

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 July 18, 2024, Big Rivers Electric Corporation (BREC), jointly with Kenergy Corporation (Kenergy) (collectively, Joint Applicants); Kimberly-Clark Corporation (Kimberly-Clark); and Domtar Paper Company, LLC (Domtar), as individual parties, filed motions for rehearing or clarification on the Commission’s final Order in this case.¹

KRS 278.400 establishes the standard of review on motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”² An order can only be unlawful if it violates a state or federal statute or constitutional provision.³

¹ Order (Ky. PSC June 28, 2024).

² *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

³ *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

Joint Applicants' motion⁴ requested clarification or, in the alternative, a partial rehearing of the final Order in this case. Specifically, Joint Applicants requested clarification on the "appropriate Energy Charge for Maintenance Power Service" and the "appropriate Energy and Demand Charges for backup Power Services."⁵ Joint Applicants requested the Commission grant rehearing to "expressly approve an energy rate for Maintenance Power Service equal to the [Large Industrial Customer (LIC)] energy rate."⁶ Relatedly, Joint Applicants also requested rehearing and "approval of an energy rate for Backup Power Service equal to the actual locational marginal price [(LMP)] for energy by Mid-Continent Independent System Operator (MISO) at the applicable load node during each hour of the day at the time of delivery, plus any transmission charges, MISO fees, or other costs."⁷ Additionally, Joint Applicants requested clarification regarding the "holding back"⁸ language associated with capacity requirements for standby customers in the Commission's final Order.⁹ Finally, Joint Applicants also asked that the Commission suspend Joint Applicants' obligation to file new tariff sheets until the resolution of the motion and any potential rehearing.¹⁰

Kimberly-Clark's motion requested clarification on three items:

⁴ Joint Applicants' Motion for Clarification and Partial Rehearing and Motion for Extension of Time (filed July 18, 2024).

⁵ Joint Applicants' Motion for Rehearing (filed July 18, 2024) at 4.

⁶ Joint Applicants' Motion for Rehearing at 4.

⁷ Joint Applicants' Motion for Rehearing at 5.

⁸ Order (Ky. PSC June 28, 2024) at 27.

⁹ Joint Applicants' Motion for Rehearing at 4.

¹⁰ Joint Applicants' Motion for Rehearing at 8.

(1) the appropriate energy charge for Maintenance Power should be the applicable Mid Continent Independent System Operator (“MISO”) locational marginal price (“LMP”); (2) the appropriate energy charge for Backup Power should be the standard LIC rate; and (3) a demand charge for Backup Power should not be read into the Commission’s June 28 Order where the order is otherwise silent on that issue.¹¹

Finally, Domtar’s petition for rehearing requested that the Commission “reduce the Maintenance Power demand charge to 50 percent of the LIC demand charge, prorated based on the number of outage days divided by the total days in the month in which the scheduled maintenance outage was to occur.”¹²

Having considered the motions and the evidence provided by the parties in their respective filings, the Commission finds that all three motions for rehearing or clarification should be granted. Additionally, the Commission finds it appropriate to grant Joint Applicants’ request to suspend the filing of a new tariff until the resolution of the matters to be evaluated during rehearing are concluded. The parties in this matter acknowledge that they are negotiating in an attempt to reach a resolution based on the Commission’s final Order. Consequently, the Commission finds it appropriate to gain additional information related to the requests and believes that the negotiations could impact its decision. The Commission also finds that the outcome of the negotiations may be relevant to any additional Orders related to the LICSS tariff’s material issues.

To address the specific alleged discrepancies and allow the parties to further negotiate, and informally provide information regarding all the issues mentioned in the motions for

¹¹ Kimberly-Clark’s Request for Clarification (Ky. PSC filed July 18, 2024) at 1–2.

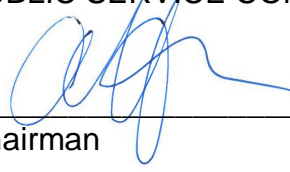
¹² Domtar’s Petition for Rehearing (Ky. PSC filed July 18, 2024) at 2.

rehearing, the Commission finds it appropriate to schedule an informal conference on September 26, 2024, at 9 a.m. Eastern Daylight Time to be held virtually.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' motion for rehearing or clarification is granted.
2. Joint Applicants' request to delay the filing of tariff sheets until the conclusion of the rehearing is granted.
3. Kimberly-Clark's motion for rehearing is granted.
4. Domtar's motion for rehearing is granted.
5. An informal conference to be held virtually is scheduled on September 26, 2024, at 9 a.m. Eastern Daylight Time at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.
6. The remainder of the June 28, 2024 Order not in conflict with this Order remains in effect.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

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