

RECEIVED

AUG 19 2019

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF BIG RIVERS	)	
ELECTRIC CORPORATION FOR	)	CASE NO. 2019-00269
ENFORCEMENT OF RATE AND	)	
SERVICE STANDARDS	)	

MOTION OF CITY OF HENDERSON, KENTUCKY, AND  
 HENDERSON UTILITY COMMISSION,  
 d/b/a HENDERSON MUNICIPAL POWER & LIGHT, TO INTERVENE  
 IN APPLICATION OF BIG RIVERS ELECTRIC CORPORATION  
 FOR ENFORCEMENT OF RATE AND SERVICE STANDARDS

The City of Henderson, Kentucky, and the Henderson Utility Commission, d/b/a Henderson Municipal Power & Light (jointly referenced hereinafter as "Henderson"), by counsel, and pursuant to 807 KAR 5:001(4)(11), hereby move for an order granting intervention in this matter. 807 KAR 5:001(4)(11) provides:

(11) Intervention and parties.

(a) A person who wishes to become a party to a case before the commission may, by timely motion, request leave to intervene.

1. The motion shall include the movant's full name, mailing address, and electronic mail address and shall 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.

2. The motion may include a request by movant for delivery of commission orders by United States mail and shall state how good cause exists for that means of delivery to movant.

(b) 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.

On July 31, 2019, Big Rivers Electric Corporation (“Big Rivers”) filed an application asking the Kentucky Public Service Commission (“Commission”) to resolve a number of disputes which are chiefly financial in nature and which arise from a series of now-terminated contracts between Henderson and Big Rivers governing the operation and maintenance of Henderson’s now-defunct Station Two power-generation facility. Specifically, Big Rivers seeks for the Commission to interpret the contracts so as to find Henderson obligated to 1) pay Big Rivers an amount which includes costs associated with the production of unwanted Excess Henderson Energy; 2) share in the cost of decommissioning Station Two; 3) share in the cost of maintaining Station Two waste in Big Rivers’ Green Station landfill; and 4) allow Big Rivers to continue using city-owned facilities located on Big Rivers property and designated as joint-use facilities.

The Commission is without jurisdiction to grant the relief Big Rivers requests because the contracts between Henderson and Big Rivers, now terminated, neither fixed nor regulated a rate or service standard as required under KRS 278.200, nor do any issues raised in the application relate to any current or future rate or service. Nevertheless, the issues presented in Big Rivers’ application directly affect Henderson’s ability to protect its interests and to defend against allegations of financial liability.

The movants’ names and addresses are:

City of Henderson  
222 First St.  
Henderson, KY 42420

and

Henderson Utility Commission  
100 Fifth St.  
Henderson, KY 42420

Service upon the movants should be directed to counsel listed below.

This intervention is made for the purpose of assisting the Commission with the development of facts relevant to a decision and will not unduly delay or impede the proceedings. This case will have a direct and material effect upon Henderson's legal rights, duties, privileges, or other legal interests associated with the Big Rivers' contracts. The information that Henderson can present to the Commission is directly related to the issues being investigated and to Big Rivers' request for contract interpretation.

Henderson has a substantial and special interest in a Commission determination with respect to the issues raised that are not and cannot be otherwise adequately represented by any other party. The Commission's grant of intervenor status to Henderson is likely to present issues or develop facts that facilitate the Commission's full consideration in this matter without unduly complicating or disrupting the proceedings. Henderson's experience with Big Rivers and with the issues give Henderson detailed knowledge of the issues that are before the Commission, and will provide the Commission with additional information that has not been presented and which will not otherwise be presented.

The Commission has previously allowed Henderson to intervene in Case Nos. 2007-00455 and 2016-278 on the basis of its contractual relationship with Big Rivers.

For these reasons, Henderson moves for an order granting intervention.

Respectfully submitted,

*John N. Hughes (Signed w/ permission)*

Hon. John N. Hughes  
Attorney at Law  
Professional Service Corporation  
124 West Todd Street  
Frankfort, Kentucky 40601  
Telephone: (502) 227-7270  
[jnhughes@johnnhughespsc.com](mailto:jnhughes@johnnhughespsc.com)

and



Hon H. Randall Redding  
Hon. Sharon W. Farmer  
King, Deep & Branaman  
127 North Main Street, P.O. Box 43  
Henderson, Kentucky 42419-0043  
Telephone: (270) 827-1852  
[rredding@kdbl.com](mailto:rredding@kdbl.com)  
[sfarmer@kdbl.com](mailto:sfarmer@kdbl.com)

*Attorneys for Henderson Utility Commission, d/b/a  
Henderson Municipal Power & Light*



Hon. Dawn Kelsey  
City Attorney  
City of Henderson  
222 First Street  
Henderson, Kentucky 42420  
*Attorney for City of Henderson*

### CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was forwarded this 19th day of August, 2019, via U.S. Mail, postage prepaid, or via facsimile, electronic mail, and/or hand delivery, to the following:

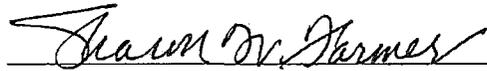
Tyson Kamuf  
Laura Chambliss  
Big Rivers Electric Corp.  
201 Third Street, P.O. Box 727  
Henderson, Kentucky 42419-0024

Michael L. Kurtz  
Kurt J. Boehm  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202

*Attorneys for Big Rivers Electric Corp.*

Original to:

Ms. Gwen R. Pinson  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard, P.O. Box 615  
Frankfort, Kentucky 40602-0615

  
\_\_\_\_\_