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SEP 07 2017

PUBLIC SERVICE
COMMISSION

Via Overnight Mail

September 6, 2017

Talina Mathews, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2017-00287

Dear Ms. Mathews:

Please find enclosed the original and ten (10) copies of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC's MOTION TO INTERVENE for filing in the above-referenced matter.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place this document of file.

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

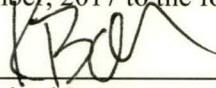
BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Quang Nyugen, Esq.
Richard Raff, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) and by regular, U.S. mail, unless other noted, this 6TH day of September, 2017 to the following:



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

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

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

SEP 07 2017

PUBLIC SERVICE
COMMISSION

In The Matter Of The Application Of: An Examination Of The : Case No. 2017-00287
Application Of The Fuel Adjustment Clause Of Big Rivers Electric :
Corporation From November 1, 2016 Through April 30, 2017 :

MOTION TO INTERVENE OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

Pursuant to 807 KAR 5:001, Section 4(11), KRS 278.310, and KRS 278.040(2), Kentucky Industrial Utility Customers, Inc. ("KIUC") requests that it be granted full intervenor status in the above-captioned proceeding(s) and states in support thereof as follows:

1. **Administrative Standard For Intervention**

807 KAR 5:001, Section 4(11)(a)(1) requires that a person requesting leave to intervene as a party to a case before the Kentucky Public Service Commission ("Commission"), by timely motion, must state his or her interest in the case and how 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.

807 KAR 5:001, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

2. **Identity of Intervenor**

KIUC is an association of the largest electric and gas public utility customers in Kentucky. The purpose of KIUC is to represent the industrial viewpoint on energy and utility issues before this Commission and before

all other appropriate governmental bodies. The attorneys for KIUC 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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Ph: (513) 421-2255, Fax: (513) 421-2765
E-Mail: mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com

3. KIUC's Motion to Intervene is Timely

KIUC is filing this Motion to Intervene on September 6, 2017 prior to the September 29, 2017 deadline as set forth in the Commission's August 30, 2017 Order.

4. KIUC's Interest in this Proceeding

KIUC has a special interest in the above-captioned proceeding. The members of KIUC who are served by Big Rivers Electric Corporation ("Big Rivers") through Kenergy Corp. and will participate herein include some of the utility's biggest customers, specifically: Domtar Paper Co., LLC and Kimberly Clark Corporation.

KIUC's special interest cannot be otherwise adequately represented by any existing party. While the Kentucky Attorney General's Office of Rate Intervention is statutorily charged with representing the interests of "consumers" pursuant to KRS 367.150(8), in practice that duty relates primarily to representing the interests of residential customers. In contrast, KIUC is focused solely on representing the perspective of large industrial customers. Moreover, because its membership consists of several large manufacturers in Kentucky, KIUC can provide a direct channel into the viewpoint of industrial customers on the issues at hand.

KIUC's intervention will not unduly complicate or disrupt the proceedings as KIUC intends to play a constructive role in the Commission's decision-making process.

5. **KIUC Will Present Issues That Will Assist the Commission's Consideration of Big Rivers' FAC.**

In a previous FAC case involving Big Rivers (Case No. 2014-00230), KIUC disputed the method in which fuel costs were allocated to off-system sales. Big Rivers had been allocating its system average fuel costs to off-system sales, and KIUC asserted that off-system sales should instead be allocated the highest marginal fuel costs and that native load ratepayers should be allocated the system's lowest fuel costs. Big Rivers, the Attorney General and KIUC eventually entered into a Settlement Agreement which provided that Big Rivers would include credits to all customers (residential, commercial and industrial) totaling \$311,111.11 per month for 15 months, or \$4.67 million.¹ This was roughly equivalent to the monthly difference between the two methods and ensured that Big Rivers' native load customers received the benefit of the lowest fuel costs on the system, not average fuel costs. This result was consistent with the established practice of other Kentucky electric utilities. Big Rivers also agreed that it would propose to permanently change its FAC allocation method to KIUC's recommended highest marginal fuel costs method in a "*rate reduction*" case that it stated would be filed in the first quarter of 2016.²

As of the date of this filing, roughly one-and-a-half years after the expected date of the filing of the "*rate reduction*" case, Big Rivers has not filed its rate reduction case and has not otherwise proposed to change its FAC allocation method. In this proceeding KIUC will recommend that the Commission require that Big Rivers finally change its FAC allocation method to ensure that native load ratepayers receive the lowest fuel costs and that off-system sales are allocated the highest (marginal) fuel costs. This change will not affect the amount or revenue from off-system sales. It will only reduce the calculated profit from off-system sales. KIUC will propose to make this change retroactive to February of 2017, the first month in which customers no longer received the \$311,111.11 credit agreed to in the Settlement Agreement in Case No. 2014-00230.

¹ Commission's Order approving Stipulation in Case No. 2014-00230 (July 27, 2015), See attached Stipulation and Recommendation, Paragraph 1.

² *Id.*, Paragraph 2.

WHEREFORE, KIUC requests that it be granted full intervenor status in the above-captioned proceeding(s).

Respectfully submitted,



Michael L. Kurtz, Esq.

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Jody Kyler Cohn, Esq.

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**COUNSEL FOR KENTUCKY INDUSTRIAL UTILITY
CUSTOMERS, INC.**

September 6, 2017