

COMMONWEALTH OF KENTUCKY

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:)
)
ELECTRONIC TARIFF FILING OF)
BIG RIVERS ELECTRIC CORPORATION)
AND KENERGY CORP. TO IMPLEMENT)
A NEW STANDBY SERVICE TARIFF)

Case No. 2021-00289

BRIEF OF KIMBERLY-CLARK CORPORATION

Kimberly-Clark Corporation (“Kimberly-Clark”) submits this Brief in opposition to Big Rivers Electric Corporation (“Big Rivers”) and Kenergy Corporation’s (“Kenergy”) proposed new standby service tariff.

I. FACTUAL BACKGROUND

Kimberly-Clark’s mill in Owensboro, Kentucky broke ground in 1992 and now employs hundreds of full-time personnel and full-time contractors, producing Kleenex and Scott tissue and hand towels for hotels, restaurants and workplace settings. Kimberly-Clark’s Owensboro mill is a large industrial customer of Big Rivers through Kenergy. The Owensboro facility recently installed an approximately 14 MW natural gas turbine cogeneration unit that is a Qualified Facility (“QF”). The facility would thus take service under the proposed Large Industrial Customer Standby Service (“LICSS”) tariff if it is approved by the Kentucky Public Service Commission (“Commission”).

For Supplemental Power Service, the proposed LICSS tariff would require a customer to pay the standard Large Industrial Customer (“LIC”) tariff rates for demand and energy charges. For Maintenance Power and Backup Power demand, Big Rivers proposes to charge standby customers the standard LIC demand rate of \$10.715/kW-month, less a capacity credit of \$3.80/kW-month that is based on the value that the additional capacity provided by a member’s generation resource brings to the other members. For Maintenance and Backup energy, the proposed tariff would require a standby customer to pay the higher of the energy charges under the LIC tariff schedule or the market price.

As discussed in this Brief, Kimberly-Clark recommends that the Commission reject Big Rivers’ proposed LICSS rate because Big Rivers has not met its burden of showing the LICSS rate appropriately recovers its cost of providing Maintenance Power and Backup Power Service.

II. ARGUMENT

1. Big Rivers’ Proposal To Charge LICSS Customers The Same Demand Charge As LIC Customers Is Unreasonable.

For Maintenance Power and Backup Power demand, Big Rivers proposes to charge standby customers the standard LIC demand charge of \$10.715/kW-Month. Big Rivers is proposing that LICSS customers pay the same \$10.715/kW demand charge as LIC customers, even though LICSS contains a mandatory *fixed* monthly demand charge for a service that is effectively *non-firm*; while LIC is billed on a 100% monthly *variable* basis and is *firm*. The below chart compares the LIC demand charge terms to the LICSS demand charge terms:

	LIC-Standard Rate	LICSS-Standby Service
Base Demand Charge	\$10.715/kW	\$10.715/kW
Demand Billing Terms	<i>Variable</i> - demand calculated monthly (no-minimum monthly demand or ratchet)	<i>Fixed</i> - minimum demand equal to self-supply capacity
Quality of Service	firm	non-firm

The \$10.715/kW LIC demand charge is Big Rivers' Commission-approved charge for capacity 1) to *firm* service customers; and 2) billed on *variable*, monthly demand charge (with no ratchet) pursuant to the LIC tariff. As further explained below, Big Rivers should not be permitted to extract one term of its LIC tariff (the \$10.715/kW) and place it into a different tariff, with different billing terms, and claim that it is treating LICSS customers on "*an equal footing*" as LIC customers.¹ It would not be appropriate for Big Rivers to charge LICSS customers the same rate for standby service that is effectively *non-firm* and which is billed based on a *fixed* monthly demand that is the LICSS customer's Self-Supply Capacity, the LICSS transmission and production demand charge should be lower than the LIC rate.

i. **Big Rivers Should Not Be Permitted To Charge LICSS Customers The Same Demand Charge For Demand Billed On a *Fixed* Basis As It Charges LIC Customers For Demand Billed On A Monthly-*Variable* Basis.**

Big Rivers primary argument in support of its proposed LICSS tariff is that standby customers should pay the same \$10.715/kW rate as LIC customers because in Big Rivers' view, the cost to provide capacity to LICSS customers is the same as it is for LIC customers.

Mr. Wolfram stated at hearing:

¹ Transcript at 10:03:10-10:03:20.

