

Rivers' reciprocity OATT NJ filing,^{6/} and Big Rivers submits this informational filing related to Order No. 2004 for purposes of maintaining its safe harbor reciprocity tariff.

I. IMPLEMENTATION OF ORDER NO. 2004

Under section 358.4(e)(1) of the Commission's regulations, each Transmission Provider is required by February 9, 2004, to file with the Commission and post on the OASIS or Internet Website a plan and schedule for implementing the requirements of Order No. 2004. Section 358.4(e)(3) of the Commission's regulations further requires the Transmission Provider by June 1, 2004 to post on the OASIS or Internet Website, current written procedures implementing the standards of conduct in such detail as will enable customers and the Commission to determine that the Transmission Provider is in compliance with the Order No. 2004 Standards of Conduct. In the Guidance Order, the Commission requested that each company identify whether the company is in compliance with Order No. 2004 and, if it is not in compliance, identify the types of structural and/or organizational changes that need to be implemented to bring the company into compliance with Order No. 2004.^{7/}

Although Big Rivers is not a Transmission Provider as defined by section 358.3(a) of the Commission's regulations (which defines Transmission Provider as "any public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce"), the Commission in Order No. 2004 indicated that non-

^{6/} reh'g denied, 62 Fed. Reg. 64715 (December 9, 1997), FERC Statutes and Regulations ¶ 31,253 (November 25, 1997).

^{6/} Big Rivers Electric Corporation et al., 84 FERC ¶ 61,257 (1998); Big Rivers Electric Corporation et al., 86 FERC ¶ 61,150 (1999).

^{7/} See Guidance Order at P 4-5.

public utilities with voluntary reciprocity tariffs were to comply with Order No. 2004.^{8/} Accordingly, Big Rivers provides this filing informationally to demonstrate that its standards of conduct will enable it to continue to provide reciprocal open access transmission service.

Big Rivers does not believe that is affiliated under the Commission's definition of an "affiliate", 18 C.F.R. § 358.3(b), with any entity that constitutes an "Energy Affiliate" under the terms of Order No. 2004 and section 358/3(d) of the Commission's regulations. However, Big Rivers does have existing relationships with certain other entities, which relationships Big Rivers herein discloses to the Commission despite its belief that they do not implicate Order No. 2004.

First, Big Rivers is one of fourteen owners of the Alliance for Cooperative Energy Services Power Marketing LLC ("APM"), a not-for-profit Delaware limited liability company. APM exists to serve its members and provides energy services at cost to its fourteen Generation and Transmission cooperative owners. APM does not buy, sell, or take positions in its own name. APM executes natural gas and power transactions for each of its members as that member's agent. APM is structured so that it achieves both physical and operational separation from its members' transmission/transportation operations. Through this structure APM satisfies the regulatory and industry criteria intended to divorce day-to-day transmission/transportation operations (and information) from competitive power transactions. Each APM member holds a 7.1% interest in APM. No member, therefore, holds more than a 10% ownership interest above which control

^{8/} See Order No. 2004 at P 24 ("If a non-public utility voluntarily files a reciprocity open access tariff under Order No. 888, it shall comply with the Final Rule.")

and affiliation are subject to a rebuttable presumption under the Commission's rules on affiliation. Therefore, APM is not an affiliate of Big Rivers.

Although Big Rivers believes that APM does not meet the standards for an affiliate under the Commission's regulations, Big Rivers already has implemented measures with respect to its Transmission Function to guarantee that it is physically and functionally independent from activities associated with APM. Accordingly, Big Rivers will reflect these existing measures in its revised Standards of Conduct which it will file by June 2004.

