COMMONWEALTH OF KENTUCKY
BEFORE THE 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**

POST-HEARING BRIEF OF BIG RIVERS ELECTRIC CORPORATION

I. INTRODUCTION

Big Rivers Electric Corporation is a wholesale generation and transmission cooperative who is owned by its three Member-distribution cooperatives: Kenergy Corp. ("*Kenergy*"), Jackson Purchase Energy Corporation, and Meade County Rural Electric Cooperative Corporation.[1] With the exception of two aluminum smelters served by Kenergy, Big Rivers supplies all of the power required by its Member-distribution cooperatives for them to serve their over 119,000 retail customer-owners.

Kimberly-Clark Corporation ("*Kimberly-Clark*") is a Large Industrial Customer of Kenergy, it has installed its own generation, and it has asked Big Rivers and Kenergy to provide Backup and Maintenance Power Service[2] to support Kimberly-Clark's generator.[3] Kimberly-Clark, like all Large Industrial

[1] *See* Big Rivers' June 24, 2021, tariff filing of the proposed LICSS tariff.

[2] "*Backup Power Service*" and "*Maintenance Power Service*" are defined in the proposed LICSS tariffs.

[3] *See* Direct Testimony of Justin Bieber at p. 1.

Customers on the Big Rivers system, is served under a special contract.[4] Kimberly-Clark's special contract (the "*Kimberly-Clark Retail Electric Service Agreement*"), which is on file with the Kentucky Public Service Commission ("*Commission*"), provides:

> Nothing in this Agreement limits the right of Customer [Kimberly-Clark] to generate electric power and energy for its own usage. If Customer generates electric power and energy for its own usage, then Seller [Kenergy] will provide back-up, maintenance and/or supplemental power in accordance with its filed tariffs and orders of the Commission.[5]

When Kimberly-Clark approached Big Rivers about Kimberly-Clark's plan to install its own generator, the parties attempted to negotiate an amendment to Kimberly-Clark's Retail Electric Service Agreement to specify the rates and terms under which Big Rivers and Kenergy would provide Backup and Maintenance Power Service to support Kimberly-Clark's generator because Kimberly-Clark wanted to have its full power requirements met even when its generator tripped or was down for scheduled maintenance.[6] Unfortunately, after two years of negotiations, the parties were not able to come to an agreement, which led to Big Rivers and Kenergy filing their proposed Large

[4] *See* Big Rivers' and Kenergy's Joint Response to Item 4 of the Commission Staff's Post-Hearing Request for Information.

[5] Kenergy Hearing Exhibit-1 (First Amended and Restated Agreement for Electric Service dated November 13, 2008, between Kenergy and Kimberly-Clark), at Section 2.03.

[6] *See* Big Rivers' and Kenergy's Joint Response to Item 1 of the Commission Staff's Second Request for Information; Big Rivers' and Kenergy's Joint Responses to Item 4 of the Commission Staff's Post-Hearing Request for Information,

Industrial Customer Standby Service ("*LICSS*") tariffs to provide those rates and terms.[7]

Ultimately, this case is about whether the other retail customers served by Big Rivers' Member-distribution cooperatives should be required to subsidize a Large Industrial Customer, like Kimberly-Clark, who installs its own generation and who requests that Big Rivers provide Backup and Maintenance Power Service (such a customer is defined in the proposed LICSS tariffs as a "*Standby Customer*"). Big Rivers does not believe that requiring the other retail customers to subsidize a Standby Customer's decision to install its own generation results in fair, just, and reasonable rates.

II. <u>BIG RIVERS' AND KENERGY'S PROPOSED LICSS TARIFFS ARE FAIR, JUST, AND REASONABLE</u>

Because Kimberly-Clark (like any other Large Industrial Customer that may install its own generator and request backup and maintenance service) expects Big Rivers to be able to supply the Standby Customer's full power requirements instantly in the event that Standby Customer's generator trips off, Big Rivers is required to have the ability to supply that power every minute of every day, year round.[8] As such, Big Rivers designed its proposed LICSS tariff to ensure that it would recover from the Standby Customer the cost to serve it,

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[7] *See* Big Rivers' and Kenergy's Joint Response to Item 1 of the Commission Staff's Second Request for Information

[8] Rebuttal Testimony of John Wolfram at p. 8, lines 4-6.

including the cost of the generation and transmission infrastructure that Big Rivers has installed over several decades to be able to provide that power.[9]

The cost to supply Kimberly-Clark with its full requirements, with one exception, is the same as the cost to provide power to other Large Industrial Customers who have not installed their own generation, and those costs are recovered through Big Rivers' standard Large Industrial Customer ("*LIC*") tariff rate, which includes both an energy charge and a demand charge.[10]

