

RECEIVED

APR 11 2013

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS            )  
ELECTRIC CORPORATION, INC.        )  
FOR AN ADJUSTMENT OF RATES        )                    CASE NO. 2012-00535

---

BEN TAYLOR AND SIERRA CLUB FORMAL REQUEST  
THAT THE COMMISSION RULE ON MOTION FOR FULL INTERVENTION

---

On February 14, 2013, Ben Taylor and Sierra Club (collectively “Movants”), petitioned the Commission for full intervention in this case pursuant to K.R.S. §278.310 and 807 K.A.R. 5:001 § 4(11)(b), and served initial requests for information upon Big Rivers Electric Corporation (“Big Rivers”). On February 18, 2013, Big Rivers filed a response opposing Movants’ motion. Movants filed a timely reply in support of intervention on February 22, 2013. In their pleadings, Movants demonstrated that they satisfy the test for intervention set forth in 807 KAR 5:001 § 4(11)(b) because they offer expertise that would assist in evaluation of whether the proposed rate increase is fair, just, and reasonable in light of other resource options that would have lower rate impacts for ratepayers. In addition, Movants established that they have special interests in this proceeding arising from their desire to promote energy efficiency, peak demand reduction, renewable energy, and cost-effective low carbon energy sources through utility regulatory proceedings, and that no other party to the proceeding could or would adequately represent their interests in this proceeding.

As of the date of the present filing, Movants' petition for intervention has been pending before the Commission for 56 days, and has been fully briefed for 48 days.<sup>1</sup> Intervenor testimony is due on April 18, 2013, one week from today. Meanwhile, Big Rivers has not responded to Movants' initial requests for information which, in turn has foreclosed Movants from the opportunity to submit supplemental requests for information. In addition, having not been made parties to the proceeding, Movants have not been able to review any information for which Big Rivers has petitioned for confidential treatment. As a result, it would be nearly impossible for Movants to prepare testimony by April 18. Without being granted intervention, receiving Big Rivers' responses to Movants' initial requests for information, an opportunity to review those responses and submit and receive responses to a supplemental set of requests for information, and reasonable time to prepare testimony, Movants would be improperly denied the opportunity to fully participate in this proceeding. This would leave challenging the *de facto* or actual denial of Movants' intervention motion and/or the final ruling in this proceeding as Movants' primary recourse, which is not an efficient use of the resources of the parties or the Commission.

THEREFORE, Movants request that the Commission grant their petition for full intervention as expeditiously as possible and extend the discovery and testimony deadlines to ensure that Movants receive adequate opportunity to participate in the proceeding.

Dated: April 11, 2013

---

<sup>1</sup> During this time period, counsel for Movants contacted Commission Staff counsel on several occasions to inquire as to the status of Movants' intervention motion. In early and mid-March, Movants were informed that they should expect a ruling on their motion within approximately a week.

Respectfully submitted,



---

JOE F. CHILDERS  
JOE F. CHILDERS & ASSOCIATES  
300 Lexington Building  
201 West Short Street  
Lexington, Kentucky 40507  
859-253-9824  
859-258-9288 (facsimile)

Of counsel:

Shannon Fisk  
Senior Attorney  
Earthjustice  
1617 John F. Kennedy Blvd., Suite 1675  
Philadelphia, PA 19103  
Phone: (215) 717-4522  
[sfisk@earthjustice.org](mailto:sfisk@earthjustice.org)

Robb Kapla  
Staff Attorney  
Sierra Club  
85 Second Street  
San Francisco, CA 94105  
Phone: (415)977-5760  
Fax: (415) 977-5793  
[robb.kapla@sierraclub.org](mailto:robb.kapla@sierraclub.org)

## CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Formal Request That the Commission Rule On Motion For Full Intervention by first class mail on April 11, 2013 to the following:

Mark A Bailey  
President CEO  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024

Burns E Mercer  
Manager  
Meade County R.E.C.C.  
P. O. Box 489  
Brandenburg, KY 40108-0489

Honorable Thomas C. Brite  
Attorney At Law  
Brite & Hopkins, PLLC  
83 Ballpark Road  
P.O. Box 309  
Hardinsburg, KENTUCKY 40143

Honorable James M. Miller  
Attorney at Law  
Sullivan, Mountjoy, Stainback & Miller,  
PSC  
100 St. Ann Street  
P.O. Box 727  
Owensboro, KENTUCKY 42302-0727

David Brown  
Stites & Harbison, PLLC  
1800 Providian Center  
400 West Market Street  
Louisville, KENTUCKY 40202

G. Kelly Nuckols  
President & CEO  
Jackson Purchase Energy Corporation  
2900 Irvin Cobb Drive  
P. O. Box 4030  
Paducah, KY 42002-4030

Jennifer B Hans  
Assistant Attorney General's Office  
1024 Capital Center Drive, Ste 200  
Frankfort, KENTUCKY 40601-8204

Billie J Richert  
Vice President Accounting, Rates & CFO  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 42419-0024

J. Christopher Hopgood  
Dorsey, King, Gray, Norment & Hopgood  
318 Second Street  
Henderson, KENTUCKY 42420

Donald P. Seberger  
Rio Tinto Alcan  
8770 West Bryn Mawr Avenue  
Chicago, ILLINOIS 60631

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

Melissa D. Yates  
Attorney  
Denton & Keuler, LLP  
555 Jefferson Street  
P. O. Box 929  
Paducah, KENTUCKY 42002-0929

  
\_\_\_\_\_  
JOE CHILDERS