

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

DOMTAR PAPER COMPANY, LLC

Complainant

v.

BIG RIVERS ELECTRIC CORPORATION

KENERGY CORP.

Defendants.

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Case No. 2023-00017

**MOTION FOR CONTRACT EXTENSION
BY DOMTAR PAPER COMPANY, LLC**

Domtar Paper Company, LLC (“Domtar”) respectfully moves the Kentucky Public Service Commission (“Commission”) for expedited consideration and an order extending its current retail service contract with Kenergy Corp. (“Kenergy”) until the Commission approves a permanent cost-based standby service rate for its Qualifying Facility (“QF”) in Big Rivers Electric Corporation’s (“Big Rivers”) service territory. The issuance of such an order is necessary to prevent Domtar from being forced to pay unreasonable rates beginning April 1, 2023.

As Domtar explained in detail in its Complaint filed January 11, 2023, Domtar’s Hawesville mill has operated for over twenty years under a Commission-approved contract with Kenergy Corp. for standby service associated with its QF cogeneration facility. During the decades-long period in which Domtar took service under this structure, Big Rivers had four rate cases and was able to plan its system and design its rates by fully incorporating Domtar’s QF cogeneration facility into its revenue requirement.¹

¹ Complaint at 5-7.

Kenergy now seeks to terminate this long-standing rate structure as of March 31 2023 and to immediately force Domtar onto the new Pilot Large Industrial Customer Standby Service (“LICSS”) tariff approved in Case No. 2021-00289. But immediately moving Domtar to the Pilot LICSS on April 1, 2023 would result in an estimated rate increase to Domtar of approximately \$3.4 million, or 20.9%, for the same service it has received since 2001. This 20.9% rate increase would occur outside of a rate case and is without any cost-based justification supporting that rate increase. Domtar’s QF has existed since 2001 and continuing to provide standby service to it under the existing rate will not result in generation or transmission stranded costs beginning April 1, 2023. Allowing the current standby service rate to expire would also unreasonably subject Domtar to retail Fuel Adjustment Clause charges or credits added on top of wholesale market rates for energy.²

Big Rivers/Kenergy may seek to justify this potential over-recovery on the basis that they are electric cooperatives rather than investor-owned utilities and that any additional charges to Domtar will flow back to their members rather than shareholders. However, the protections against unjust and unreasonable rates within the Kentucky Revised Statutes apply equally to customers of investor-owned utilities and cooperatives. Both types of electric utilities are monopolies with exclusive service territories authorized by state law. It would therefore be unlawful to justify charging Domtar an unreasonably high standby rate simply because the excess profits are recycled back to other cooperative members.

The Commission has the authority to extend utility contract rates and should do so in this instance to ensure that Domtar is not forced to pay unjust and unreasonable rates beginning

² Complaint at 10-14.

April 1, 2023.³ Domtar, Kenergy, and Big Rivers worked diligently for months to try and resolve this matter in the absence of a Complaint. However, in January 2023, it became apparent that the Commission's intervention was necessary, and Domtar submitted a formal Complaint. Kenergy/Big Rivers submitted their Joint Answer on February 10, 2023.

Domtar recognizes the resource constraints on the Commission and the possibility that while Domtar has requested expedited treatment of its Complaint, the Commission may be unable to hold a hearing and issue a decision on this matter prior to April 1, 2023. But Domtar should not be penalized should this deadline not be met. Accordingly, Domtar respectfully petitions the Commission for an Order maintaining the status quo by extending Domtar's current retail electric service contract until the Commission establishes a permanent standby service tariff in Big Rivers' service territory.

Respectfully submitted,

/s/ Michael L. Kurtz

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³ *In the Matter of Electronic Application of Southern Water & Sewer District for Approval of UMG Contract Extension*, Case No. 2020-00076, Opinion (March 27, 2020); *In the Matter of Water Purchase Contract Between Kentucky Turnpike Water District Division II...*, Case No. 98-150, Order (April 2, 1998); *In the Matter of Tariff Filing of Kenergy Corp. for Acceptance and Expedited Implementation of Extension Agreements to Special Retail Contracts for the Sale of Tier 3 Energy*, Case No. 2008-000514, Order (December 22, 2008).