

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR ANNUAL)	CASE NO.
REVIEW OF ITS MRSM CHARGE FOR)	2025-00021
CALENDAR YEAR 2024)	

ORDER

On February 28, 2025, Big Rivers Electric Corporation (BREC) filed an application pursuant to the Commission's Order in Case No. 2020-00064¹ for review of its Member Rate Stability Mechanism (MRSM) Credit for calendar year 2024, as well as information pursuant to the final Order in 2019-00365;² 807 KAR 5:001; and other applicable law. Prior to receiving the application in this matter, the Attorney General, by and through the Office of Rate Intervention (Attorney General), was granted intervention.³ BREC responded to one request for information.⁴ On April 16, 2025, the Attorney General

¹ Case No. 2020-00064, *Electronic Application of Big Rivers Electric Corporation for Approval to Modify Its MRSM Tariff, Cease Deferring Depreciation Expenses, Establish Regulatory Assets, Amortize Regulatory Assets, and Other Appropriate Relief* (Ky. PSC June 25, 2020).

² Case No. 2019-00365, *Electronic Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Corporation and Meade County Rural Electric Cooperative Corporation for (1) Approval of Contracts for Electric Service with Nucor Corporation, and (2) Approval of Tariff* (Ky. PSC Aug. 17, 2020).

³ Order (Ky. PSC Feb. 3, 2025).

⁴ BREC's response to Commission Staff's First Request for Information (Staff's First Request) (filed Apr. 8, 2025).

requested a decision on the record.⁵ On April 21, 2025, BREC also requested a decision on the record.⁶ The matter now stands submitted for a decision on the record.

LEGAL STANDARD

In accordance with KRS 278.030, the standard applied to this matter is whether the rates are fair, just and reasonable.⁷

BACKGROUND

In Case No. 2020-00064, BREC filed an application with the primary purpose of restoring BREC's investment grade credit ratings by amending its MRSM Tariff, beginning the amortization of the smelter loss mitigation regulatory assets (SLM Regulatory Assets), and receiving approval to take additional steps to mitigate the loss of 850 MW aluminum smelter loads that left BREC's system in 2013–2014.⁸ In that proceeding, BREC, Kentucky Industrial Utility Customers, Inc. (KIUC), and the Attorney General filed a unanimous Settlement Agreement, Stipulation, and Recommendation (Settlement Agreement), wherein BREC would provide an annual report starting in 2021 and no later than February 28th of each subsequent calendar year that includes the following identified matters:

- Year-end Times Interest Earned Ratio (TIER) calculation for the prior calendar year;
- The amount of the new TIER credit that will flow through the MRSM Rider during the following 12 months;

⁵ Attorney General's Notice Regarding Hearing (filed Apr. 16, 2025).

⁶ BREC's Request for Decision (filed Apr. 21, 2025).

⁷ KRS 278.030; *Pub. Serv. Comm'n v. Com. Ex rel. Conway*, 324 S.W.3d 373, 377 (Ky. 2010).

⁸ Case No. 2020-00064, *Electronic Application of Big Rivers Electric Corporation for Approval to Modify its MRSM Tariff, Cease Deferring Depreciation Expenses, Establish Regulatory Assets, and Other Appropriate Relief*.

- The amount charged to depreciation and amortization expense for recovery of the SLM Regulatory Assets in the prior calendar year that will reduce the SLM Regulatory Assets balance;
- Status of the amortization of the SLM Regulatory Assets;
- Interest savings gained (annualized) once investment grade ratings are received from at least two of the three rating agencies;
- Status of and expected decommissioning costs of Coleman Station, Reid Station Unit 1, and BREC's estimated share of costs associated with Henderson Municipal Power & Light's (HMP&L) Station Two (Station Two); and
- Copy of any proposal to decommission Coleman Station, Reid Station Unit 1, and Station Two that was awarded in the prior year.⁹

