

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WATER SERVICE)
CORPORATION OF KENTUCKY) CASE NO. 2008-00563
FOR AN ADJUSTMENT OF RATES)

O R D E R

On March 20, 2009, Mary B. Potter filed a *pro se* request to intervene in this proceeding in order “to present both her arguments and objections and those of the rate payers of Clinton and the surrounding area.” The only person entitled to intervene as a matter of right in this rate-making proceeding is the Attorney General (“AG”), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.¹

We first address Ms. Potter’s request to represent the ratepayers of Clinton. Kentucky’s highest court has held that the representation of individuals and entities before an administrative agency constitutes the practice of law.² Ms. Potter has identified herself as acting *pro se*, and a *pro se* litigant cannot represent interests other than her own.³ Accordingly, the Commission must deny Ms. Potter’s request to intervene on behalf of other ratepayers.

¹ *Inter-County Rural Elec. Coop. v. Pub. Serv. Comm’n*, 407 S.W.2d 127, 130 (Ky. 1966).

² *Kentucky State Bar Ass’n v. Henry Vogt Mach. Co.*, 416 S.W.2d 727 (Ky. 1967).

³ See *Newsom v. Norris*, 888 F.2d 371, 381 (6th Cir. 1989); see also *Riddle v. Rubel-Ruparel*, Civ. A. No. 6:04620, 2005 WL 1866052 (E.D. Ky. Aug. 3, 2005) (unpublished); *Velasco v. Lamanna*, 16 Fed. Appx. 331 (6th Cir. June 20, 2001) (unpublished).

We now turn to whether Ms. Potter should be granted full intervention in this proceeding. In exercising its discretion to determine permissive intervention, the Commission follows 807 KAR 5:001, Section 3(8). That regulation requires a person seeking intervention to file a request in writing that “shall specify his interest in the proceeding.”⁴ That regulation further provides that:

If the Commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.⁵

In her request, Ms. Potter does not articulate that she has a special interest in this proceeding or that she is likely to present issues or to develop facts that will assist the Commission in resolving this matter. Ms. Potter states that she has personal knowledge of the service provided by Water Service Corporation of Kentucky and its Phoenix billing program, but she fails to state how she gained firsthand knowledge of these facts other than through her status as a customer of the utility. Even though Ms. Potter is a customer of Water Service Corporation of Kentucky, the AG has been granted full intervention and has the obligation to appear before the Commission to represent consumers’ interests.⁶

⁴ 807 KAR 5:001, Section 3(8)(b); see also *EnviroPower, LLC v. Pub. Serv. Comm’n*, 2007 WL 289328 (Ky. App. Feb 7, 2007) (holding that “the PSC retains the power in its discretion to grant or deny a motion for intervention”).

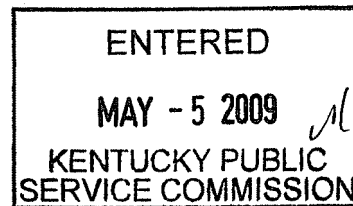
⁵ 807 KAR 5:001, Section 3(8)(b).

⁶ KRS 367.150(8)(b); see also Case No. 2007-00337, *Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program*, Application at 7 (Ky. PSC Sept. 14, 2007) (denying limited intervention to an individual on the grounds that the AG was a full intervenor).

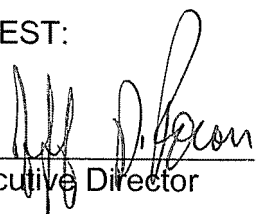
Having determined that the requisites of 807 KAR 5:001, Section 3(8), have not been satisfied, the Commission will deny Ms. Potter's request for intervention. Nevertheless, Ms. Potter will have ample opportunity to participate in this proceeding even though she is not granted intervenor status. The Commission will carefully consider the comments that she has made in her motion to intervene, along with other public comments that will be entered in the record of this case. She may also keep abreast of the status of the case and filings by monitoring the case's electronic file located at <http://psc.ky.gov/pscscf/2008%20cases/2008-00563>.

IT IS THEREFORE ORDERED that Ms. Potter's request for intervention is denied.

By the Commission



ATTEST:



Executive Director

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KY 40601

Honorable David Edward Spenard
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204