“Big Rivers has to incur costs for power plants and transmission lines, in order to be able to provide that service whether it's for every hour of the year or whether it's for one hour. Those costs are the same and they are embedded costs and that is why we start both sets of customers the calculation of the demand charge begins with the same rate to put them on an equal footing and then the application of the credit comes later. But with respect to how much Big Rivers has to spend in order to be able to serve these customers, they're not different.”²

However, the per-kW billing determinants used to calculate the LIC rate are based on the variable monthly demands of LIC customers. An LIC customer is billed the \$10.715/kW on its actual demand in each month of the year. If a LIC customer has 10 MW of demand in September, it will be billed for 10 MW in September. If the same customer's demand drops to 5 MW the next month in October, it will be billed for 5 MW in October. It is a pure *variable* rate. There is no demand ratchet or minimum demand for LIC customers. The variable nature of LIC is customer-friendly and requires Big Rivers to charge a higher per-kW (of \$10.715/kW) to recover the same amount of revenue than if the LIC rate had a minimum monthly demand or demand ratchet provision because the total *variable* monthly demand for all LIC customers results in a lower level of demand billing determinants than if the LIC rate employed a minimum monthly demand or demand ratchet.

Conversely, Big Rivers' proposed LICSS rate does not have customer-friendly variable demand billing. It has a *fixed* billing demand that is set at the *maximum* demand for Self-Supply in every month. If a 14 MW LICSS customer has 10 MW of demand in September, it will be billed for 14 MW in September. If the same customer's demand drops to 5 MW the next month in October, it will still be billed for 14 MW in October. As a result, it is a mathematical certainty that the LICSS customer will pay more in demand charges for its Self-Supply Capacity than the same-sized LIC customer. LICSS customers are not

² Transcript at 10:03:00-10:03:38.

put “*on an equal footing*” as LIC customers as Mr. Wolfram claims, because they would pay the same demand charge on a *fixed* basis as LIC customers pay on a monthly-*variable* basis.

During cross-examination, Mr. Wolfram agreed that a variable rate, with no demand ratchet, needs to be higher than a rate with a demand ratchet in order to collect the same amount of revenue.

“Question: If you had two hypothetical rates with the same demand charge, all else being equal, the only difference between the two rates where one had a demand ratchet and the other one didn't, Big Rivers would recover more revenue from the one with the demand ratchet, correct?

Mr. Wolfram: Yeah, presumably the ratchet would capture the highest of the demands from the customer in any one of 12 months and then apply that for the subsequent months and so they would be at most equal, but otherwise what you're saying is true. That the one with the demand ratchet would provide a higher bill.”³

Mr. Wolfram went on to say that “*ordinarily, [demand ratchets are not] what customers want for standby rates, they view ratchets as undesirable.*”⁴ But through the LICSS rate, Big Rivers proposes a fixed billing provisions that is even more undesirable than a demand ratchet without making a downward adjustment to the \$10.715/kW LIC demand charge. This is discriminatory treatment of LICSS customers relative to LIC customers.

There appears to be no dispute in this proceeding that if the LIC rate of \$10.715/kW had a minimum demand or demand ratchet provision, the \$10.715/kW demand charge could be reduced by some amount and still allow Big Rivers to collect the same amount of revenue for LIC customers. The LIC demand charge was calculated in Big Rivers’ last rate case (Case No. 2013-00199) as the demand charge required to produce the Commission-approved

³ Transcript at 9:58:55-9:59:37.

⁴ Transcript at 9:58:45-9:58:52.

revenue requirement for LIC given the total units of demand that would be billed given the monthly-*variable* structure of the LIC rate. If the Commission had instead adopted a *fixed* demand billing structure for LIC customers, the \$10.715/kW demand charge would have been reduced by some amount in order to recover the same revenue requirement.

All else being equal, a variable rate should be higher than a fixed rate, or a rate that includes a demand ratchet. As Mr. Wolfram conceded at hearing, the fact that the LIC rate does not have a demand ratchet requires a higher per kW rate than an identical rate that does include a demand ratchet.⁵ Therefore, it is unreasonable for Big Rivers to propose the same \$10.715/kW-month, *variable* LIC demand charge as the starting point for the *fixed* LICSS rate.

ii. Big Rivers' Proposal To Charge The Same Per-kW Rate For Non-Firm Service As It Does For Firm Service Is Unreasonable and Discriminatory.

