

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR A)	CASE NO.
DECLARATORY ORDER OR AN ORDER)	2021-00026
AUTHORIZING THE ISSUANCE EVIDENCES)	
OF INDEBTEDNESS)	

ORDER

On February 9, 2021, Big Rivers Electric Corporation (BREC) filed an application, pursuant to KRS 278.300, requesting a declaratory Order be issued stating that its proposed evidences of indebtedness in its application do not require Commission approval subject to the exclusions provided in KRS 278.300(10).

In support of its request, BREC stated that it has obtained both approval and commitment for two Rural Utilities Service (RUS) guaranteed Federal Financing Bank (FFB) loans.¹ The total principal of all the promissory notes will be \$97,119,000, although BREC states the terms and conditions of the notes have not yet been finalized, but BREC anticipates the amortization period for the loans will be 20 years.² BREC stated that both RUS and FFB are agencies of the federal government; and therefore, the related loan contracts, promissory notes, and reimbursement notes described in BREC's application are subject to the exclusion provision contained in KRS 278.300(10) and do not require

¹ Application at 3.

² *Id.* at 5–6.

Commission approval.³ The purpose of the financing is to fund certain transmission and environmental projects pursuant to BREC's RUS approved 2016-2019 Transmission Construction Work Plan (CWP), the 2020-2023 Transmission CWP, and the 2020-002023 Generation CWP.⁴

DISCUSSION

KRS 278.300(10) provides that the preceding sections do not apply in instances:

[W]here the issuance of securities or evidences of indebtedness is subject to the supervision or control of the federal government or any agency thereof, but the commission may appear as a party to any proceeding filed or pending before any federal agency if the issuance of the securities or evidences of indebtedness will materially affect any utility over which the commission has jurisdiction.

Prior to this proceeding, the Commission has reviewed and approved all financing arrangements in connection with the initial Bond issuance in 1982,⁵ initial refinance in 1985,⁶ refinance to the 2001A Bonds in Case No. 2001-000102,⁷ and ten supplemental indentures subsequent to the initial Bond issuance that involved secured private placement debt.⁸ The substantive difference between this case and the 12 prior cases

³ *Id.* at 3.

⁴ *Id.* at 2.

⁵ Case No. 7990, *Application of Big Rivers Electric Corporation for Amendment to Order of November 13, 1980, to Permit Alternate Method of Financing of Pollution Control Facilities by Borrowing Proceeds of Ohio County, Kentucky, Pollution Control Bonds* (Ky. PSC Oct. 6, 1982).

⁶ Case No. 9448, *Application of Big Rivers Electric Corporation to Amend the Order Issued November 13, 1980, in Case No. 7990 by Authorizing Big Rivers Electric Corporation's Borrowing of Proceeds of up to \$83,300,000 County of Ohio, Kentucky Variable Rate Demand Pollution Control Refunding Bonds, Series 1985 (Big Rivers Electric Corporation Project), and Execution of Documents Evidencing Such Debt* (Ky. PSC Oct. 29, 1985).

⁷ Case No. 2001-00102, *Application of Big Rivers Electric Corporation to Amend and Issue Evidences of Indebtedness* (Ky. PSC May 24, 2001).

⁸ Application at 8, footnote 9.

requiring Commission review and approval lies in that the financing arrangement in the instant case is entirely in connection with RUS supervised loans.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the proposed loans and related contracts in BREC's application fall under the provision of KRS 278.300(10) and therefore do not require Commission approval.

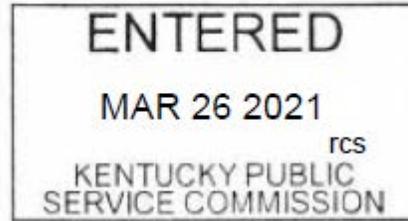
IT IS THEREFORE ORDERED that:

1. BREC's application for an order declaring that its supplemental loan indentures related to transmission and environmental projects does not require Commission approval is granted.

2. BREC's supplemental loan indentures to Rural Utilities Service and Federal Financing Bank are subject to the supervision of these federal agencies within the meaning of KRS 278.300(10), and do not require Commission approval.

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

By the Commission



ATTEST:


Executive Director

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

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

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

*Senthia Santana
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