

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION BY THE)	
PUBLIC SERVICE COMMISSION OF THE)	
ENVIRONMENTAL SURCHARGE MECHANISM)	
OF BIG RIVERS ELECTRIC CORPORATION FOR)	
THE SIX-MONTH BILLING PERIODS ENDING)	
JANUARY 31, 2020, JULY 31, 2020, JANUARY)	CASE NO.
31, 2021, JANUARY 31, 2022, JULY 31, 2022,)	2023-00373
AND JANUARY 31, 2023, THE TWO-YEAR)	
BILLING PERIODS ENDING JULY 31, 2021, AND)	
JULY 31, 2023, AND THE PASS-THROUGH)	
MECHANISM OF ITS THREE MEMBER)	
DISTRIBUTION COOPERATIVES)	

ORDER

On December 8, 2023, the Commission initiated (1) the six-month review of Big Rivers Electric Corporation’s (BREC) environmental surcharge for the billing months ending January 31, 2020; July 31, 2020; January 31, 2021; January 31, 2022; July 31, 2022; and January 31, 2023; (2) the two-year review of BREC’s environmental surcharge for the billing months ending July 31, 2021, and July 31, 2023; (3) the corresponding reviews of its member distribution cooperatives’ (Member Cooperatives)¹ pass-through mechanisms for the six-month review periods billed beginning September 1, 2019; March 1, 2020; September 1, 2020; September 1, 2021; March 1, 2022; and September 1, 2022, to their retail member customers, and billed beginning August 1, 2019; February 1, 2020;

¹ The three BREC Member Cooperatives are Meade County Rural Electric Cooperative Corporation (Meade RECC), Kenergy Corp. (Kenergy), and Jackson Purchase Energy Corporation (Jackson Purchase Energy).

August 1, 2020; August 1, 2021; February 1, 2022; and August 1, 2022, for large commercial and industrial customers with dedicated delivery points; and (4) the corresponding reviews of the Member Cooperatives' pass-through mechanisms for the two-year review periods billed beginning September 1, 2019; and September 1, 2021; to their retail member customers and August 1, 2019; and August 1, 2021, for large commercial and industrial customers with dedicated delivery points.² For those customers with dedicated delivery points, the environmental surcharge bills are rendered without the one-month lag necessary for all other retail customers.

LEGAL STANDARD

KRS 278.183(3) requires, in pertinent part, that:

At six (6) month intervals, the commission shall review past operations of the environmental surcharge of each utility, and after hearing, as ordered, shall, by temporary adjustment in the surcharge, disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of this section. Every two (2) years the commission shall review and evaluate past operation of the surcharge, and after hearing, as ordered, shall disallow improper expenses, and to the extent appropriate, incorporate surcharge amounts found just and reasonable into the existing base rates of each utility.

Additionally, KRS 278.183(5) states:

The commission shall retain all jurisdiction granted by this section and KRS 278.020 to review the environmental surcharge authorized by this section and any complaints as to the amount of any environmental surcharge or the incorporation of any environmental surcharge into the existing base rate of any utility.

² Opening Order (Ky. PSC Dec. 8, 2023). The case heading of the opening Order was amended, *nunc pro tunc*, by an Order issued on Jan. 17, 2024.

BACKGROUND

On June 26, 2008, the Commission approved BREC's environmental surcharge application and established a surcharge mechanism.³ The Commission also approved a mechanism to pass through the environmental surcharge to BREC's Member Cooperatives.⁴ The Commission's last review was completed on October 27, 2020.⁵ The Commission issued a procedural schedule as Appendix A to the Opening Ordering⁶ and subsequently amended the procedural schedule.⁷ BREC responded to two requests for information from Commission Staff.⁸ There were no intervenors. BREC has filed a statement requesting that this matter be submitted for decision based on the written record.⁹ The matter stands submitted for a decision.

³ Case No. 2007-00460, *Application of Big Rivers Electric Corporation for Approval of an Environmental Compliance Plan and Environmental Surcharge Tariff* (Ky. PSC June 26, 2008).

⁴ The three Member Cooperatives were authorized to implement a pass-through mechanism in Case No. 2007-00470, *Application of Meade County Rural Electric Cooperative Corporation for Approval of Retail Tariff Riders, Revised Tariffs and New Tariff, and for Approval of Amendment of Wholesale Agreement* (Ky. PSC, Dec. 12, 2008); Case No. 2008-00009, *Application of Kenergy Corp. for Approval of Retail Tariff Riders and Revised Tariffs, Approval of Smelter Agreements, and Approval of Amendment to Wholesale Agreement* (Ky. PSC, Dec. 12, 2008); and Case No. 2008-00010, *Application of Jackson Purchase Energy Corporation for Approval of Retail Tariff Riders, Revised Tariffs, New Tariff, and Amendment of Wholesale Agreement* (Ky. PSC Dec. 12, 2008).

