

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE 2011 JOINT INTEGRATED RESOURCE)	
PLAN OF LOUISVILLE GAS AND ELECTRIC)	CASE NO.
COMPANY AND KENTUCKY UTILITIES)	2011-00140
COMPANY)	

O R D E R

On June 21, 2011, Geoffrey M. Young filed an application for rehearing of the Commission's June 10, 2011 Order ("June 10 Order") denying his petition for full intervenor status in this case. Mr. Young, a customer of Kentucky Utilities Company ("KU"), states that the contents of his application for rehearing will show that the Commission is trying to "eliminate most or all of the existing limits on its discretion to deny petitions requesting full intervention," and that the Commission is doing so to create for itself arbitrary power in violation of the Kentucky Constitution, Section 2.¹

Mr. Young then proceeds to challenge the findings in the June 10 Order that cited the unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), for the proposition that a person seeking to intervene in a Commission case must have an interest in the rates or service of a utility because those are the only two subjects under the Commission's jurisdiction. Mr. Young claims that the language that the Commission cited from the Court of Appeals decision is dicta, and that the statute defining the scope of the Commission's jurisdiction, KRS 278.040(2), imposes restrictions on the

¹ Young Application for Rehearing at 1.

Commission, but not on an intervenor. Alternatively, Mr. Young claims that the statutory definitions of “rates” and “service” are so broad that, other than the plaintiff in the EnviroPower case, every other applicant for intervention would have a legitimate interest in the utility’s rates or service.

Next, Mr. Young’s application for rehearing argues that the June 10 Order is unlawful and unconstitutional because it improperly shifted the burden of proof to the intervenor to demonstrate a basis for granting his intervention under the Commission’s intervention regulation, 807 KAR 5:001, Section 3(8). That regulation, according to Mr. Young, places the burden of proof on the Commission to show why intervention should not be granted. Mr. Young also claims that the Attorney General’s Office (“AG”), who has requested and been granted intervention in this case, cannot adequately represent Mr. Young’s special interest because the AG must represent all ratepayers. Finally, Mr. Young’s application for rehearing challenges as insufficient the finding in the June 10 Order, at 6, that, “Mr. Young has not demonstrated that he is likely to present issues or develop facts that will assist the Commission in considering this case without unduly complicating or disrupting the proceeding.”

KU and its sister utility, Louisville Gas and Electric Company (“LG&E”), filed a joint response in opposition to Mr. Young’s application for rehearing. Their response renews and supplements their previous objections to Mr. Young’s request for intervention. Mr. Young then filed a reply, in which he addresses and expands upon the points raised in the response.

Based on the application for rehearing, the additional filings, and being otherwise sufficiently advised, the Commission finds that its jurisdiction is statutorily limited to “the

regulation of rates and service of utilities,” as provided for under KRS 278.040(2). This statutory limitation applies with equal force to the Commission and to intervenors, since the Commission has no authority to hear, consider, or decide any issue that is beyond the scope of its jurisdiction.

Mr. Young initially filed, on May 16, 2011, a petition requesting full intervention. As the petitioner, he had the burden to demonstrate in his petition that he was entitled to be granted the relief that he requested. The June 10 Order found that his petition to intervene did not articulate how, as a customer of KU, his interest in KU’s demand-side management and energy efficiency programs differed from the interests of any other customer of KU (or of its sister company, Louisville Gas and Electric Company) or how the AG was unable to adequately represent his interest.

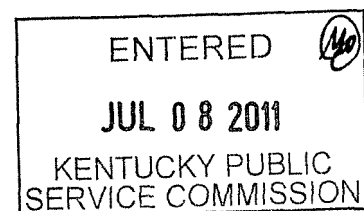
In addition, the June 10 Order found that Mr. Young had not demonstrated a likelihood of presenting issues or developing facts that would assist the Commission in considering the case without unduly complicating or disrupting the proceeding. The application for rehearing challenges this finding as unsupported, citing Mr. Young’s experience and employment, prior to 2004, at the Kentucky energy office. While Mr. Young did previously participate in energy issues for that office, it was the state energy office that intervened, by counsel. Mr. Young has never been granted intervention in a Commission case. Here, his petition to intervene discusses KU’s “disservices,” which he defines as “the environmental externalities such as air and water pollution that results from the generation, transmission, and distribution of electricity from KU’s power plants and from the mining of fuel to supply these power plants.”² As stated in the June

² Petition for Intervention at 1.

10 Order, issues of environmental externalities, such as air and water pollution from generating electricity and mining fuel to supply the generating plants, are all issues beyond the scope of the Commission's jurisdiction. Absent a demonstration by Mr. Young that he knows the scope of issues that are within the Commission's jurisdiction, the Commission was, and is, unable to find that he has demonstrated a likelihood to present issues or develop facts that will assist in our consideration of this case without complicating or disrupting the proceeding. However, as we found in our June 10 Order, Mr. Young may make his position known on the LG&E/KU Integrated Resource Plan issues by filing public comments as frequently as he chooses, and he may also contact the AG to provide input to that office on these issues. All of the documents filed in this case are available for public viewing on the Commission's website and this will facilitate Mr. Young's ability to file comments.

IT IS THEREFORE ORDERED that Mr. Young's application for rehearing of the denial of his petition to intervene is denied.

By the Commission



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