Big Rivers' proposed \$10.715/kW LICSS demand charge is also unreasonable because it charges LICSS customers the same demand charge as LIC, but for a lower quality of service. Big Rivers' LIC customers pay a demand charge of \$10.715/kW for *firm* service, while LICSS customers would be charged the same charge for *non-firm* service. In other words, LIC customers can use power whenever they want and cannot be interrupted. While LICSS customers are required to schedule Maintenance outages at least 60 days prior to the start of the calendar year, subject to approval by Big Rivers; and Backup Power Service can only be accessed by an LICSS customer when its co-generation unit goes down. During

⁵ Transcript at 9:57:45-9:58:45.

cross-examination, Mr. Wolfram conceded that firm service is typically higher priced than non-firm service:

“Question: Typically firm service rates are more expensive than interruptible rates, is that correct?

Mr. Wolfram: Typically, firm rates are more expensive than non-firm and that interruptible if it's provided in the form of a rider would provide a credit, so yes.”⁶

Despite, Mr. Wolfram’s admission that firm service should be more expensive than non-firm service, Big Rivers is proposing that *non-firm* LICSS customers pay the same \$10.715/kW demand charge as *firm* LIC customers. Non-firm LICSS customers should pay a lower demand charge than firm LIC customers.

For these reasons, the LIC demand charge of \$10.715/kW is not a reasonable demand charge for *fixed* demand-billed, *non-firm* LICSS customers.

2. According To Big Rivers Own Testimony The Proposed LICSS Capacity Credit Is Intended To Pay Standby Customers For The Capacity Value Of Its Cogeneration Unit; It Is Not Intended To Mitigate The Fact That LICSS Customers Would Be Billed The Same Demand Charge For *Non-Firm* Service Billed On a *Fixed* Basis As It Charges LIC Customers For *Firm* Service Demand Billed On A Monthly-Variable Basis.

When asked at hearing why a LICSS customer should pay the same demand charge as a LIC customer receiving a higher quality of service, billed on a monthly-variable basis, Mr. Wolfram responded, “*but (LIC customers) don’t get a credit.*”⁷ Mr. Wolfram further stated:

⁶ Transcript at 9:57:00-9:57:10.

⁷ Transcript at 10:03:38-10:05:10

“So, the starting point is the full LIC demand charge because we wanted to put the standby customer on an equal footing with other industrial customers but then we've reduced that charge by applying the credit of the \$3.80 to account for the fact that the customer may not use that demand.”⁸

The justification provided by Mr. Wolfram at hearing is inconsistent with the rationale for the proposed capacity credit provided in his Direct and Rebuttal Testimony. In pre-filed testimony, Mr. Wolfram explained that the \$3.80/kW capacity credit is intended to pay the LICSS customer *for the value of the capacity it is providing to the Big Rivers system.* Mr. Wolfram stated in Direct Testimony:

“The credit is based on the value of capacity described by Big Rivers in its recent filing regarding the conversion of the Green Station units to natural gas in Case No. 2021-00079... The capacity credit in the instant filing is based on the 7-year base case capacity value (which is essentially the same for market purchases and non-firm gas) of \$3.80 per kW per month.”⁹

In Rebuttal Testimony, Mr. Wolfram again explained that its proposed \$3.80/kW capacity credit is intended to pay the LICSS customer for the value that its additional capacity will provide to the system. Mr. Wolfram stated:

“Big Rivers is recognizing the value that the additional capacity provided by a member's generation resource brings to the other members. Big Rivers will need to acquire less capacity if it is short or will have more capacity to sell if it is long. This helps mitigate the costs that the standby customer should be paying.”¹⁰

Mr. Wolfram's pre-filed testimony presents the capacity credit as a separate payment to the LICSS customer for the marginal capacity value of its cogeneration unit because it benefits the system. Mr. Wolfram does not state in pre-filed testimony that the capacity credit is intended to address the fact that the LICSS rate would charge *fixed-demand* billed,

⁸ Transcript at 10:01:20-10:01:45.

⁹ Wolfram Direct at 6-9.

¹⁰ Wolfram Rebuttal at 6.

non-firm LICSS customers the same demand charge as monthly *variable-demand* billed, *firm* LIC customers.

However, at the evidentiary hearing Big Rivers defended its proposal to charge LICSS customers the same \$10.715/kW charge as LIC customers for a lower quality of service (with more onerous billing terms) on the basis that LICSS customers are receiving a credit.

“Question: [a LIC customer] won’t be billed for that peak demand unless it hits that demand every month. And the opposite is true of LICSS customers, correct?