⁵ Case No. 2020-00144, *Electronic Examination by the Public Service Commission of the Environmental Surcharge Mechanism of Big Rivers Electric Corporation for the Two-Year Billing Period Ending July 31, 2019, and the Pass Through Mechanism of Its Three Member Distribution Cooperatives* (Ky. PSC Oct. 27, 2020).

⁶ Opening Order (Ky. PSC Dec. 8, 2023).

⁷ Order Amending Procedural Schedule (Ky. PSC Feb. 23, 2024).

⁸ BREC's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Jan. 17, 2024). BREC's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Mar. 27, 2024).

⁹ BREC's Request to Submit on the Record (filed May 20, 2024).

SURCHARGE ADJUSTMENT

BREC is not requesting any additional over- or under-recovery of its environmental costs.¹⁰ BREC states that the normal over-/under-recovery carry-forward element of its environmental surcharge mechanism is operating as intended.¹¹ The Commission has reviewed and finds BREC's calculation of its environmental surcharge costs reasonable and finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

BREC's Environmental Surcharge (ES) Tariff provides that the rate of return on the environmental rate base is the weighted average debt cost for approved environmental compliance plan projects, multiplied by a Times Interest Earned Ratio (TIER) factor. In accordance with its ES Tariff, BREC determined the weighted average cost of debt and applied a TIER of 1.24 to the weighted average cost of debt to produce the monthly rates of return for the review period.¹² BREC determined the average cost of debt for the current expense month rather than using a historical average or forecasted amount. The Commission has reviewed BREC's determination of the rates of return for each month of the review period and finds the determination reasonable.

¹⁰ BREC's Response to Staff's First Request, Item 1.

¹¹ Direct Testimony of Christopher A. Warren (Warren Direct Testimony) (filed Jan. 17, 2024) at 10.

¹² BREC's Response to Staff's First Request, Item 4.

RETAIL PASS-THROUGH MECHANISM

The Member Cooperatives are not requesting any additional over- or under-recovery under their respective surcharge pass-through mechanisms.¹³ The Commission has reviewed and finds reasonable each of the Member Cooperatives' respective surcharge pass-through calculations and their determinations that there were no additional over- or under-recoveries for the review period covered in this proceeding. The Commission finds no need for any subsequent adjustments of the Member Cooperatives' pass-through amounts as a result of this review.

SURCHARGE ROLL-IN

BREC is not proposing to incorporate any environmental surcharge amounts into its existing base rates at this time.¹⁴ BREC states that it does not believe any environmental surcharge amounts need to be incorporated into its base rates in conjunction with this two-year review.¹⁵ BREC states that this position aligns with the Member Cooperatives' request that the amount appearing on a customer's bill for environmental compliance charges represent the total portion of their environmental compliance charge, versus having a portion of those charges embedded in base rates.¹⁶ The Member Cooperatives' position on incorporating environmental surcharge amounts in base rates is unchanged from previous two-year reviews. In Case No. 2015-00320, BREC and the Member Cooperatives cited surcharge volatility, ongoing changes in

¹³ BREC's Response to Staff's First Request, Item 2.

¹⁴ BREC's Response to Staff's First Request, Item 5(a).

¹⁵ BREC's Response to Staff's First Request, Item 5(a).

¹⁶ BREC's Response to Staff's First Request, Item 5(a).

environmental regulations, and transparency as reasons to not incorporate any environmental surcharge amounts into base rates.¹⁷ KRS 278.183 directs the Commission to incorporate surcharge amounts found just and reasonable in the utility's existing base rates, but only to the extent appropriate. The Commission has reviewed, and finds reasonable, BREC'S recommendation not to incorporate environmental surcharge amounts into its base rates at the present time.

SIX MONTH BILLING PERIOD ENDING JANUARY 31, 2020

SURCHARGE AMOUNT

During this six-month review period, BREC continued with charging customers according to approved tariffs and environmental surcharge forms in accordance with the 2007 Plan¹⁸ which included variable operations and maintenance (O&M) costs and the 2012 Plan¹⁹ which includes both capital and O&M costs. BREC and its Member Cooperatives are not requesting any additional over- or under-recovery amounts²⁰. The Commission has reviewed BREC'S calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC'S environmental costs as a result of this review.

¹⁷ Case No. 2015-00320, *An Examination by the Public Service Commission of the Environmental Surcharge Mechanism of Big Rivers Electric Corporation for the Two-Year Billing Period Ending July 31, 2015 and the Pass Through Mechanism of its Three Member Distribution Cooperatives* (Ky. PSC Mar. 31, 2016), BREC'S Response to Commission Staff's Supplemental Request for Information from the Informal Teleconference on March 8, 2016, Item 1.

¹⁸ Case No. 2007-00460, June 26, 2008 Order.

