

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF BIG RIVERS)	
ELECTRIC CORPORATION AND KENERGY)	CASE NO.
CORP. TO IMPLEMENT A NEW STANDBY)	2021-00289
SERVICE TARIFF)	

ORDER

On June 24, 2021, Big Rivers Electric Corporation (BREC) and Kenergy Corporation (Kenergy) both filed with the Commission a tariff to implement a new Standby Service. BREC proposed an effective date of August 1, 2021. Kenergy originally proposed an effective date of July 24, 2021, but later revised the effective date to August 1, 2021, to coincide with BREC's proposed effective date.

On July 12, 2021, Kimberly-Clark Corporation (Kimberly-Clark), through counsel, filed a motion to intervene in the BREC tariff filing. A copy of the intervention motion is included as an Attachment to this Order.

KRS 278.030 provides that a utility may collect fair, just and reasonable rates and that the service it provides must be adequate, efficient and reasonable. Having reviewed the proposed tariffs and being sufficiently advised, the Commission finds that an investigation will be necessary to determine the reasonableness of the proposed tariffs and that such an investigation cannot be completed by August 1, 2021. Therefore, pursuant to KRS 278.190, the Commission will suspend the effective date of the proposed tariffs for five months, up to and including December 31, 2021.

The Commission directs BREC and Kenergy to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ in which the Commission mandated the use of electronic filing procedures listed in 807 KAR 5:001, Section 8. The Commission finds that electronic filing procedures should be used, consistent with the filing procedures set forth in Case No. 2020-00085.

The Commission further finds that a procedural schedule should be established to review the reasonableness of the proposed tariffs. The procedural schedule is attached hereto as an Appendix to this Order and is incorporated herein.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed tariffs.
2. The proposed tariffs are suspended for five months from August 1, 2021, up to and including December 31, 2021.
3. BREC shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
4. Kenergy shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
5. BREC shall respond to the motion for intervention filed on behalf of Kimberly-Clark within seven days of the date of entry of this Order.

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

7. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, BREC and Kenergy shall file by electronic means a written statement that they waive any right to service of Commission Orders by United States mail and that they or their authorized agents possess the facilities to receive electronic submissions.

8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of entry of an Order of the Commission, granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

9. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

10. The procedural schedule set forth in the Appendix to this Order shall be followed.

11. a. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

b. Each response shall include the name of the witness responsible for responding to the questions related to the information provided and shall be answered under oath or, for representatives of a public or private corporation of a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that the personal information cannot be read.

12. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

13. BREC and Kenergy shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be

viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time publication is requested, BREC and Kenergy shall forward a duplicate of the notice and request to the Commission.

14. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

15. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

16. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

17. The Executive Director shall serve a copy of this Order upon Kimberly-Clark.

18. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00289 DATED JUL 30 2021

Requests for intervention shall be filed no later than	08/06/2021
Initial requests for information to BREC and Kenergy shall be filed no later than	08/20/2021
BREC and Kenergy shall file responses to initial requests for information no later than.....	09/03/2021
All supplemental requests for information to BREC and Kenergy shall be filed no later than	09/17/2021
BREC and Kenergy shall file responses to supplemental requests for information no later than	10/01/2021
Intervenor Testimony, if any, in verified prepared form shall be filed no later than.....	10/15/2021
All requests for information to Intervenors shall be filed no later than.....	10/29/2021
Intervenors shall file responses to requests for information no later than.....	11/12/2021
BREC and Kenergy or any Intervenor shall request either a hearing or that the case be submitted for decision based on the record no later than.....	11/19/2021

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00289 DATED JUL 30 2021

FOUR PAGES TO FOLLOW

BOEHM, KURTZ & LOWRY

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RECEIVED

JUL 12 2021

PUBLIC SERVICE
COMMISSION

VIA OVERNIGHT MAIL

July 8, 2021

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. TFS 2021 00264

Dear Sir/Madam:

Please find enclosed the MOTION TO INTERVENE OF KIMBERLY-CLARK CORPORATION for filing in the above-referenced docket.

Very Truly Yours,

/s/ Kurt J. Boehm

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

MLKkew

Enclosure

cc: Tyson Kamuf, Esq. (Via Overnight Mail)
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419

3. Kimberly-Clark, one of the largest end-use customers located in the Big Rivers Electric Corporation (“Big Rivers”) service territory, is completing the installation of an approximately 14 MW natural gas turbine cogeneration unit at its Owensboro facility. If approved, Big Rivers’ proposed Large Industrial Customer Standby Service tariff (“LICSS”) will result in a significant increase in costs to Kimberly-Clark and negatively impact the economics of operating its new cogeneration system.

4. The attorneys for Kimberly-Clark authorized to represent them in this proceeding and to take service of all documents are:

Michael L. Kurtz, Esq
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
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5. Kimberly-Clark has filed a timely motion to intervene in this proceeding.

6. Kimberly-Clark’s interest cannot be adequately represented by other potential parties. While the proposed LICSS tariff could impact other customers in the future, Kimberly-Clark may be the only customer on LICSS at the outset of the tariff. Therefore, Big Rivers’ proposal in this proceeding uniquely effects Kimberly-Clark.

7. Kimberly-Clark’s intervention will not unduly complicate or disrupt the proceedings.

WHEREFORE, Kimberly-Clark requests that it be granted full intervenor status in the above-captioned proceeding.

Respectfully submitted,

/s/ Kurt J. Boehm

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

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**COUNSEL FOR KIMBERLY-CLARK
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July 8, 2021

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