Mr. Wolfram: So, the LIC customers will be billed based on their actual demands, their current peak demands for the month, but they don’t get a credit and the LICSS customer gets a credit and so that makes them different. That’s what in part makes them apples and oranges. They’re not the same at that point, which is why the LICSS customer gets credit.

Question: But the credit is... based on the value of capacity provided by the cogeneration unit as you state in your direct testimony, correct?

Mr. Wolfram: Yes, the credit is based on the amount of the size let’s call it to simplify it of the generating resource on site of customer as standby resource, that’s true... Well you see that’s also appropriate, sorry that’s also appropriate because that’s the amount by which Big Rivers can reduce the capacity that it has to procure in the MISO capacity production.”¹¹

Mr. Wolfram has essentially provided two separate rationales for the same credit; one in pre-filed testimony and a different one during cross-examination. The credit cannot be exactly equal to the value of capacity described in Case No. 2021-00079 as stated in Mr. Wolfram’s pre-filed testimony; *and also* compensate the LICSS customer for paying the LIC demand charge while being subjected to lower quality service and more onerous demand-billing terms.

¹¹ Transcript at 10:03:38-10:05:10.

Based on Mr. Wolfram's pre-filed testimony the \$3.80/kW capacity credit is only a payment for the value of the capacity provided by the cogeneration unit to the system. Big Rivers provided no mechanism to account for the fact that the LICSS customer pays the same demand charge for non-firm service billed on a fixed-demand basis as the LIC customer does for firm service billed on a variable-demand basis. Mr. Wolfram's pre-filed testimony never addresses this problem at all.

3. It Is Unreasonable To Charge LICSS Customers *Embedded* Capacity Costs While Crediting LICSS Customers With A Credit Based On The Marginal Cost Of New Capacity.

As an initial matter, Kimberly-Clark opposes the structure proposed by Big Rivers in which the standby service rate is structured so the customer pays a fixed demand charge based on the LIC variable demand charge; minus a credit ostensibly based on the cost of capacity provided by the LICSS customers' cogeneration unit. KRS 278.030(1) allows a utility to collect fair, just and reasonable rates for services rendered or to be rendered. The service to be rendered by Big Rivers through the LICSS tariff is the provision of standby service. LICSS customers are not *selling* capacity to Big Rivers; they are *buying* standby service. The LICSS tariff rates should be based on Big Rivers' cost to provide that service and nothing more.¹²

But even if the Commission were to accept this general structure, Big Rivers' calculation of the capacity value is discriminatory. According to Mr. Wolfram, the proposed \$3.80/kW-month capacity credit is "*based on the value of capacity described by Big Rivers in its recent filing regarding the conversion of the Green Station units to natural gas.*"¹³ In

¹² Bieber Direct at 9-10.

¹³ Direct Testimony of John Wolfram, pp. 3-4.

response to discovery, Big Rivers confirms that it considers this to be the *marginal* cost of new capacity.¹⁴ Thus, Big Rivers' proposed LICSS tariff would essentially pay standby customers a credit equal to Big Rivers' calculation of the *marginal* cost of capacity for the capacity provided by the customer's on-site generation, while charging LICSS customers a demand charge based on Big Rivers' *embedded* capacity costs.¹⁵ According to Big Rivers' Response to KC 2-1b, *embedded* generation capacity cost is more than three times higher than the *marginal* cost.

It is unreasonable to charge customers the LIC demand rate for Self-Supply Capacity based on *embedded* costs minus a credit for the value of capacity based on *marginal* cost. This is a mismatch in methodologies that treats the LICSS customer's capacity on significantly less favorable terms than the utility's capacity and results in a very high standby service rate.

4. The Proposed LICSS Tariff Fails To Account For Kimberly-Clark's Contractual Minimum Demand Provision.

As discussed during the evidentiary hearing, Kimberly-Clark currently takes service pursuant to an electric service agreement with Kenergy. This agreement, among other things, provides that Kimberly-Clark's minimum billing demand "shall be 20,000 kilowatts (or 20 MW)."¹⁶ This minimum demand provision causes a problem that Big Rivers does not address in its proposed LICSS tariff.

¹⁴ Big Rivers Corporation and Kenergy Corp. Joint Response to Kimberly-Clark Corporation's First Set of Data Requests, Item 1b, September 3, 2021.

¹⁵ Bieber Direct at 10.

¹⁶ Kimberly-Clark, Exhibit 1 at 6.