That one exception relates to the proposed energy charge for Backup energy. Because Big Rivers would be required to provide energy at a moment's notice in the event of an unscheduled outage of a Standby Customer's generator, Big Rivers is unable to plan for or schedule that energy in the MISO[11] day-ahead market.[12] Therefore, to protect the other retail customers served by Big Rivers' Member-distribution cooperatives from outages of a Standby Customer's generator, the proposed LICSS tariff requires the Standby Customer to pay the higher of the LIC energy charge or market for Backup energy.[13] This also prevents the Standby Customer from playing the market and operating its generator based on market prices, which is important for Big Rivers to be able to forecast and schedule the Standby Customer's load in MISO.[14]

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[9] *See id.* at pp. 3-6, 8.

[10] *See id.* at pp. 15-16.

[11] "*MISO*" is an abbreviation for the Midcontinent Independent System Operator, Inc.

[12] Direct Testimony of John Wolfram at p. 4.

[13] *Id.*

[14] *Id.*

For a Standby Customer's energy needs above what its generator is capable of providing (defined in the tariff as "*Supplemental Energy*"), Big Rivers is able to plan for and schedule that energy, and so, the proposed LICSS tariffs apply the standard LIC energy charge to that energy.[15]

The demand charges in the proposed LICSS tariffs are the same as the demand charge paid by Large Industrial Customers without self-generation, except that a credit is applied to the Backup and Maintenance demand charge based on the reduction in Big Rivers' MISO planning reserve requirement resulting from the Standby Customer's generator.[16]

The LIC demand charge allows Big Rivers to recover the fixed costs it incurs to serve Large Industrial Customers. In his rebuttal testimony, Mr. John Wolfram gave examples of these fixed costs:

Q. What are some examples of these fixed costs?

A. One example is transmission. The Big Rivers transmission system was built to provide Kimberly-Clark with full requirements service, whether their generator is running or not. The carrying cost of that investment and the costs of maintaining that system are the same regardless of the operation of the Kimberly-Clark generator. Under Mr. Bieber's proposal, Big Rivers' other members would pay to finance, depreciate, operate and maintain the transmission system so that it will be available in those few instances when Kimberly-Clark needs it. In addition to the network transmission system, there are also transmission assets (poles, conductor, and etc.) that were constructed to directly serve the Newman Substation from which Kimberly Clark is served. It is not appropriate to burden all other customers excluding Kimberly

[15] *See id.* at p. 3.

[16] *See id.*; Big Rivers' proposed LICSS tariff, Second Revised Sheet No. 69.01.

Clark with the cost of transmission facilities for which Kimberly Clark directly benefits.

Q. Are there other examples of fixed costs which are required to provide Maintenance and Backup Power Service?

A. Yes. 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.

Q. What about generation which is not retired?

A. Even after the retirement of Coleman and Reid One, the exit of the Station Two contract with Henderson Municipal Power and Light, and the conversion of the two Green coal-fired units to natural gas, Big Rivers has made a significant investment in generation assets on behalf of its members. It is important to remember that Big Rivers is a cooperative. As such, our member owners had a direct say on whether those investments would be made. Kimberly-Clark has enjoyed the low cost and reliability associated with that investment for decades. In their proposed approach to Maintenance and Backup Power Service, Kimberly-Clark's recommendation means that other Big Rivers members will absorb that cost on behalf of Kimberly-Clark. They even suggest that there is no cost associated with generation required for maintenance power because Maintenance would only be scheduled when "unused" capacity is available.

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However, the only reason Big Rivers would have unused capacity available to provide Maintenance Power to Kimberly-Clark is

> because of the investments Big Rivers made and continues to make to construct and maintain the generation that provides this service.[17]

The investments Big Rivers has made that enable Big Rivers to serve Kimberly-Clark's full requirements are not stranded investments now that Kimberly-Clark self supplies some of its power needs; those investments continue to be necessary because, as Mr. Wolfram explained in his rebuttal testimony, "Kimberly-Clark remains on the system and is requiring Big Rivers to continue to own, finance, and maintain the utility plant needed to stand ready to provide an additional MW anytime Kimberly-Clark's generator is not performing, without any advance notice. Kimberly-Clark should be required to pay for the cost required to provide this service."[18]

Likewise, Big Rivers' avoided transmission costs resulting from Kimberly-Clark's decision to install its own generator are zero. Big Rivers' transmission system was designed to serve Kimberly-Clark's full requirements, but Big Rivers must continue to have the transmission system capacity to serve Kimberly-Clark's full load in the event Kimberly-Clark's generator trips. And there is no secondary market for that particular transmission capacity.[19]

Further, from Big Rivers' perspective, the fixed cost of having the capacity and infrastructure in place to provide Maintenance Service is the same as the

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[17] Rebuttal Testimony of John Wolfram at p.4, line 9 through p.6, line 11, and p. 8, lines 18-21.

