COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DOMTAR PAPER COMPANY, LLC	)	
Complainant	)	
v.	)	
	)	**Case No.**
BIG RIVERS ELECTRIC CORPORATION	)	**2023-00017**
KENERGY CORP.	)	
Defendants	)	

JOINT ANSWER OF BIG RIVERS ELECTRIC CORPORATION AND KENERGY CORP.

In response to the Kentucky Public Service Commission's ("*Commission*") January 31, 2023, Order in the above-captioned proceeding, Big Rivers Electric Corporation ("*Big Rivers*") and Kenergy Corp. ("*Kenergy*") respectfully submit this Joint Answer.

INTRODUCTION

Kenergy is a not-for-profit rural electric cooperative. Kenergy currently supplies retail electric service to Domtar Paper Company, LLC ("*Domtar*") under the Second Amended and Restated Agreement for Retail Electric Service between Kenergy and Domtar, which became effective on April 1, 2011 (the "*Retail Agreement*"). Kenergy is one of the three distribution cooperative member-owners of Big Rivers. Big Rivers provides the wholesale power to Kenergy necessary for Kenergy to serve Domtar.

As Domtar noted in its Complaint, Domtar has a cogeneration facility that supplies certain of its electric needs. The Retail Agreement requires Kenergy and Big Rivers to supply up to 62 MW of backup power for Domtar's cogeneration facility. This means that Big Rivers is required to have the facilities and capacity in place necessary to serve up to 62 MW at a moment's notice.

Under the Retail Agreement, Domtar can nominate between 15 MW and 35 MW of firm demand served at tariff rates, with any additional energy provided as backup for its cogeneration facility at market-based rates. This enables Domtar to run its cogeneration facility based on market conditions. For example, if it costs Domtar less to generate its own power than the applicable tariff rates, Domtar can operate its facility so as to only need 15 MW of firm demand, thereby avoiding the demand charges that would compensate Big Rivers for the fixed costs associated with the remaining 47 MW (62 MW – 15 MW) that Big Rivers and Kenergy would have to be ready to provide to Domtar as backup for Domtar's cogeneration facility. The fixed costs that Domtar is not paying are instead being subsidized by the other retail customers on the Big Rivers system.

Once the Commission approved the pilot Standby Service tariffs for Kenergy and Big Rivers, Kenergy gave notice to Domtar, pursuant to the express provisions of the Retail Agreement, that Kenergy was terminating the Retail Agreement. Although the parties attempted to negotiate a rate that would avoid this subsidization and more fairly reflect the cost to serve Domtar, those negotiations did not result in agreement. As such, absent a retail electric service agreement, after March 31, 2023, Domtar will take service under Kenergy's generally applicable tariff rates, including the pilot Standby Service tariff.

The Standby Service tariffs are intended to ensure that Domtar pays for the costs associated with having the facilities in place to provide backup service for Domtar's cogeneration facility. Domtar does not have to take backup service, but if it wants backup service, it should be required to pay for that service. Also, Domtar does not have to take backup service for the full rating of its cogeneration facility. Similar to the Retail Agreement, Domtar could enter into a contract to take a certain amount of its needs as Supplemental Power Service under the Standby Service tariff. Domtar would pay tariff-based energy rates for Supplemental energy, and would only be subject to charges for backup and maintenance energy for any remaining energy supplied as a backup for its cogeneration facility.

Kenergy had every right to terminate the Retail Agreement under the provisions of that agreement. Domtar asks that the Commission approve a rate for Domtar that continues the rates in the Retail Agreement until the Commission approves a permanent Standby Service tariff. However, Domtar offers no evidence that the rates it is proposing for itself are cost-based; do not result it being subsidized by other retail customers; or are fair, just and reasonable. Domtar has also not explained why it cannot mitigate charges for backup power by taking some of its requirements as Supplemental Power Service. The Commission recently approved the pilot Standby Service tariffs as fair, just and reasonable on an interim basis. Domtar has not met its burden of establishing that the Standby Service tariffs are no longer fair, just and reasonable. As such, Domtar's Complaint should be dismissed.

ANSWER

In response to the specific averments contained in the Complaint, Big Rivers and Kenergy state as follows:

Response to the Complaint's Unnumbered Paragraphs

The unnumbered paragraphs in the Introduction of the Complaint duplicate the numbered paragraphs that follow. With regard to all unnumbered paragraphs in the Complaint, Big Rivers and Kenergy respond consistent with their below responses to the numbered paragraphs. Big Rivers and Kenergy deny all allegations in the Complaint's unnumbered paragraphs that are not expressly addressed in the following paragraphs of this Joint Answer.