Kimberly-Clark's total load at its Owensboro mill is typically in the range of 32 MW; (14 MW of which is self-supplied by the new cogeneration unit and 18 MW is purchased from Big Rivers). But under Big Rivers' proposed LICSS rate, Kimberly-Clark will be responsible for paying its contractual, 20 MW minimum billing demand *and* a fixed billing demand of 14 MW per the LICSS rate. In sum, Big Rivers' proposal would have Kimberly-Clark pay for a total *fixed* demand of 34 MW (20 MW contractual minimum demand, plus 14 MW of LICSS fixed demand) every month, despite having a maximum demand of only about 32 MW. And in most months, Kimberly-Clark's cogeneration unit will be running, resulting in an actual demand on the Big Rivers system of only about 18 MW. Yet Kimberly-Clark will still be subjected to 34 MW of fixed billing demand in all months.

As explained above, no other LIC customer is subjected to *any* fixed billing demand. And other LIC customers are certainly not required to pay for billing demand that is *greater* than actual load, month-after-month regardless of actual usage. Big Rivers' proposal to charge Kimberly-Clark for 34 MW of fixed demand, every month, is unreasonable given the fact that Kimberly-Clark's actual demand will likely be 18-32 MW in any given month.

5. Big Rivers' Proposal To Require Kimberly-Clark To Pay For Stranded Costs Through The Imposition Of The \$10.715/kW Demand Charge Is Unreasonable.

While Big Rivers claims that the proposed LICSS rate is designed to recover its actual costs of providing Maintenance and Backup Power Service (and Mr. Eacret stated at the hearing that it is not Big Rivers' position that Kimberly-Clark should pay a stranded cost charge for reducing its system load),¹⁷ Mr. Wolfram repeatedly cites historical stranded

¹⁷ Transcript at 9:17:10-9:17:18.

costs as the rationale for imposing the \$10.715/kW demand charge. Mr. Wolfram stated in Rebuttal Testimony:

“For nearly half a century, Big Rivers has been building, financing and operating generation on behalf of its members. Because of changing environmental regulations and economics, including the departure of the smelters, a portion of that generation fleet was retired prior to being fully depreciated. With the support of the Commission, the Kentucky Industrial Utility Customers and the Kentucky Attorney General, Big Rivers has put a plan in place to amortize the remaining book value of those retired assets over the next decade or so. Recovery of that amortization is a key component of Big Rivers’ financial health. If Kimberly-Clark is not required to pay its full share of that amortization, such costs will fall to other members to do so on their behalf. Kimberly Clark does not acknowledge this fact, but the Commission’s order allowing recovery of smelter loss mitigation assets was purposely shared equitably among all of its members; under their proposal, Kimberly-Clark avoids approximately one-third of its share of the costs, and Big Rivers’ other members pay all of these costs.”

As an initial matter, it should be largely irrelevant if Kimberly-Clark’s cogeneration unit shifts costs to other customers. The standby service rate is a service provided by Big Rivers for the provision of Maintenance and Backup Power. It is not a stranded cost charge. At Big Rivers’ request in Case Nos. 2012-00535 and 2013-00221, the Commission rejected a proposal to require the smelters to pay a stranded cost charge when they began taking generation service through MISO. It is unreasonable for Big Rivers to now take the opposite position in this case and argue that Kimberly-Clark should be required to pay, not only its own stranded costs when it reduces system load through self-supply, but also the stranded costs caused by the smelters.

The costs that Big Rivers cites in the above-quoted paragraph are stranded costs and cannot be reasonably considered a cost to provide Maintenance and Backup Power Service. By Big Rivers’ own admission, they are costs caused by the loss of the smelter load that Big Rivers intends for Kimberly-Clark to pay through the \$10.715/kW base demand charge on

maintenance and backup power. During cross-examination, Mr. Wolfram agreed that Big Rivers' proposed LICSS includes "*the cost of the amortization of Big Rivers retired assets.*"¹⁸ The LICSS rate should charge customers for the actual cost of providing Maintenance and Backup Power Service. It should not be a vehicle to charge customers for legacy costs caused by other customers that have left the system.