The final Order directed BREC to establish a regulatory liability with a \$9.0 million minimum balance as a fund to use in case a 1.30 TIER was not met.¹⁰

The final Order also approved a Settlement Agreement, with modifications and deletions, and clarified that BREC must submit a formal, docketed annual application to revise its MRSM rates. This application is required to include all information stipulated in both the Settlement Agreement and the Commission's Order.¹¹

In Case No. 2019-00365, BREC and Meade County Rural Electric Cooperative Corporation (Meade RECC) submitted a joint application seeking approval for the retail contract for electric service between Meade RECC and Nucor Corporation (Nucor), a related Wholesale Agreement between BREC and Meade RECC, and establishment of a modified version of the Large Industrial Customer (LIC) Expansion tariff. In approving

⁹ Case No. 2020-00064, June 25, 2020 Order at 16.

¹⁰ Case No. 2020-00064, June 25, 2020 Order at 18.

¹¹ Case No. 2020-00064, June 25, 2020 final Order at 21. The Order also required BREC to submit two cost of service studies (COSS) based upon National Association of Regulatory Utility Commissioners (NARUC) approved methods which was filed in Case No. 2021-00061.

the application, the Commission directed BREC to file, with the annual Case No. 2020-00064 filing, information detailing the financial impacts of the Nucor retail service agreement and the impact the Nucor load has had on BREC's credit ratings.¹²

BREC's initial filing in response to these directives was submitted in Case No. 2021-00061. The Commission authorized BREC to use \$11.0 million of the TIER Credit Regulatory Liability to reduce the SLM Regulatory Assets and to amortize \$289,407 in expenses incurred in Case No. 2019-00435 over three years, to be recovered through the environmental surcharge mechanism.¹³ BREC was further ordered to continue filing its MRSM rate adjustment application annually by February 28, including the required information from Case No. 2019-00365.¹⁴

In Case No. 2022-00028, filed in compliance with the Final Order in Case No. 2020-00064, the Commission authorized BREC to use an additional \$26.7 million of the TIER Credit Regulatory Liability to further reduce the SLM Regulatory Assets.¹⁵

In Case No. 2024-00031,¹⁶ the Commission determined that revising the minimum regulatory liability balance from \$11.3 million to \$12.4 million was reasonable.¹⁷ In the current case, BREC did not propose any further changes to the minimum balance.

¹² Case No. 2019-00365, *Big Rivers Electric Corporation and Meade County Rural Electric Corporation and Meade County Rural Electric Cooperative Corporation* (Ky. PSC Aug. 17, 2020), ordering paragraph 6.

¹³ Case No. 2021-00061, *Electronic Application of Big Rivers Electric Corporation for Annual Report on MRSM Credit* (Ky. PSC. June 9, 2021), Order at 12.

¹⁴ Case No. 2021-00061 June 9, 2021 Order at 12.

¹⁵ Case No. 2022-00028, *Electronic Application of Big Rivers Electric Corporation for Annual Review of Its MRSM Charge for Calendar Year 2021* (Ky. PSC. July 6, 2022), Order at 11.

¹⁶ Case No. 2024-00031, *Electronic Application of Big Rivers Electric Corporation For Annual Review Of Its MRSM Charge For Calendar Year 2023* (Ky. PSC Dec. 6, 2024).

¹⁷ Case No. 2024-00031, Dec. 6. 2024 Order.

APPLICATION

The current application was filed to maintain compliance with the final Orders in Case Nos. 2020-00064 and 2022-00028. It includes documentation and information related to the Settlement Agreement, BREC's current member equity balance and the minimum required by its loan covenants, the reasonableness of any 2022 decommissioning costs, and a detailed account of actions taken by BREC to minimize those costs.