Response to the Complaint's Numbered Paragraphs

In response to the averments and allegations contained in each of the numbered paragraphs of the Complaint, Big Rivers and Kenergy answer as follows:

1. Big Rivers and Kenergy admit Paragraphs 1-3, 5, 9, 12-14, 16-21, 27, 29, 33, 35, and 37-38 of the Complaint.

2. Big Rivers and Kenergy admit Paragraph 4 of the Complaint. Big Rivers has constructed a new headquarters facility in Owensboro, Kentucky, pursuant to the Kentucky Public Service Commission's Order in Case No. 2021-

00314. Big Rivers will provide notice of its updated business address at such time as the transition to the new space is made final.

3. Big Rivers and Kenergy are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraphs 6-8 and 10-11 of the Complaint.

4. With regard to Paragraph 15 of the Complaint, Big Rivers and Kenergy state that Big Rivers transferred functional control of its transmission system to MISO on December 1, 2010.

5. With regard to Paragraph 22 of the Complaint, Big Rivers and Kenergy state that the LICSS tariff speaks for itself and deny all averments contrary to that tariff.

6. With regard to Paragraphs 23-26 of the Complaint, Big Rivers and Kenergy state that the Commission's March 3, 2022, Order speaks for itself.

7. With regard to Paragraph 28 of the Complaint, Big Rivers and Kenergy deny that there is no cost-based justification for the LICSS tariff, admit that the parties were unable to reach consensus, and deny the remainder of that paragraph.

8. With regard to Paragraph 30 of the Complaint, Big Rivers and Kenergy state that 18 C.F.R 292 speaks for itself and specifically deny any averment inconsistent with 18 C.F.R 292.

9. With regard to Paragraph 31 of the Complaint, Big Rivers and Kenergy assert that 807 KAR 5:054 speaks for itself and specifically deny any averment inconsistent with 807 KAR 5:054.

10. Big Rivers and Kenergy deny the heading on page 11 of the Complaint, and deny Paragraphs 32, 34, 36, 39-40, and 43-47 of the Complaint.

11. Big Rivers and Kenergy deny Paragraph 41 of the Complaint. The rate increase alleged by Domtar depends on the amount of Supplemental Power Service Domtar designates and results because other customers will no longer be subsidizing the fixed costs necessary to serve Domtar. Big Rivers will not profit by moving Domtar to the LICSS tariff. Any resulting increase in Big Rivers' margins will be returned through the MRSM rider to the other retail ratepayers currently subsidizing Domtar. Currently, 40% of the margins returned to ratepayers are through direct bill credits, and, subject to Commission approval, 60% of the margins will be used to reduce regulatory assets that those ratepayers would otherwise have to pay.

12. With regard to the first sentence of Paragraph 42 of the Complaint, Big Rivers and Kenergy state that the Order approving the pilot LICSS tariff speaks for itself, and deny the rest of that paragraph.

13. Big Rivers and Kenergy deny all allegations in the Complaint which are not expressly addressed in the foregoing paragraphs of this Joint Answer.

AFFIRMATIVE DEFENSES

1. The Complainant fails to set forth a prima facie case that Big Rivers or Kenergy has violated its tariff or any statute or Commission regulation, and the Complaint should be dismissed for that reason.

2. Kenergy has the right and authority under Kentucky law to terminate the Retail Agreement.

WHEREFORE, for all of the reasons set forth above, Big Rivers and Kenergy respectfully request:

(1) that the Complaint be dismissed without further action taken by the Commission;

(2) that this matter be closed on the Commission's docket; and

(3) that the Commission award Big Rivers and Kenergy any and all other relief to which they may appear entitled.

Dated: February 10, 2023

Respectfully submitted,

/s/ Tyson Kamuf

____

Tyson Kamuf
Senthia Santana
Whitney Kegley
Big Rivers Electric Corporation
201 Third Street, P.O. Box 24
Henderson, Kentucky 42419-0024
Phone: (270) 827-2561
Facsimile: (270) 844-6417
tyson.kamuf@bigrivers.com
senthia.santana@bigrivers.com
whitney.kegley@bigrivers.com

Counsel for Big Rivers Electric Corporation