

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC)	CASE NO.
CORPORATION FOR TERMINATION OF)	2018-00146
CONTRACTS AND A DECLARATORY ORDER)	
AND FOR AUTHORITY TO ESTABLISH A)	
REGULATORY ASSET)	

ORDER

This matter arises upon the motion of Kentucky Industrial Utility Customers, Inc. (“KIUC”), filed May 29, 2018, for full intervention. In support of its motion, KIUC states that two of its members, Domtar Paper Co., LLC (“Domtar”) and Kimberly Clark Corporation (“Kimberly Clark”), are served by Kenergy Corp., a distribution cooperative that is a member-owner of Big Rivers Electric Corporation (“Big Rivers”). KIUC contends that its members’ special interest cannot be otherwise adequately represented by any existing party, noting that Domtar and Kimberly Clark are large manufacturing companies that purchase approximately 10 percent of the retail energy sold by Big Rivers to its three distribution cooperatives. KIUC further states that it will present issues that will assist in the Commission’s consideration of Big Rivers’ request to terminate the Station Two contract and establish a regulatory asset, noting that it has been an active participant in almost all of Big Rivers’ rate matters over the last ten years. Lastly, KIUC states that its intervention will not unduly complicate or disrupt the proceedings as KIUC intends to play a constructive role in the Commission’s decision making process.

On June 1, 2018, Big Rivers filed a response objecting to KIUC's request to intervene. Big Rivers argues that KIUC has failed to establish that it has a special interest in this proceeding, noting that this matter involves a contract dispute between Big Rivers and the City of Henderson, Kentucky, and the City of Henderson Utility Commission. Big Rivers contends that KIUC has also failed to show that it is likely to present issues or to develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings. Big Rivers argues that KIUC fails to provide any specific issues it seeks to raise or facts it seeks to develop that will assist the Commission in this matter.

On June 5, 2018, KIUC filed a reply in support of its motion, arguing that it has a special interest in Big Rivers' request to establish a regulatory asset related to the value of the Station Two contract in the amount of approximately \$89.6 million. KIUC notes that Big Rivers intends to recover this amount from customers in its next base rate case. KIUC points out that Big Rivers' share of the Station Two fixed and variable costs are currently being recovered in base rates, the fuel adjustment clause, and the environmental surcharge and that the outcome of this matter will directly and immediately affect all aspects of Big Rivers' rates. Lastly, KIUC contends that Big Rivers has injected current ratemaking into this matter by proposing to offset the \$89.6 million regulatory asset with the Station Two depreciation expense currently being recovered in base rates. KIUC contends that it will help develop this particular issue if granted intervention in this matter. Specifically, KIUC asserts that a write-off of the \$89.6 million from member equity is more reasonable than a deferral with later recovery in member rates.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that KIUC has established that it has a special interest in this proceeding that is not otherwise adequately represented. Big Rivers' request for authority to establish a regulatory asset for the costs associated with the Station Two facilities would ultimately have an impact on the rates of KIUC's members. The Commission further finds that KIUC's intervention will develop facts on this issue that assist the Commission in this matter. The Commission notes, however, that KIUC's motion did not state with specificity the special interest that KIUC has in this matter or the specific issues and facts that KIUC would present and develop that would assist the Commission in its consideration of this matter. While KIUC's reply memorandum does set forth with particularity the special interest, issues, and facts relied upon by KIUC in support of its request to intervene, the Commission finds that the better practice would be to include such specific information in the initial motion itself.

IT IS HEREBY ORDERED that:

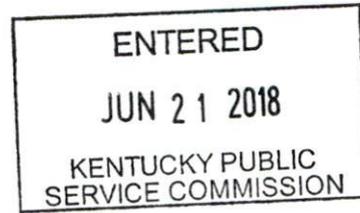
1. The motion of KIUC to intervene is granted.
2. KIUC shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. KIUC shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 7, related to the service and filing of documents.
4. KIUC shall adhere to the procedural schedule set forth in the Commission's June 13, 2018 Order and as amended by subsequent Orders.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KIUC 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 should be served.

By the Commission



ATTEST:


Executive Director

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Thomas J Costakis
Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, INDIANA 46204

*Honorable James M Miller
Attorney at Law
Sullivan, Mountjoy, Stainback & Miller, PSC
100 St. Ann Street
P.O. Box 727
Owensboro, KENTUCKY 42302-0727

*Norman T Funk
Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, INDIANA 46204

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Tyson Kamuf
Corporate Attorney
Big Rivers Electric Corporation
201 Third Street
P. O. Box 24
Henderson, KY 42420

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

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