Case No. 2020-00064 Disclosures

In response to the final Order in Case No. 2020-00064, BREC filed responses to the identified matters as follows:

Year-end TIER Calculation: The 2024 pre-TIER Credit net margins are \$19.3 million, which equates to a TIER of 1.47.¹⁸ In accordance with Case No. 2020-00063, BREC recorded a TIER Credit of \$7.0 million, resulting in reported net margins of \$12.3 million, which equates to the targeted approved TIER of 1.30.¹⁹ Further, in accordance with Case No. 2020-00064, 60 percent, or \$4.2 million, of the TIER Credit will be recorded as a regulatory liability to reduce the SLM Regulatory Assets,²⁰ and 40 percent, or \$ 2.8 million will flow through the MRSM Rider in 2025.²¹

New TIER Credit: Of the \$2.8 million flowing through the MRSM Rider, the first \$0.7 million will be directly assigned to the Rural customer class. The remaining \$2.1 million

¹⁸ Application, Direct Testimony of Talina R. Mathews (Mathews Direct Testimony), Exhibit B at 5.

¹⁹ Mathews Direct Testimony, Exhibit B at 6.

²⁰ Mathews Direct Testimony, Exhibit B at 6.

²¹ Mathews Direct Testimony, Exhibit B at 6.

will be allocated between Rural and Large Industrial customer classes based on their respective 2024 revenues. As a result, the Rural customer class will receive a total of \$2.2 million in credits, and the Large Industrial customer class will receive \$0.6 million. These bill credits will be applied monthly throughout 2025, with Rural customers receiving \$0.18 million per month and Large Industrial customers receiving \$0.05 million per month.²²

Depreciation and Amortization Expenses for the SLM Regulatory Assets: Based on the 2024 New TIER Credit calculation, \$4.2 million was charged to depreciation and amortization expense for the recovery of the SLM Regulatory Assets. This amount is currently recorded as a regulatory liability, in accordance with Case No. 2020-00064. At the end of 2024, the regulatory liability account held a carry-over balance of \$12.4 million. Since this balance meets the required minimum, BREC proposed to use the excess amount—specifically the \$4.2 million above the \$12.4 million threshold—to reduce the SLM Regulatory Assets in 2025, consistent with the Commission’s orders.²³

Status of Amortization of SLM Regulatory Assets: BREC began amortizing the Smelter Loss Mitigation (SLM) Regulatory Assets in January 2021. In 2024, the SLM Regulatory Assets were reduced by \$13 million through amortization and by an additional \$15.5 million through the application of excess 2023 TIER Credit Regulatory Liability. The Green Station Regulatory Asset, established in 2021, had a balance of \$81.1 million as of December 31, 2024, with \$4.5 million amortized during the year. The total balance of the SLM Regulatory Assets was approximately \$214.5 million at the beginning of 2024

²² Mathews Direct Testimony, Exhibit B at 6.

²³ Mathews Direct Testimony, Exhibit B at 7.

and approximately \$187.9 million at year-end, excluding a \$16.6 million regulatory liability.²⁴

BREC proposed to recalculate the amortization expense for its SLM Regulatory Assets, including the Green Station Regulatory Asset based on year-ending December 31, 2024 balances, and to continue this methodology in future years.²⁵ BREC initially chose to record annual amortization expense based on the regulatory asset balance on June 26, 2025, and this resulted in project amortization completion well ahead of the 2043 date that was used for calculation at the beginning.²⁶ BREC stated that this will cause a reduction in its annual amortization expense for these regulatory assets, which positively impacts its net margins and reduces the effective rates paid by its Members.²⁷

Equity Balance and Credit Rating Status:

BREC stated that, since the June 25, 2020 Order, BREC has restored its investment grade credit ratings from all three major ratings agencies.²⁸ As of December 31, 2024, BREC's equity balance was \$497 million, and the minimum required by its loan covenants was \$378 million.²⁹ BREC received credit rating upgrades from S&P Global Ratings (S&P) to BBB in July 2022, Fitch Ratings to BBB in August 2022,

²⁴ Mathews Direct Testimony, Exhibit B at 7–9.

