

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF BIG RIVERS)	
ELECTRIC CORPORATION AND KENERGY)	CASE NO.
CORP. TO REVISE THE LARGE INDUSTRIAL)	2023-00312
CUSTOMER STANDBY SERVICE TARIFF)	

ORDER

On January 16, 2024, Kimberly-Clark Corporation (Kimberly-Clark) and Domtar Paper Company, LLC (Domtar) (collectively, Intervenors) jointly filed a motion to amend the procedural schedule entered on September 27, 2023, to allow Intervenors an opportunity to respond to claims regarding Midcontinent Independent System Operator, Inc. (MISO) rules and related information raised by Big Rivers Electric Corporation (BREC) in its rebuttal testimony filed January 9, 2024, by issuing another round of information requests attached to Intervenors' motion as Attachment B, with responses due in seven days of issuance, and the opportunity to provide surrebuttal testimony within ten calendar days of the response to the requests for information. Intervenors also proposed, in the alternative, that if the Commission was not inclined to amend the procedural schedule, as requested, that the Commission strike the portions of Mr. Wright's January 9, 2024 testimony that contain the new MISO related claims that Intervenors state should have been raised in BREC's direct testimony. Additionally, Intervenors requested a hearing in this matter.

On January 23, 2024, BREC and Kenergy Corp. (Kenergy) (collectively, Applicants), filed a joint response to Intervenors' motion stating that they do not believe

the Intervenors' have shown good cause for the requested relief, and subsequently requested that Intervenors' motion be denied, with the matter being submitted based on the existing record without a hearing.

On January 29, 2024, Intervenors filed a reply arguing that there is a need to sufficiently probe and understand the basis for the alleged new claims and that the additional round of information requests, and the hearing, will assist the Commission in its consideration of the matter at hand.

An Order was entered on September 28, 2023, establishing the procedural schedule in this matter and suspending BREC's proposed tariff for five months from October 1, 2023, up to and including February 29, 2024, and Kenergy's proposed tariff for five months from October 11, 2023, to and including March 10, 2024.

LEGAL STANDARD

KRS 278.030 provides that a utility may collect fair, just and reasonable rates and that the service it provides must be adequate, efficient and reasonable. KRS 278.190(1) and (3) empower the Commission to investigate any schedule of new rates for reasonability and places the burden on the utility to "show that the increased rate or charge is just and reasonable" According to Commission regulation 807 KAR 5:001, Section 9, unless a hearing is not required by statute, is waived by the parties in the case, or is found by the Commission to be unnecessary, the Commission shall conduct a hearing if a request for hearing has been made.

DISCUSSION AND FINDINGS

Intervenors' motion stated that BREC waited until the rebuttal testimony of Mr. Wright to disclose how it handled its behind-the-meter generation calculation.

Specifically, Intervenors argued that Mr. Wright’s testimony suggested that BREC had no discretion regarding its Large Industrial Customer Standby Service (LICSS) rate design because it had to “forecast load for the upcoming planning year for customers with behind-the-meter generation (BTMG), and costs related to that load, as if the BTMG were completely inoperable during peak periods,” instead of forecasting the load based on the historical peak periods. Intervenors stated that by waiting to disclose this information until the rebuttal testimony and after the request for information responses in the procedural schedule were exhausted, intervenors did not have a reasonable opportunity to investigate the propriety and reasonableness of the claim.

Though the Commission makes no substantive findings regarding the merits of the LICSS rate design question, Intervenors’ motion raises sufficient concerns to merit an additional round of information requests. The Commission finds that Intervenors’ request for leave to file the request for information in Attachment B to their motion should be granted and that the information request should be filed no later than February 23, 2024. Additionally, the Commission finds that Commission Staff should issue any additional supplemental information requests on or before February 23, 2024. Further, the Commission finds that seven days is insufficient time for BREC and Kenergy to prepare their responses to these information requests, and therefore the Commission finds a deadline to respond on or before March 8, 2024, to be reasonable. Lastly, the Commission finds that surrebuttal testimony should be filed by March 18, 2024.

IT IS THEREFORE ORDERED that:

1. The Intervenors’ motion is granted in part and denied in part.

2. Intervenors shall file the joint request for information included as Attachment B to their motion no later than February 23, 2024.

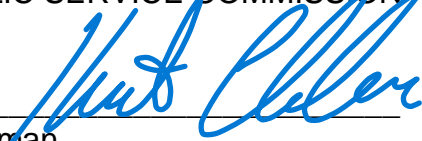
3. Intervenors' request to amend the procedural schedule to require a response to its information request within seven days is denied.

4. The procedural schedule set forth in the Appendix to this Order shall be followed and shall replace the procedural schedule filed on September 28, 2023.

5. Intervenors' request for a formal hearing is granted. The date for the formal hearing shall be scheduled by the Commission by separate Order.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
FEB 20 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00312 DATED FEB 20 2024

All supplemental requests for information
shall be filed no later than 02/23/2024

Parties shall file responses to supplemental requests
for information no later than 03/08/2024

Surrebuttal testimony, if any, in verified prepared
form shall be filed no later than 03/18/2024

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