

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	CASE NO.
COMPANY FOR AN ADJUSTMENT OF BASE)	2009-00548
RATES)	

O R D E R

On June 14, 2010, Geoffrey Young, a residential customer of Kentucky Utilities Company ("KU"), filed an application for rehearing of the Commission's June 2, 2010 Order denying his request for full intervention. He claims that the Commission erred in finding that his interest in the rate structure of KU is no different than the interests of KU's other 500,000 customers. He asserts that only a small number of KU's customers share his primary interests, which are to protect the environment and to reduce the amount of coal that KU will burn in future years, and that any customer who does share his views "would almost surely be an environmentalist."¹ Labeling himself as an environmentalist, he argues that he is entitled to intervene irrespective of his status as a ratepayer. Mr. Young also asserts that there is no reason to believe that, if granted intervention, he would raise issues that are beyond the scope of the Commission's jurisdiction, but if he did so, he might also present jurisdictional issues so that, on balance, his participation "might be far more helpful than disruptive."² Finally, he argues

¹ Application for Rehearing at 1.

² Id. at 6.

that, if he does raise an issue that is beyond the scope of the Commission's jurisdiction, doing so should not be considered as a basis for denying intervention for complicating or disrupting the proceeding.

KU filed a response in opposition to Mr. Young's application for rehearing. KU contends that rehearing is not justified in this instance because Mr. Young's application for rehearing is a repetition of the arguments that he made in his request for intervention and that such arguments have already been rejected by the Commission, not only in this matter but also in numerous other cases in which Mr. Young has sought intervention. In order to be entitled to a rehearing, KU asserts that KRS 278.400 requires Mr. Young to present new arguments, evidence or legal authorities to allow "the Commission the opportunity to consider an issue, evidence, or authorities it overlooked or misconstrued or that was unavailable."³ KU maintains that Mr. Young failed to meet the requirements of KRS 278.400 and his rehearing request should, therefore, be denied. KU also notes that, while Mr. Young appeared before the Commission and presented comments at both the public hearing held in Lexington, Kentucky on May 6, 2010 and the evidentiary hearing held at the Commission's offices on June 2, 2010, he offered no specific rate structure or energy efficiency programs at either forum.

Mr. Young subsequently filed a reply to KU's response, arguing that KU misread how KRS 278.400 should be applied. Mr. Young states that his rehearing application provided a detailed analysis of why the Commission's Order denying him intervention was unreasonable. He claims that he has presented sufficient justification for rehearing.

³ KU's Response at 1.

Based on the application for rehearing and being otherwise sufficiently advised, the Commission finds that no new arguments or facts have been presented to justify granting rehearing. The Commission's jurisdiction is limited by KRS 278.040(2) to "hav[ing] exclusive jurisdiction over the regulation of rates and service of utilities." To justify intervention in a particular case, a person must have an interest in either the rates or service of the utility. The Attorney General's Office ("AG") is the only person that has a right to intervene in Commission cases. For all other persons, intervention is permissive and subject to the sound discretion of the Commission.

Here, Mr. Young has an interest in KU's rates and that interest arises from his status as a ratepayer of KU. However, his interest in KU's rates is an interest that he shares with all of KU's other ratepayers. The AG has been granted intervention in this case on behalf of KU's ratepayers, and Mr. Young has not shown that he has a special interest that is not otherwise adequately represented.⁴ To the extent that Mr. Young labels himself an environmentalist, he acquires no independent right to intervene in a Commission case. While protecting the environment is certainly an important and critical task, it is not one that has been delegated by the General Assembly to the Commission. Presenting issues that are beyond our jurisdiction, such as environmental issues, would unduly complicate and disrupt the Commission proceedings.

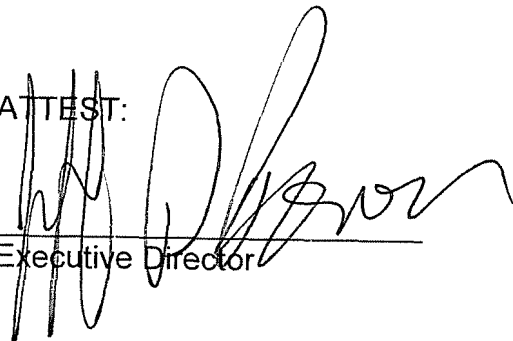
IT IS THEREFORE ORDERED that Mr. Young's application for rehearing is denied.

⁴ Mr. Young's intervention was also untimely, having been filed after the conclusion of discovery to KU and one day before intervenor testimony was due.

By the Commission

ENTERED *M*
JUL - 2 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Lonnie E Bellar
E.ON U.S. LLC
220 West Main Street
Louisville, KY 40202

Honorable Matthew R Malone
Attorney at Law
Hurt, Crosbie & May PLLC The Equus Building
127 West Main Street
Lexington, KY 40507

Holly Rachel Smith
Hitt Business Center
3803 Rectortown Road
Marshall, VA 20115

Monica Braun
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507-1801

Honorable Kimberly S McCann
Attorney at Law
VanAntwerp, Monge, Jones & Edwards
1544 Winchester Avenue, 5th Floor
P. O. Box 1111
Ashland, KY 41105-1111

Honorable Allyson K Sturgeon
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, KY 40202

Honorable David C Brown, Esq.
Attorney at Law
Stites & Harbison, PLLC
1800 Providian Center
400 West Market Street
Louisville, KY 40202

Dominic F Perella
Columbia Square
555 13th Street, NW
Washington, DC 20004

Honorable Robert M Watt, III
Attorney At Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507-1801

Lawrence W Cook
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Carroll M Redford III
Miller, Griffin & Marks, PSC
271 W Short Street, Suite 600
Lexington, KY 40507

Laurence J Zielke
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KY 40202-3465

Honorable Gardner F Gillespie
Attorney at Law
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, DC 20004-1109

Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

Honorable William H Jones, Jr.
Attorney at Law
VanAntwerp, Monge, Jones & Edwards
1544 Winchester Avenue, 5th Floor
P. O. Box 1111
Ashland, KY 41105-1111

James T Selecky
BAI Consulting
16690 Swingley Ridge Road, Suite 140
Chesterfield, MO 63017

Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202

Iris G Skidmore
415 W. Main Street, Suite 2
Frankfort, KY 40601