²⁵ Mathews Direct Testimony, Exhibit B at 10.

²⁶ Mathews Direct Testimony, Exhibit B at 10.

²⁷ Mathews Direct Testimony, Exhibit B at 10.

²⁸ Application at 3.

²⁹ Mathews Direct Testimony, Exhibit B at 10.

and Moody's Investors Service to Baa2 in October 2022.³⁰ In 2024, ratings remained constant.³¹ BREC also remained in Pricing Level III.³²

Status of Decommissioning

Coleman Station: BREC stated the demolition of Coleman Station is ongoing and is expected to be completed by December 2025.³³ The decommissioning costs for the Coleman Station in 2024 total \$606,718.47.³⁴ BREC noted that there are ongoing decommissioning expenses to be incurred for items such as: security, mowing, wildlife control, insect inspection, labor for construction supervisor, and maintenance of structures/equipment still intact.³⁵

Coleman Station Coal Combustion Residual (CCR): The U.S. Environmental Protection Agency (EPA) published the final CCR Legacy Rule in the Federal Register on May 8, 2024. Under this rule, BREC averred that it is required to initiate closure of the Coleman Station legacy ash ponds no later than May 8, 2028, and complete the closure within five years of initiation, and no later than May 8, 2033. According to the testimony, the capital cost for closing the legacy ponds is estimated at \$48.72 million, excluding capitalized interest. This closure project is identified as Project 13-2 in Big Rivers' 2020

³⁰ Mathews Direct Testimony, Exhibit B at 12.

³¹ Mathews Direct Testimony, Exhibit B at 12 and Exhibit Matthews-6

³² Application, Exhibit Matthews-5 at 2

³³ Direct Testimony of Manny Zeringue (Zeringue Direct Testimony), page 4.

³⁴ Zeringue Direct Testimony, page 4.

³⁵ Zeringue Direct Testimony, page 4.

Environmental Compliance Plan (ECP).³⁶ The Commission granted a Certificate of Public Convenience and Necessity (CPCN) for Project 13-2 on August 6, 2020, contingent upon the inclusion of the legacy ponds under either the federal CCR Rule or applicable Kentucky Administrative Regulations for special waste facilities.³⁷

Reid Station 1: According to testimony, on April 6, 2024, contractors imploded the boiler at Reid Station Unit 1, which previously served the Reid coal generation facility. Remaining demolition work includes the removal of cooling towers, the scrubber stack, and concrete from the turbine pedestals. BREC stated that full-scale demolition is being carried out by FED, which agreed to perform the work in exchange for the proceeds from the sale of scrap materials, as outlined in the MRSM Application in Case No. 2023-00038.³⁸ In 2024, BREC incurred \$38,255.06 in decommissioning costs related to Reid Station Unit 1.³⁹

Reid Station 2: BREC stated that, as of early 2025, decommissioning of Station Two is ongoing. The contract for insulation removal, asbestos abatement, and structural demolition of the units and concrete stack was approved by the Henderson Utility Commission on January 31, 2022. The application noted that, demolition activities were

³⁶ Case No. 2019-00435, *Electronic Application of Big Rivers Electric Corporation for Approval of its 2020 Environmental Compliance 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* (Ky. PSC Aug. 6, 2020).

³⁷ Case No. 2019-00435, Aug. 6, 2020 Order at 26.

³⁸ Case No. 2023-00038, *Electronic Application of Big Rivers Electric Corporation for Annual Review Of Its MRSM Charge For Calendar Year 2022*, Application, Direct Testimony of Nathaniel A. Berry, Exhibit C at 7.

³⁹ Application, Direct Testimony of Manny Zeringue (Zeringue Direct Testimony), Exhibit C at 5.

suspended in fall 2024 due to work at the Reid CT site, with remaining demolition expected to be completed by December 2025.

