

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

**DOMTAR PAPER COMPANY, LLC,**

**Complainant,**

v.

**BIG RIVERS ELECTRIC CORPORATION**

**KENERGY CORP.,**

**Defendants.**

**Case No. 2023-00017**

**PETITION FOR FULL INTERVENTION  
OF  
KIMBERLY-CLARK CORPORATION**

Pursuant to KRS 278.310 and 807 KAR 5:001 Section 4(11) of the Kentucky Public Service Commission’s (“Commission”) rules of procedure, Kimberly-Clark Corporation (“Kimberly-Clark”) requests that it be granted full intervenor status in the above-captioned proceeding and states in support thereof as follows:

1. The Commission’s rules of procedure allow a person who wishes to become party to a case to request leave to intervene through a motion that states 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. *See* 807 KAR 5:001, § 4(11)(a)(1).

2. The Commission’s rules of procedure further direct that 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. *See* 807 KAR 5:001, § 4(11)(b). The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”<sup>1</sup>

3. The Complaint initiating the above-styled action was filed by Domtar Paper Company, LLC (“Domtar”) on January 11, 2023. Pursuant to the Commission’s Order of January 31, 2023, the Defendants, Big Rivers Electric Company (“Big Rivers”) and Kenergy Corp. (“Kenergy”), are to satisfy the matters complained of or file a written answer to Domtar’s Complaint within 10 days of service of said Order. Kimberly-Clark’s motion for leave to intervene is timely filed as it is filed within 10 days of the Commission’s Order and was filed as soon as practicable by Kimberly-Clark after becoming aware of this proceeding.

4. For the reasons set forth herein, Kimberly-Clark has a special interest in this proceeding. Kimberly-Clark is a leading manufacturer of consumer tissue, personal care, and business-to-business products. Kimberly-Clark has manufacturing facilities around the world, including a manufacturing facility in Owensboro, Kentucky. Kimberly-Clark’s Owensboro mill commenced operations in 1992 and employs over 350 full-time personnel and contractors, producing Kleenex<sup>®</sup> Facial Tissue, Scott<sup>®</sup> Bath Tissue, and Scott<sup>®</sup> Hand Towels for lodging, foodservice/hospitality, healthcare, education, office, and industrial settings. In 2021, Kimberly-Clark invested \$19 million to install and begin operating an efficient Combined Heat and Power (“CHP”) system at the Owensboro mill. Kimberly-Clark’s CHP at the Owensboro mill is self-

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<sup>1</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

certified as a FERC Qualifying Facility. *See* Form 556 of Kimberly-Clark Corporation [Owensboro Facility] under QF21-610, Docket No. QF21-610 (filed Mar. 21, 2021).

5. Because Kimberly-Clark's CHP at the Owensboro mill is self-certified as a FERC Qualifying Facility, Kimberly-Clark receives service from Big Rivers and Kenergy under the Pilot Large Industrial Customer Standby Service ("LICSS") program, which is the focus of Domtar's Complaint. The Complaint alleges that Complainant's contract with Big Rivers and Kenergy was terminated, effective March 31, 2023, "motivated by the Commission's approval for Big Rivers of the new Pilot LICSS tariff in Case No. 2021-00289."<sup>2</sup> (Domtar's Complaint, p. 2) The Complaint petitions the Commission for an Order directing that Complainant's existing standby service arrangement remain in effect until a permanent standby service rate is established.

6. The Complaint references Kimberly-Clark by name at least four (4) times, including alleging Kimberly-Clark's installation of cogeneration at its mill as being the impetus for the development of the Pilot LICSS tariff. Domtar seeks to be excepted from the application of the Pilot LICSS tariff so that it can continue to pay lower standby service rates. As the operator of a self-certified FERC Qualifying Facility, Kimberly-Clark has an interest in paying standby service rates that are consistent with the rates paid by other qualifying facilities, such as Domtar. Accordingly, Kimberly-Clark has a unique and special interest in this proceeding and the issues raised by the Complaint and the resolution of the Complaint may have a significant impact on Kimberly-Clark, including the rates it pays for electricity.

7. Kimberly-Clark's special interest in this proceeding cannot be adequately represented by any other entity in this case, and Kimberly-Clark is aware of no other entity paying for standby service under the Pilot LICSS tariff.

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<sup>2</sup> *In The Matter Of: Electronic Tariff Filing Of Big Rivers Electric Corporation And Kenergy Corp. To Implement A New Standby Service Tariff.*

8. To the extent that facts pertaining to Kimberly-Clark are raised in this proceeding or issues developed that may have consequence for Kimberly-Clark, including with respect to Big Rivers' proposed permanent standby rate, Kimberly-Clark intends to engage constructively in the Commission's decision-making process, including developing relevant facts that assist the Commission in fully considering the matter. In either regard, Kimberly-Clark's participation as an intervenor will not unduly complicate or disrupt the proceedings.

9. The attorneys for Kimberly-Clark authorized to represent it in this proceeding and to take service of all documents are:

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**WHEREFORE**, Kimberly-Clark Corporation requests that it be granted full intervenor status in the above-captioned proceeding.

Respectfully submitted,

/s/ Robert C. Moore

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## **CERTIFICATE OF SERVICE**

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that this electronic filing has been transmitted to the Commission on February 10, 2023; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

/s/ Robert C. Moore  
Counsel for Kimberly-Clark Corporation