

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 April 25, 2024, Big Rivers Electric Corporation (BREC) filed a motion for a deviation from 807 KAR 5:001, Section 9(2)(b)(2) hearing notice requirements for notice by publication,¹ which states:

If notice of a hearing is published by the applicant in a newspaper, it shall be published at least one (1) time and not less than seven (7) nor more than twenty-one (21) days prior to the hearing in a newspaper of general circulation in the areas that will be affected.²

Under 807 KAR 5:001, Section 22, “[i]n special cases, for good cause shown, the commission may permit deviations from these rules.”³

On March 18, 2024, the Commission entered an Order scheduling a hearing in this matter for May 1, 2024.⁴ On April 8, 2024, BREC provided to Kentucky Press Service, Inc. (Kentucky Press), an organization that acts on behalf of newspapers of general circulation throughout Kentucky, the form of notice required by the Order, and requested

¹ BREC’s Motion to Deviate (filed Apr. 25, 2024).

² 807 KAR 5:001, Section 9(2)(b)(2).

³ 807 KAR 5:001, Section 22.

⁴ Order (Ky. PSC Mar. 18, 2024).

that the notice be published in all newspapers of general circulation in BREC's service territory in the first available publication on or after April 10, 2024.

Kentucky Press sent orders to 25 newspapers to publish BREC's Notice of Public Hearing, and on April 17, 2024, Kentucky Press notified BREC 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, 2024, Kentucky Press notified BREC that the notice again failed to appear in the *Herald-News* as part of its April 24th publication. BREC requested then that the notice be scheduled to run in the *Herald-News*' next publication, on May 1, 2024.

Kentucky Press certified that notice was published in 24 newspapers of general circulation in BREC's service area, with dates of publication ranging from April 17, 2024, to April 20, 2024, and provided tear sheets to BREC for proof of publication.⁵

BREC asked for a deviation from 807 KAR 5:001, Section 9(2)(b)(2) requiring BREC to publish notice of the hearing in a newspaper of general circulation in each affected area, specifically the area served by the *Herald-News* publication. The remaining newspapers all published notice within the time required by 807 KAR 5:001, Section 9(2)(b)(2).

Having reviewed the motion and the record, the Commission finds that BREC's motion for deviation should be granted. The evidence of record demonstrates that BREC provided timely notice to Kentucky Press Service, and that BREC used its best efforts to obtain publication of hearing notice consistent with the time period established in 807 KAR 5:001, Section 9(2)(b)(2). Rescheduling the hearing would be onerous to the

⁵ BREC Notice of Filing and Exhibits (filed Apr. 25, 2024).

Commission and the parties, and on BREC to publish notice of a rescheduled hearing in twenty-four newspapers again.

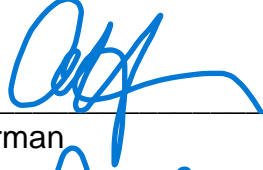
IT IS THEREFORE ORDERED that BREC's motion for deviation from 807 KAR 5:001, Section 9(2)(b)(2), requiring publication of notice of the May 1, 2024 hearing in a newspaper of general circulation in the areas affected by the tariff filing is granted for notice to the Herald-News publication service area.

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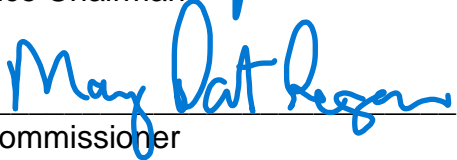
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Vice Chairman



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