[18] *Id.* at p. 9, lines 11-17.

[19] Big Rivers' and Kenergy's Joint Response to Item 3 of the Commission Staff's Post-Hearing Request for Information.

fixed cost of providing Backup Service.[20] As such, the proposed LICSS tariffs apply the same demand charge to Maintenance and Backup Service. While the proposed LICSS tariffs do require Standby Customers to cooperate with Big Rivers in scheduling Maintenance outages, the purpose of that requirement is to "maximize the value of the Standby Customer's Self-Supply Capacity."[21] Also, because the Standby Customer is charged the higher of market or LIC for Maintenance energy, working with Big Rivers on scheduling outages would help the Standby Customer minimize its energy cost. In other words, scheduling Maintenance outages is for the benefit of the Standby Customer. The notice requirement does allow Big Rivers to coordinate its own transmission and generation outages with the Standby Customer to maximize reliability, but it does not change Big Rivers' fixed cost of providing Maintenance Service. The Standby Customer is permitted to "adjust the Maintenance Power schedule upon prior notice to Big Rivers," and there is no penalty in the LICSS tariff if the Standby Customer fails to provide the suggested notice.[22] Thus, treating Maintenance and Backup Service the same under the proposed LICSS tariffs is reasonable.

While Big Rivers believes it is important to recover the full cost to serve Kimberly-Clark from Kimberly-Clark, Big Rivers also recognizes that a Standby Customer's generator can reduce Big Rivers' MISO planning reserve

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[20] *See* Rebuttal Testimony of John Wolfram at p. 8.

[21] Big Rivers' proposed LICSS tariff, Original Sheet No. 69.03.

[22] *Id.*

requirement. That benefit is equal to the MW reduction in Big Rivers' MISO planning reserve requirement, valued at Big River's avoided capacity cost. Big Rivers' avoided capacity cost is equivalent to the marginal cost of replacement capacity, which, as Big Rivers demonstrated in Case No. 2021-00079, is \$3.80 per kW-month. Thus, the proposed LICSS tariffs give a credit to a Standby Customer for Maintenance and Backup Demand against the LIC demand charge equal to the MW reduction in Big Rivers' planning reserve requirement resulting from the Standby Customer's generator, times \$3.80 per kW-month.[23]

Based on the foregoing, the proposed LICSS tariffs are fair, just, and reasonable because they fairly balance (i) Big Rivers' rate design objectives regarding cost recovery and free ridership, (ii) minimizing subsidization of a customer's self-generation by other retail customers, and (iii) reducing disincentives for customers to install cost-effective distributed generation.[24]

III. KIMBERLY-CLARK'S PROPOSED RATES ARE NOT FAIR, JUST, AND REASONABLE

Kimberly-Clark's proposed rates would not result in fair, just, and reasonable rates. While Kimberly-Clark does not dispute applying the LIC energy and demand rates to Supplemental Service as proposed in the LICSS tariffs, Kimberly-Clark argues that it should only have to pay for Backup and Maintenance Service when its generator is down.[25] Kimberly-Clark fails to

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[23] *See* Rebuttal Testimony of John Wolfram at pp. 6-7; Big Rivers' and Kenergy's Joint Response to Item 2 of the Commission Staff's First Request for Information.

[24] *See* Direct Testimony of John Wolfram at pp. 15-16.

[25] Rebuttal Testimony of John Wolfram at p. 8, lines 2-6.

recognize that Big Rivers incurs year-round fixed costs to have the ability to provide that Backup and Maintenance Service, and as such, Kimberly-Clark's proposals do not fully reimburse Big Rivers for Kimberly-Clark's share of the cost of the generation and transmission infrastructure that is in place and maintained year round, or the cost for Big Rivers to satisfy its MISO planning reserve requirements on a year-round basis.[26] If Kimberly-Clark is not reimbursing Big Rivers for these year-round fixed costs incurred to serve Kimberly-Clark, then those costs are being charged to the other retail customers on the Big Rivers system, who are then being forced to subsidize Kimberly-Clark.[27]

Kimberly-Clark's witness in this proceeding, Mr. Justin Bieber, offers two proposals. First, Mr. Bieber recommends that "the rate design for Maintenance and Backup Power under the LICSS tariff should be structured similar to the rates for Maintenance and Back-up demand under the [Big Rivers] QFS tariff."[28] Alternatively, Mr. Bieber recommends that "Big Rivers' proposed LICSS Maintenance and Backup Power Demand charge should be modified to reflect a standby customer's contribution to Big Rivers' Planning Reserve Margin Requirement ('PRMR')."[29]

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[26] *Id.*

[27] *See* Rebuttal Testimony of John Wolfram at p. 3.