Fortunately for Big Rivers and its Members it does not appear that there will be any actual stranded costs associated with Kimberly-Clark's reduced LIC load because Big Rivers is capacity-short. As discussed at hearing, there has been more than enough growth on the Big Rivers system to offset the loss of the 14 MW that Kimberly-Clark is now self-supplying. In 2017, several years after Big Rivers' last rate case, Aleris expanded its operations by 33 MW.¹⁹ And later this year, Nucor Corp. will open a new 200 MW facility in the Big Rivers service territory.²⁰ In addition to the 200 MW of new load, the massive new facility is expected to indirectly expand Big Rivers' system load further through the creation of other satellite businesses.²¹ These two new and expanded customers alone, represent load that is more than 16 times larger than Kimberly-Clark's cogeneration unit. As Mr. Eacret testified in its recent Green Station conversion case (Case No. 2021-00079) Big Rivers is, or will soon be, capacity short:

"Big Rivers idling Green Station's coal-fired units creates a capacity deficit through 2029, even after the Solar PPAs are added and after the termination of the OMU and KyMEA agreements. Post Green Station conversion, there is a small short-term capacity deficit even with the new solar contracts."²²

¹⁸ Transcript at 10:18:25-10:18:45.

¹⁹ Transcript at 10:25:06-10:25:25.

²⁰ Transcript at 10:24:35-10:24:57.

²¹ Transcript at 10:24:57-10:25:06.

²² Kimberly-Clark, Exhibit 2 at 7.

So while Big Rivers describes a scenario in this case in which other customers will experience rate increases due to Kimberly-Clark's investment in a cogeneration facility, Big Rivers' load is growing so fast that it will soon have to acquire additional capacity. Given Mr. Eacret statements in the Green conversion proceeding, it is unclear how the loss of 14 MW of firm service will cause unrecovered costs on a system that will soon add over 233 MW in new load.

6. Big Rivers Proposed LICSS Demand Charge Would Not Be Consistent With Its Actual Cost-Of-Service Of Providing Maintenance And Backup Service.

As explained in the Direct Testimony of Kimberly-Clark witness Justin Bieber, the provision of Maintenance Power Service to a standby customer should not cause Big Rivers to incur any capacity costs. According to the proposed tariff, a standby customer is required to schedule Maintenance outages at least 60 days prior to the start of the calendar year, subject to approval by Big Rivers. This provides Big Rivers the opportunity to ensure that Maintenance outages will be scheduled during periods in which Big Rivers has sufficient *unused* capacity to provide Maintenance Power Service, such as off-peak periods. Therefore, the provision of Maintenance Power Service will not impact Big Rivers' *peak* load forecasts or its Planning Reserve Margin Requirement ("PRMR"). Since Big Rivers' PRMR would be unaffected by the provision of Maintenance Power, Big Rivers will not need to procure any incremental capacity in order to provide Maintenance Power.²³

²³ Bieber Direct at 7.

The actual costs of providing backup power service when an unplanned outage of its self-generation facility occurs are likewise very small. As a transmission-owning member of MISO, Big Rivers plans to meet MISO's annual PRMR.²⁴ MISO conducts an annual Loss of Load Expectation study to determine planning reserve margin requirements, a study which among other factors takes into account equipment forced outage rates.²⁵ Big Rivers utilizes a PRMR that is equal to 9.4% of its forecasted summer coincident peak load, where the peak load forecast includes 1.6% transmission losses.²⁶ This results in a reserve margin that is 11.1% greater than forecasted peak load, excluding transmission losses.²⁷ While it is unlikely that a standby customer would experience a forced outage coincident with the system peak, it may be reasonable for Big Rivers to incur costs to increase its PRMR by an amount up to 11.1% of the standby customer's Self-Supply Capacity in order to provide Backup Power Service. However, Big Rivers will not be required to obtain additional capacity above this amount in order to provide Backup Power Service.²⁸ In fact, by Big Rivers' own proposed definition of Self-Supply Capacity, Big Rivers' MISO PRMR is reduced by an amount equal to the Self-Supply Capacity of the standby customer's generation unit.

Therefore, Big Rivers' proposal to bill standby customers for demand year-round that is equal to their Self-Supply Capacity is not appropriate. Big Rivers would not reasonably be required to obtain capacity greater than 11.1% of a standby customer's self-generating capacity in order to provide Maintenance and Backup Power Service. However, the

²⁴ Big Rivers Corporation and Kenergy Corp. Joint Response to Kimberly-Clark Corporation's First Set of Data Requests, Item 3, September 3, 2021, Reproduced in Exhibit JB-1.

²⁵ [Midcontinent Independent System Operator Planning Year 2021-2022 Loss of Load Expectation Study Report](#), pp. 5-7.

