

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

This matter arises upon the motion of the Kimberly-Clark Corporation (Kimberly-Clark), filed September 28, 2023, for full intervention.

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>1</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> *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, Kimberly-Clark argued that that it had a special interest as one of the largest end-use customers located in the Big Rivers Electric Corporation (BREC) service territory and has been the only customer operating under the 2021 Tariff, giving them a unique status.

Kimberly-Clark also argued that it would present issues and develop facts relating to charges and terms in the proposed tariff and the economic impact of the proposed tariff on customers. Kimberly-Clark maintained that it would assist the Commission in reaching a decision without unduly complicating or disrupting the proceedings.

Kimberly-Clark also cited to the Commission's previous Order March 27, 2023 Order at \*5 in Case No. 2023-00017,<sup>2</sup> which stated that the Commission would allow Kimberly-Clark to intervene when this proposed tariff was filed and permit Kimberly-Clark "to also file cost support and testimony regarding [its] position."<sup>3</sup>

## DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Kimberly-Clark demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Kimberly-Clark 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.

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<sup>2</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>3</sup> Kimberly-Clark previously filed a motion to intervene in the September 1, 2023 electronic tariff filing of Big Rivers Electric Corporation in TFS2023-00391 and in the September 8, 2023 electronic tariff filing of Kenergy Corp. in TFS2023-00399.

Kimberly-Clark meets the special interest prong of the legal standard as the largest end-use customers located in the BREC service territory and as the only customer operating under the 2021 Tariff. Kimberly-Clark is uniquely situated in this proceeding as Big Rivers' proposal affects Kimberly-Clark in a distinct manner.

Kimberly-Clark will also be able to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Specifically, Kimberly-Clark will be able to assist in addressing issues with the 2023 Tariff and the economic impact on customers that have self-generation capacity.

Based on the above, the Commission finds that Kimberly-Clark should be granted full rights of a party in this proceeding. The Commission directs Kimberly-Clark 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. Kimberly-Clark's motion to intervene is granted.
2. Kimberly-Clark 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. Kimberly-Clark 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.

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<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).

4. Kimberly-Clark 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, Kimberly-Clark 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.

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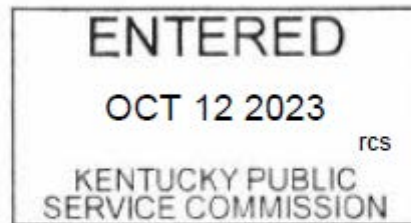
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

by KAC  
w/permission

  
Commissioner



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