

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DOMTAR PAPER COMPANY, LLC	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO.
	)	2023-00017
BIG RIVERS ELECTRIC CORPORATION AND	)	
KENERGY CORP.	)	
	)	
DEFENDANT	)	

ORDER

On February 10, 2023, Kimberly-Clark Corporation (Kimberly-Clark) filed a petition requesting to intervene in this proceeding. As a basis for its petition, Kimberly-Clark stated it has a special interest not otherwise represented and its intervention would present issues or develop facts to assist the Commission in fully considering the matter.

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 within the sole discretion of the Commission.<sup>1</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001E, Section 4, is twofold. Commission regulation 807 KAR 5:001E, Section 4(11), requires a

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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).

person to set forth in the petition 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.

### DISCUSSION AND FINDINGS

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

The complaint in this proceeding relates to Domtar Paper Company, LLC (Domtar) being placed on Big Rivers Electric Corporation (BREC) and Kenergy Corps. (Kenergy) Pilot Large Industrial Customer Standby Service (LICSS) tariff after failed negotiations to extend Domtar's contract. Kimberly-Clark stated it also takes services on the LICSS tariff and was mentioned several times in the Complaint. Kimberly-Clark alleged there is no other entity taking service on the LICSS tariff and it has a special interest in these proceedings that are not adequately represented by any other party.

The Commission finds that Kimberly-Clark does not have a special interest in these proceedings not otherwise represented. Domtar requested the Commission extend its contract with BREC and Kenergy until a revised tariff is filed and investigated by the Commission.<sup>2</sup> Kimberly-Clark does not have a special interest in Domtar's contract being

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<sup>2</sup> Domtar Complaint (filed Jan. 11, 2023) at 15.

extended. The decision whether to extend Domtar's contract until BREC's next tariff filing only affects Domtar.

Kimberly-Clark also argued it can develop facts that will assist the Commission in reaching a decision in this case. Kimberly-Clark stated that it will engage constructively in the decision-making process to develop relevant facts necessary. The Commission finds Kimberly-Clark will not develop facts or present issues to assist the Commission in this case. Domtar requested in its Complaint to extend the contract. Kimberly-Clark will present no facts that will assist the Commission in reaching a decision. When BREC and Kenergy make the required tariff filing, Kimberly-Clark will be given the opportunity to intervene. In that proceeding, Kimberly-Clark will have information and input that will assist the Commission to rendering a decision about the appropriateness of the LICSS tariff.

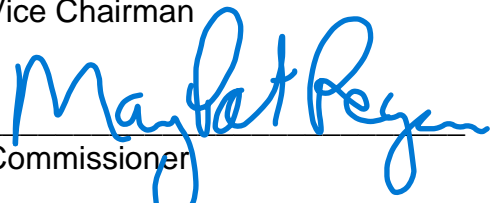
Kimberly-Clark will have an opportunity to participate in this proceeding even though they are not granted intervenor status. Kimberly-Clark can review all public documents filed in this case and monitor the proceedings via the Commission's website View Case Filings for: 2023-00017 (ky.gov). In addition, Kimberly-Clark may file comments as frequently as they choose, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that Kimberly-Clark's petition to intervene is denied.

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

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Vice Chairman

  
\_\_\_\_\_  
Commissioner

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

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