²⁶ Big Rivers Corporation and Kenergy Corp. Joint Response to Commission Staff's First Set of Data Requests, Item 2, September 3, 2021, Reproduced in Exhibit JB-1.

²⁷ Load Forecast Before Transmission Losses x (1 + 1.6% Transmission Losses) x (1 = 9.4% Planning Reserve Margin Requirement) – 1 = 11.1%.

²⁸ Bieber Direct at 8.

proposed tariff would require customers to pay demand charges year-round for Maintenance and Backup Power billing demand that is equal to the customer's Self-Supply Capacity. Thus, the proposed billing demand equal to the Self-Supply Capacity is substantially higher than the amount of capacity that Big Rivers would need to obtain in order to provide Maintenance and Backup Power Service.²⁹

A review of the backup power service agreements provided to other Big Rivers/Kenergy customers more or less confirms the accuracy of Mr. Bieber's conclusion that Big Rivers and Kenergy can provide standby service through the MISO market. Kenergy's standby service agreement with Domtar only requires the customer to pay for actual out-of-pocket costs incurred to serve standby service through MISO, plus a \$1.00 per MWh adder on the LIC energy rate. Domtar's contract with Kenergy for backup and scheduled outage service provides that:

- the customer reimburses Kenergy and Big Rivers for any costs they incurred for energy and transmission supplied through MISO market or for Big Rivers' and Kenergy out-of-pocket costs for alternative backup power; and
- an additional charge of \$1.00 per MWh for all backup power service billed to the customer.³⁰

These are far better terms than what has been offered to Kimberly-Clark and include no requirement that the customer pay the full LIC demand charge as a fixed, non-variable charge.

²⁹ Bieber Direct at 9.

³⁰ See Second Amended And Restated Agreement For Retail Electric Service Between Kenergy Corp. And Domtar Paper Company, LLC (effective April 1, 2011) at 10-11. Filed with the Commission and viewable at the following link:

https://psc.ky.gov/tariffs/electric/Kenergy%20Corp/Contracts/Domtar%20Paper%20Company/2011-04-01_Second%20Amended%20And%20Restated%20Agreement%20for%20Retail%20Electric%20Service.pdf

III. RECOMMENDATION

As explained above, Big Rivers' LICSS is not a cost-based rate and will result in the over-recovery of Maintenance and Backup Power Service costs from customers. Kimberly-Clark recommends that the Commission reject Big Rivers LICSS proposal and adopt one of the following options in this proceeding:

1. The Commission Can Simply Reject The Proposed LICSS And Kimberly-Clark Can Continue To Operate On Its Current LIC Rate As It Does Today.

Big Rivers has not met its burden of showing that the proposed LICSS rate is fair, just and reasonable. Kimberly-Clark recommends that the Commission reject the LICSS proposal and allow standby customers to continue to operate under the terms of the LIC tariff just as they do today. Under the LIC tariff, a standby customer is billed for its actual demand and energy in any month that it uses maintenance and standby service. Kimberly-Clark would continue to be subjected to a minimum billing demand that is often higher than its supplemental power needs. Big Rivers could always propose a cost-based standby tariff in its next rate case or sooner.

2. The Commission Can Approve The Primary Recommendation Described In Mr. Bieber's Direct Testimony Which Is Based On The Existing, Commission-Approved QFS Tariff.

Mr. Bieber's primary recommendation is based on Big Rivers' current, Commission-approved QFS tariff, which provides Supplementary Service, Unscheduled Back-up Service, and Maintenance Service.³¹ Although Kimberly-Clark's generator is a QF, Kimberly-Clark cannot take service on the existing QFS rate because its generator has a capacity that is

³¹ Big Rivers Electric Corporation Rates, Terms, and Conditions for Furnishing Electric Service, Effective February 1, 2014, Sheet Nos. 42-49.

larger than 5,000 kW. The QFS rates for Maintenance and Back-up Power service are based on the standard service rate schedule and are reasonably designed to recover the costs that Big Rivers will incur to provide service. The QFS tariff provides off-peak Maintenance Demand at the same effective rates at which it provides service under the standard RDS rate schedule. The weekly demand charge is equal to the monthly RDS demand charge converted to a weekly rate and the off-peak Maintenance Energy is billed at the same rate as the standard RDS energy rate. This appropriately reflects the fact that Big Rivers is not required to obtain additional capacity in order to provide off-peak Maintenance Service. Back-up Power Service charges are equal to the actual costs that Big Rivers incurs to provide the service plus a premium of 10%. This 10% premium is appropriate because Big Rivers may incur some additional capacity or other costs in order to reliably provide Back-up Service in the event of an unplanned outage.³² The below Table summarizes the terms of QFS:

