

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

In the Matter of:

**ELECTRONIC TARIFF FILING OF BIG RIVERS
ELECTRIC CORPORATION AND KENERGY
CORP. TO REVISE THE LARGE INDUSTRIAL
CUSTOMER STANDBY SERVICE TARIFF**

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**Case No.
2023-00312**

MOTION TO DEVIATE FROM 807 KAR 5:001 Section 9(2)(b)(2)

1. Big Rivers Electric Corporation (“*Big Rivers*”), by counsel, respectfully moves the Kentucky Public Service Commission (“*Commission*”), pursuant to 807 KAR 5:001 Section 22, to grant a deviation from the notice requirements of 807 KAR 5:001 Section 9(2)(b)(2) with respect to the upcoming hearing in this matter scheduled for May 1, 2024. Big Rivers asserts that it took necessary and reasonable steps to ensure compliance and did, in fact, substantially comply with the applicable regulation, and for that reason good cause exists to grant the requested relief. In support for this motion, Big Rivers states as follows.

2. On March 18, 2024, the Commission entered an Order scheduling a hearing in this matter for May 1, 2024. The March 18, 2024 Order directed Big Rivers to give notice of the hearing consistent with applicable regulation. Big Rivers elected to publish notice in newspapers of general circulation in Big Rivers’ service area, pursuant to 807 KAR 5:001 Section 9(2)(b)(2).

3. Like other utilities, Big Rivers utilizes the Kentucky Press Service to publish such notices. On April 8, 2024, Big Rivers forwarded a Notice of Public Hearing to the Kentucky Press Service for publication in newspapers of general circulation in Big Rivers’ service area in the first available publication on or after April 10, 2024.¹

¹ 807 KAR 5:001 Section 9(2)(b)(2) states that a utility may publish notice no earlier than 21 days before a hearing.

4. The Kentucky Press Service sent orders to twenty-five newspapers to publish Big Rivers' Notice of Public Hearing, including the *Herald-News* in Hardinsburg, Breckinridge County, Kentucky.

5. On April 17, 2024, the Kentucky Press Service notified Big Rivers that the notice did not appear in that day's *Herald-News* publication, but would be rescheduled to run the notice in the April 24, 2024 publication, since the paper is a weekly publication. On the morning of April 25, the Kentucky Press Service notified Big Rivers that the notice again failed to appear in the *Herald-News* as part of its April 24th publication. Big Rivers requested then that the notice be scheduled to run in the *Herald-News*' next publication, on May 1, 2024.

6. Despite Big Rivers' diligence, the notice failed to run in the *Herald-News* hard copy on the dates anticipated. However, the Kentucky Press Service has confirmed that the notice timely ran in the other twenty-four newspapers, including the *Owensboro Messenger Inquirer*, the *Brandenburg Meade Co. Messenger*, the *Leitchfield Grayson Co. News*, and the *Hartford Ohio Co. Times*.

7. Based on the foregoing, Big Rivers believes that it has substantially complied with the Commission's notice requirements, and that good cause exists for the above-described deviation. Therefore, the Commission should find that Big Rivers sufficiently complied with the regulation in this proceeding and grant Big Rivers' motion to deviate from 807 KAR 5:001 Section 9(2)(b)(2).

WHEREFORE, Big Rivers respectfully requests that the Commission grant the requested deviation from 807 KAR 5:001 Section 9(2)(b)(2), finding Big Rivers substantially complied with the regulation.

On this the 25th day of April, 2024.

Respectfully submitted,

/s/ Edward T. Depp
Edward T. Depp
John D.A. Lavanga
Dinsmore & Shohl LLP
101 South Fifth Street, Ste. 2500
Louisville, KY 40202
Telephone: (502) 540-2300
Facsimile: (502) 585-2207
tip.depp@dinsmore.com
john.lavanga@dinsmore.com

M. Evan Buckley
Dinsmore & Shohl LLP
100 West Main Street
Suite 900
Lexington, KY 40507
Telephone: (859) 425-1000
Facsimile: (859) 425-1099
Evan.buckley@dinsmore.com

*Counsel to Big Rivers Electric
Corporation*

Certification

I hereby certify that a copy of this Motion to Deviate has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/ Edward T. Depp
*Counsel to Big Rivers Electric
Corporation*