Second, as a generation and transmission electric cooperative, Big Rivers also is affiliated with its three member-owners, (Jackson Purchase Energy Corporation, Kenergy Corporation, and Meade County Rural Electric Cooperative Corporation), but for purposes of Order No. 2004 Big Rivers does not treat them as Energy Affiliates consistent with the Commission's findings in the order.^{9/}

Big Rivers will not require structural or organizational changes in its operations in order to update its Standards of Conduct to reflect its existing measures related to APM. Big Rivers plans the following implementation activities for compliance with Order No. 2004 by June 1, 2004:

- Identify additional measures, if any, for Big Rivers to implement to reflect the current independent functioning of the Big Rivers Transmission Function employees from employees of APM. At present, APM does not share any employees with Big Rivers and Big Rivers is not aware of any direct contacts, other than potential on-OASIS communications related to service, between APM employees and Big Rivers

^{9/} See Order No. 2004 at P 28.

Transmission Function employees. Big Rivers will take measures to codify this separation as part of its standards of conduct.

- Identify all facilities, if any, shared by Big Rivers' Transmission Function employees and APM employees, including physical facilities (office buildings) and electronic facilities (computer systems and data bases). At this time, Big Rivers does not believe that any such facilities are shared. Big Rivers will take measures to ensure that no facilities are shared and will codify as part of its standards of conduct a prohibition of sharing these types of facilities between the Transmission Function and APM.

- Implement additional measures, as necessary, to ensure physical separation of Big Rivers' Transmission employees from employees of APM. Big Rivers does not believe any such measures will be required given no co-location of employees and existing measures physically separating Big Rivers' control room from other Big Rivers' employees. Big Rivers will codify as part of its standards of conduct the physical separation of Transmission Function employees from APM employees.

- Implement measures, as necessary, to ensure the protection and non-disclosure of off-OASIS transmission, customer and market information of the Transmission Function to APM employees. Big Rivers will train Transmission Function employees to make all contacts with APM employees in a manner that prevents non-disclosure of customer and market information.

- Identify all senior managers, officers, and directors shared by: (1) Big Rivers' Transmission Function employees; and (2) Big Rivers' marketing and sales employees and APM employees. Certain senior managers, officers and directors are shared by Big Rivers' Transmission Function employees and its marketing and sales

employees. Big Rivers also will identify any senior managers, officers, and directors that may be shared with APM.

- Identify all support employees shared by: (1) Big Rivers' Transmission Function; and (2) Big Rivers' marketing and sales employees and/or APM employees. Big Rivers will identify all support employees that are shared, including but not limited to, risk management employees, legal, accounting, human resources, travel and information technology. Shared support employees will then be trained on the Big Rivers standards of conduct to prevent their serving as improper conduits

- Determine who will be the Chief Compliance Officer for Order No. 2004 compliance and post the contact information for the Chief Compliance Officer on Big Rivers' OASIS.

- Update and post the standards of conduct procedures, organizational charts, lists of Energy Affiliates and shared facilities, and job descriptions in compliance with Order No. 2004.

- Distribute standards of conduct procedures to employees, conduct training on Order No. 2004 for employees and require employees to execute affidavits certifying that they received training.

- Institute company procedures so that employee transfers and changes are reflected in Big Rivers' organizational charts and job descriptions within seven days of the employee transfer or change. Post this transfer information for a ninety-day period.

- Institute Big Rivers' procedures so that Big Rivers retains postings of procedures, organizational charts, and job descriptions for a three-year period.

II. PROJECTED IMPLEMENTATION COSTS

Big Rivers' projected costs for the elements of the Compliance Plan are:

Separation of Functions:	\$ 0
Information Disclosure Prohibitions	\$ 2,000
Posting Requirements	\$ 2,000
Training	\$ 5,000
Chief Compliance Officer	\$ 4,000
Total Projected Costs	\$ 13,000

III. NOTICE

This is an informational filing and does not have to be noticed.

IV. CONCLUSION

Consistent with the requirements of Order No. 2004, Big Rivers will implement this compliance plan by June 1, 2004.

Respectfully submitted,

Douglas L. Beresford
Geo. F. Hobday, Jr.
Hogan & Hartson, L.L.P.
555 Thirteenth St. N.W.
Washington, D.C. 20004
(202) 634-5600

Counsel for
Big Rivers Electric Corporation

February 9, 2004