

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 REVISE THE LARGE INDUSTRIAL	)	2023-00312
CUSTOMER STANDBY SERVICE TARIFF	)	

ORDER

In the September 27, 2023 Order establishing this case, the Commission included a motion filed by Domtar Paper Company, LLC (Domtar) requesting to full intervention.<sup>1</sup>

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>2</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that 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.

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<sup>1</sup> Domtar filed its motion prior to the establishment of this case when BREC had tendered a proposed tariff through the Commission's electronic tariff filing system on September 13, 2023.

<sup>2</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

## MOTION

As a basis for its motion, Domtar argued that it has a special interest in this case because it has taken standby service to cover planned and unplanned outages at its qualifying facility (QF) cogeneration facility from Big Rivers Electric Corporation (BREC) and Kenergy Corporation (Kenergy) at Commission-approved contract rates for over 20 years. Domtar argued that BREC's proposed Large Industrial Customer Standby Service tariff seeks to change this long-standing rate structure in a manner that will adversely impact Domtar's electric rates. Domtar asserted that its interest cannot adequately be represented by other potential parties given that BREC's proposed changes will impact Domtar's facility differently as compared to other customers taking service under the tariff.

Domtar also argued that its intervention is likely to present issues or develop facts related to the proposed tariff rates. Domtar stated that it would, at a minimum, conduct discovery, file expert testimony, and actively participate at an evidentiary hearing.

## DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Domtar has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Domtar is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

Domtar meets the special interest prong of the legal standard given that Domtar has taken standby service to cover planned and unplanned outages at its QF cogeneration facility from BREC at Commission-approved contract rates for over 20 years

and BREC proposed Large Industrial Customer Standby Service tariff seeks to change this long-standing rate structure in a manner that will adversely impact Domtar's electric rates.

Domtar's intervention is likely to present issues or develop facts because their interest cannot adequately be represented by other potential parties given that BREC's proposed changes will impact Domtar's facility differently as compared to other customers taking service under the tariff.

Domtar's intervention was addressed in the procedural schedule of this case filed on September 27, 2023 and no objections or responses were filed within the given time. Pursuant to the Commission's previous Order filed on March 27, 2023 in Case No. 2023-00017,<sup>3</sup> the Commission stated that it would allow Domtar to intervene when this proposed tariff was filed and permit Domtar to also file cost support and testimony regarding its position.

Based on the above, the Commission finds that Domtar should be granted full rights of a party in this proceeding. The Commission directs Domtar to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>4</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Domtar's motion to intervene is granted.

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<sup>3</sup> Case No. 2023-00017, *Domtar Paper Company, LLC; Complainant, Big Rivers Electric Corporation and Kenergy Corp., Defendants* (filed Mar. 27, 2023), Order at 5.

<sup>4</sup> 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).

2. Domtar is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

3. Domtar shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

4. Domtar shall adhere to the procedural schedule set forth in the Commission's September 27, 2023 Order and as amended by subsequent Orders.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Domtar shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

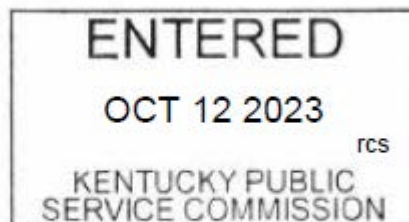
b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

PUBLIC SERVICE COMMISSION

  
Chairman

 *by KAC  
w/permission*  
Vice Chairman

  
Commissioner



ATTEST:

  
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