BREC anticipates its share of decommissioning costs will include work related to the Station Two site, the ash pond, dredgings placed in the Green Station landfill, and other joint-use facilities, either currently or when no longer in use. BREC noted future responsibilities will also include environmental monitoring, any necessary remediation, and ultimate landfill closure. BREC stated it continues to maintain the Station Two site in accordance with prudent utility practices and will incur additional future costs associated with joint-use facility decommissioning and Henderson's continued use of the Green Station landfill, which holds the Station Two ash pond dredgings.⁴⁰

Case No. 2019-00365 update: In 2023, Nucor completed construction of its new facility in Brandenburg, Kentucky, and subsequently began operations, taking electric service under the terms of the Nucor Contracts. According to the application, the addition of the Nucor Load has had a positive effect on BREC's credit ratings, strengthening its financial position and contributing to long-term system stability.⁴¹

DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission finds that BREC's MRSM credit application is reasonable and approves the revised TIER Credit of \$7.0 million. Furthermore, the Commission finds it is reasonable to continue the practice of requiring BREC to file its annual MRSM credit application. This process allows for discovery and provides an opportunity to evaluate and adjust the

⁴⁰ Zeringue Direct Testimony at 6–9.

⁴¹ Application at 9.

mechanism as needed. The Commission notes that the current TIER Credit mechanism has been effective, as evidenced by improvements in BREC's credit ratings from all three major credit rating agencies and the significant reduction in the balance of SLM Regulatory Assets. Furthermore, the Commission finds that applying the \$4.2 million current regulatory balance above the TIER Credit Regulatory Liability minimum balance should be approved because it further supports the reduction of the SLM Regulatory Assets. The total balance of the SLM Regulatory Assets was reduced from \$214.5 million at the beginning of 2024 to \$187.9 million at year end, excluding a \$16.6 million regulatory liability.

The Commission further finds that it is reasonable to accept BREC's proposal to recalculate the amortization expense for its SLM Regulatory Assets, including the Green Station Regulatory Asset, using balances as of December 31, 2024. The Commission finds that continuing this methodology in future years is appropriate, as it is expected to positively impact BREC's net margins and may result in lower effective rates for BREC's member cooperatives.


Regarding BREC's decommissioning activities, the Commission finds them to be proactive and the costs associated with them to be reasonable. The Commission urges BREC to continue competitive bidding for the decommissioning activities, to continue searching for least cost alternatives, consider the reuse of assets, and to continue ensuring that the decommissioning process includes only reasonable measures necessary and appropriate for continued environmental compliance and appropriate reuse of the site.

Finally, the Commission finds that BREC's application meets the applicable legal standards and based on the evidence and criteria associated with the New TIER calculation, the resulting rates are fair, just and reasonable. Accordingly, the Commission accepts the application.

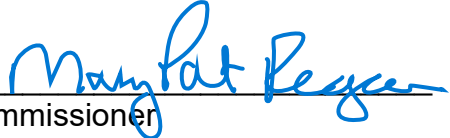
IT IS THEREFORE ORDERED that:

1. BREC's application and revised TIER credit of \$7.0 million are approved.
2. BREC's request to apply the \$4.2 million current regulatory balance above the TIER Credit Regulatory Liability minimum balance is approved.
3. The Commission finds that BREC's proposal to recalculate the amortization expense for its SLM Regulatory Assets, including the Green Station Regulatory Asset, using balances as of December 31, 2024, and to continue this methodology in future years is approved.
4. The revised TIER Credit mechanism is approved. BREC shall continue to file an annual application to allow for discovery and potential modifications to the TIER Credit mechanism, as necessary. The existing filing process shall remain in place.
5. BREC shall continue to file annually, by February 28th of each year, an application to adjust its MRSM rates pursuant to ordering paragraph 10 of the June 25, 2020 Order in Case No. 2020-00064. The filing shall contain the information set forth in the June 25, 2020 Order in Case No. 2020-00064, and ordering paragraph 6 of the August 17, 2020 Order in Case No. 2019-00365.
6. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



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