**Kimberly-Clark Primary Recommendation
Large Industrial Customer Standby Service Rate Structure³³**

Supplemental Power Service	Billed at Standard LIC demand and energy rates
Maintenance Power Service	Scheduled Maintenance Demand billed at \$2.5002/kW-Week Energy usage billed at higher of Standard LIC Energy rate or market price
Backup Power Service	Unscheduled Backup Demand charged 110% of Big Rivers actual cost to import energy from a third party, including transmission service

³² Bieber Direct at 14.

³³ Bieber Direct at 15.

3. The Commission Can Approve The Secondary Recommendation Described In Mr. Bieber's Direct Testimony.

Kimberly-Clark acknowledges that there are multiple reasonable methods for structuring a standby service rate and has attempted to constructively provide options for the Commission to consider. Mr. Bieber's Direct Testimony contains a secondary proposed proposal in which the LICSS Maintenance and Backup Power Demand charge would be modified to reflect the standby customer's contribution to Big Rivers' PRMR. Specifically, he recommends that the Maintenance Power/Backup demand charge should be equal 11.1% of the LIC cost-based demand charge³⁴ or \$1.83/kW-Mo. This recommendation is presented in Exhibit JB-3 and summarized in the Table below:

**Kimberly-Clark Secondary Recommendation
Large Industrial Customer Standby Service Rate Structure³⁵**

Supplemental Power Service	Billed at Standard LIC demand and energy rates
Maintenance Power/Backup Power Service	Demand equal to Self-Supply Capacity billed at \$1.83/kW-Month Energy usage billed at higher of Standard LIC Energy rate or market price

As explained above, it would not be necessary for Big Rivers to procure additional capacity equal to the standby customer's Self-Supply Capacity, but it might be reasonable to increase its PRMR by an amount up to 11.1% of the maximum Backup Power demand.³⁶

³⁴ See Big Rivers Corporation and Kenergy Corp. Joint Response to Kimberly-Clark Corporation's Second Set of Data Requests, Item 4 b, October 1, 2021, Reproduced in Exhibit JB-1 and *In the Matter of: Electronic Application of Big Rivers Electric Corporation for Annual Report on MRSRM Credit*, Case No. 2021-00061, Direct Testimony of John Wolfram Exhibit Wlforam-8 (February 26, 2021), p. 1.

³⁵ Bieber Direct at 16.

³⁶ Load Forecast Before Transmission Losses x (1 + 1.6% Transmission Losses) x (1 + 9.4% Planning Reserve Margin Requirement) - 1 = 11.1%.

In contrast, Big Rivers would be required to procure capacity equal to 111.1%³⁷ of a large industrial customer's coincident peak load to provide standard service under the LIC tariff. Accordingly, the amount of capacity needed to provide Maintenance/Backup Service for 1 MW of Backup Power demand would be no greater than 10.0%³⁸ of the capacity that would be required to serve 1 MW of coincident demand for a large industrial customer. This proposal sets the LICSS Maintenance/Backup demand charge equal to 11.1% of the LIC cost-based demand charge is conservative because 11.1% is greater than the ratio of the capacity cost that would be incurred to provide the Maintenance/Backup Service relative to the capacity cost that would be incurred to provide standard service.³⁹

IV. CONCLUSION

For the foregoing reasons, Kimberly-Clark respectfully requests that the Commission reject Big Rivers' proposed LICSS rate and adopt one of the above-outlined proposals as a reasonable and cost-based alternative standby service rate.

Respectfully submitted,

/s/ Kurt J. Boehm

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: 513.421.2255 Fax: 513.421.2764

mkurtz@BKLLawfirm.com

kboehm@BKLLawfirm.com

jkylercohn@BKLLawfirm.com

January 14, 2022

**COUNSEL FOR KIMBERLY-CLARK
CORPORATION**

³⁷ Large Industrial Customer Coincident Peak Load x (1 + 1.6% Transmission Losses) x (1 + 9.4% Planning Reserve Margin Requirement) = 111.1% of Coincident Peak Load

³⁸ 11.1% of Standby Customer Backup Demand ÷ 111.1% of Large Industrial Customer Coincident Peak Demand = 10.0%.

³⁹ Bieber Direct at 16-17.