¹⁹ Case No. 2012-00063, *Application of Big Rivers Electric Corporation for Approval of Its 2012 Environmental Compliance Plan, for Approval of Its Amended Environmental Cost Recovery Surcharge Tariff, for Certificates of Public Convenience and Necessity, and for Authority to Establish a Regulatory Account* (Ky. PSC Oct. 1, 2012).

²⁰ Warren Direct Testimony at 10

RATE OF RETURN

During this six-month review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

SIX MONTH BILLING PERIOD ENDING JULY 31, 2020

SURCHARGE AMOUNT

During this six-month review period, BREC did not propose any additional project additions. BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this six-month review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

SIX MONTH BILLING PERIOD ENDING JANUARY 31, 2021

SURCHARGE AMOUNT

BREC filed an updated Environmental Compliance Plan in Case No. 2019-00435 (2020 Plan).²¹ BREC requested and received approval to move the Coleman flue gas desulfurization system (FGD) to the Wilson station and upgrading the FGD, closing the ash ponds at BREC's Green Station and at HMP&L's Station Two, installing a landfill cover at the Wilson station and a perimeter drainage system at the Green Station, and completing various other coal combustion residual (CCR) projects at the Wilson, Green and Station Two sites. In addition, the Commission conditionally approved the closure of the Coleman ash ponds if they became subject to the CCR rule.²²

BREC's ES mechanism allows for the recovery of costs related to its 2007 Plan, which includes only variable O&M costs, and its 2012 and 2020 Plans, which include both O&M and capital costs.²³ BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

²¹ Case No. 2019-00435, *Electronic Application of Big Rivers Electric Corporation for Approval of its 2020 Environmental Compliance Plan (The 2020 Plan), Authority to Recover Costs Through a Revised Environmental Surcharge and Tariff, the Issuance of a Certificate of Public Convenience and Necessity for Certain Projects, and Appropriate Accounting and Other Relief* (filed Feb. 2, 2020).

²² Warren Direct Testimony at 6 and Case No. 2019-00435, Aug. 6, 2020 Order at 26-27.

²³ Warren Direct Testimony at 6-7.

RATE OF RETURN

During this six-month review period, as part of its 2020 Plan, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

TWO YEAR BILLING PERIOD ENDING JULY 31, 2021

SURCHARGE AMOUNT

BREC did not propose to add any additional surcharge amounts into its base rates in conjunction with the current two-year review²⁴. BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this two-year review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this two-year review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

SIX MONTH BILLING PERIOD ENDING JANUARY 31, 2022

SURCHARGE AMOUNT

During this six-month review period, BREC did not propose any additional project additions. BREC and its Member Cooperatives are not requesting any additional over or

²⁴ Warren Direct Testimony at 10

under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this six-month review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

SIX MONTH BILLING PERIOD ENDING JULY 31, 2022

SURCHARGE AMOUNT

During this six-month review period, BREC did not propose any additional project additions. BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this six-month review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

SIX MONTH BILLING PERIOD ENDING JANUARY 31, 2023

SURCHARGE AMOUNT

During this six-month review period, BREC did not propose any additional project additions. BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this six-month review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this six-month review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

TWO YEAR BILLING PERIOD ENDING JULY 31, 2023

SURCHARGE AMOUNT

BREC did not propose to add any additional surcharge amounts into its base rates in conjunction with the current two-year review. BREC and its Member Cooperatives are not requesting any additional over or under recovery amounts. The Commission has reviewed BREC's calculation of its environmental surcharge costs, finds the calculation reasonable, and further finds no need for any subsequent adjustments of BREC's environmental costs as a result of this review.

RATE OF RETURN

During this two-year review period, BREC determined the rate of return based on its monthly weighted average cost of debt and a 1.24 TIER.

For this two-year review period, the Commission finds BREC's environmental surcharge rates were correctly calculated and should be approved.

IT IS THEREFORE ORDERED that:

1. BREC's request to submit this case for a decision on the existing evidence of record without a hearing is granted.
2. BREC's determination that it had no additional over- or under-recovery for the review periods is approved.
3. The amounts billed by BREC through its environmental surcharge for the six-month billing periods ending January 31, 2020; July 31, 2020; January 31, 2021; January 31, 2022; July 31, 2022; and January 31, 2023; the two-year billing periods ending July 31, 2021, and July 31, 2023, are approved as reasonable.
4. The amounts billed by Jackson Purchase Energy, Kenergy, and Meade RECC through their respective environmental surcharge pass-through mechanisms for the review periods for all customers with dedicated delivery points are approved as reasonable.
5. The amounts billed by the three Member Cooperatives through their respective environmental surcharge pass-through mechanisms for the review periods for all other non-dedicated delivery point customers are approved as reasonable.
6. The rates of return determined by BREC for each month of the review periods are approved as reasonable.

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

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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



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