[28] Direct Testimony of Justin Bieber at p. 4, lines 81-83.

[29] *Id.* at p. 4, lines 85-87.

The first proposal to base Maintenance and Backup demand charges on Big Rivers' QFS tariff is premised on Mr. Bieber's mistaken assumptions (i) that Big Rivers does "not…incur any capacity costs" to provide Maintenance Power Service;[30] (ii) that, at most, Big Rivers would only be required to supply 11.1% of a Standby Customer's Self-Supply Capacity for Backup Power Service;[31] and (iii) that a Standby Customer should pay for the capacity needed to supply Maintenance and Backup Service only when the customer's generator is experiencing an outage.[32]

These assumptions are simply not correct. Because Big Rivers incurs year-round costs to have the capacity and infrastructure available to provide Maintenance and Backup Power Service to meet a Standby Customer's full capacity requirements, Big Rivers does not incur incremental capacity costs when the Standby Customer's generator experiences an outage. But those year-round fixed costs must still be paid for, and either Kimberly-Clark reimburses Big Rivers for those year-round fixed costs incurred to be able to provide Maintenance and Backup Service to Kimberly-Clark, or the other retail customers on the Big Rivers system will be forced to subsidize Kimberly-Clark.

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[30] *Id.* at p. 7, lines 138-139.

[31] *Id.* at p. 8, lines 160-164 ("Big Rivers will not be required to obtain additional capacity above this amount in order to provide Backup Power Service").

[32] *See id.* at p. 13, lines 247-251 ("The QFS tariff is clearly a more appropriate rate for a standby customer relative to Big Rivers proposed LICSS tariff because the QFS tariff only charges customers for Maintenance and Back-up Power when it is needed, as opposed to billing for demand equal to a standby customer's entire Self-Supply Capacity year-round").

Moreover, Mr. Bieber's proposal does not treat Standby Customers served under the proposed LICSS tariffs similar to Rural customers served under the QFS tariff. For example, Mr. Bieber suggests that LICSS customers should pay a demand charge for Backup Service but no separate energy charge, whereas the QFS tariff has both an energy and a demand charge for Backup Service for QFS customers.[33]

With regard to Mr. Bieber's alternate proposal, the only difference between that proposal and Big Rivers' proposed LICSS tariff is that Mr. Bieber substitutes (i) a demand charge for Maintenance and Backup Demand Service that is 11.1% of a cost-based LIC demand rate, instead of (ii) the full LIC tariff rate less the $3.80 per kW-month credit proposed by Big Rivers.[34] Again, this is based on a misguided assumption that Big Rivers would only have to provide capacity equal to 11.1% of the Standby Customer's Self-Supply Capacity.[35] In other words, Mr. Bieber assumes that Big Rivers would only need to have 1.6 MW of capacity in place to be able to provide Maintenance and Backup Service for Kimberly-Clark's 14 MW generator.[36] But, in reality, Big Rivers must have the capacity and infrastructure in place year-round to supply an additional 14

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[33] *See* Big Rivers' and Kenergy's Joint Response to Item 4 of the Commission Staff's Post-Hearing Request for Information.

[34] *See* Big Rivers' and Kenergy's Joint Response to Item 1 of the Commission Staff's Post-Hearing Request for Information.

[35] *See* Direct Testimony of Justin Bieber at p. 15, lines 299-301; Rebuttal Testimony of John Wolfram at pp. 10-11.

[36] *See* Direct Testimony of Justin Bieber at p. 16, line 316 – p. 17, line 324; Rebuttal Testimony of John Wolfram at p. 11..

MW of power to Kimberly-Clark whenever its generator experiences an outage. Under Mr. Bieber's alternate proposal, the cost of supplying the remaining 12.4 MW of capacity (14 MW minus 1.6 MW) to Kimberly-Clark would be subsidized by the other retail customers on the Big Rivers system.

IV. CONCLUSION

For the foregoing reasons, the Commission should approve Big Rivers' and Kenergy's proposed LICSS tariffs.

On this the 11th day of February, 2022.

Respectfully submitted,

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