions of voluntary programs that are available to customers at their option; good cause exists to grant the requested deviation.

¹² Application at 9.

¹³ *Id.* at 17.

IT IS THEREFORE ORDERED that:

1. BREC's request to phase out its remaining DSM programs, designated as DSM-8, DSM-11, DSM-12, and DSM-04, by June 30, 2019, is approved.
2. Jackson Purchase Energy's and Meade County RECC's requests to modify and phase out their respective remaining DSM programs by June 30, 2019, are approved.
3. BREC's request for an Energy Use Education DSM Program is denied.
4. BREC's request to create a Low-Income Weatherization Assistance DSM Program at an annual budget not to exceed \$250,000 is approved, subject to the filing of a tariff setting forth the program details, including a list of weatherization initiatives, support for the proposed initiatives, guidelines, and any contracts and agreements.
5. Within 20 days of the date of this Order, BREC shall file with the Commission, using the Commission's electronic Tariff Filing System, revised tariff sheets reflecting that its remaining DSM programs, designated as DSM-8, DSM-11, DSM-12, and DSM-04, shall terminate by June 30, 2019, and reflecting that they were approved pursuant to this Order.
6. Within 20 days of the date of this Order, Jackson Purchase Energy and Meade County RECC shall file with the Commission, using the Commission's electronic Tariff Filing System, revised tariff sheets reflecting that their remaining DSM programs shall terminate by June 30, 2019, and reflecting that they were approved pursuant to this Order.
7. BREC shall establish a regulatory liability for the benefit of rural customers only in an amount that reflects the difference between BREC's future DSM expenditures and the \$1 million included in rural base rates for DSM expenditures.

8. The request for a deviation by Jackson Purchase Energy and Meade County RECC from the requirement to publish a customer notice no later than the date the proposed tariffs were filed is granted.

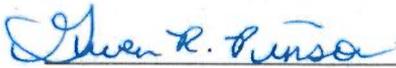
9. This case is hereby closed and removed from the Commission's docket.

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By the Commission

ENTERED
DEC 12 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2018-00236

*Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Tyson Kamuf
Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*R. Brooks Herrick
Dinsmore & Shohl, LLP
101 South Fifth Street
Suite 2500
Louisville, KENTUCKY 40202

*Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*M. Evan Buckley
Dinsmore & Shohl, LLP
City Center, 100 W. Main Street
Suite 900
Lexington, KENTUCKY 40507

*Edward T Depp
Dinsmore & Shohl, LLP
101 South Fifth Street
Suite 2500
Louisville, KENTUCKY 40202

*Gregory E. Mayes, Jr.
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Tyson Kamuf
Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202