

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CALDWELL COUNTY WATER)	CASE NO.
DISTRICT FOR RATE ADJUSTMENT PURSUANT)	2016-00054
TO 807 KAR 5:0076)	

ORDER

On January 29, 2016, Caldwell County Water District (“Caldwell County”) applied for an adjustment of its rates for service pursuant to the procedures set forth in 807 KAR 5:0076. Caldwell County’s application was accepted for filing on February 3, 2016. The Commission entered an Order on February 18, 2016, that, among other things, required any motion to intervene be filed no later than March 7, 2016.¹ That Order also required a person who submits a motion to intervene after March 7, 2016, to demonstrate good cause to support the untimely intervention.²

Per 807 KAR 5:076, Section 4(2)(b), the applicant must serve a copy of its application on the Office of Attorney General’s Office of Rate Intervention (“Attorney General”). Caldwell County’s application indicates that the required copy was served electronically on the Attorney General.³ On March 16, 2016, the Attorney General,

¹ Order (Ky. PSC Feb. 18, 2016) (“Feb. 18, 2016 Order”) at 3.

² *Id.*

³ Application at 2.

citing KRS 367.150(8), filed a motion to intervene.⁴ The motion was not timely filed, did not indicate why it was filed late, and did not demonstrate good cause for the delay in filing. On March 29, 2016, the Commission entered an Order holding the Attorney General's motion to intervene in abeyance to afford the Attorney General an opportunity to set forth good cause for his untimely motion.⁵

On March 31, 2016, the Attorney General filed his supplemental motion to intervene, which stated, among other things, the following:

The Attorney General's Office of Rate Intervention has recently experienced a change in administration coupled with a loss of personnel. These factors have forced the Office of Rate Intervention to implement a wait-and-see approach before intervening in new cases, until such time that it is confirmed the office will have necessary resources to participate effectively.⁶

The Attorney General further stated that KRS 367.150(8) provides him with a statutory right to intervene and that he is not required to provide specific, valid reasons for his intervention in any proceeding before the Commission.⁷

DISCUSSION

Based on the record and being otherwise sufficiently advised, the Commission finds that it has the authority to adopt rules for its hearings and investigations, including adopting by regulation the procedures for requesting intervention. Pursuant to KRS 278.310, "[a]ll hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission" In accordance with KRS

⁴ Motion to Intervene (filed Mar. 16, 2016) at 1.

⁵ Order (Ky. PSC Mar. 29, 2016) at 2.

⁶ Supplemental Motion to Intervene (filed Mar. 31, 2016) at 3.

⁷ *Id.* at 2.

278.310, and pursuant to the Commission's authority under KRS 278.040(3) to adopt regulations to implement KRS Chapter 278, the Commission has promulgated 807 KAR 5:001, Section 4(11), which addresses intervention. That regulation states, in pertinent part, that, "[a] person who wishes to become a party to a case before the commission may, by timely motion, request leave to intervene," and that, "[t]he commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention"

Our February 18, 2016 Order required that any motion to intervene, to be timely, be filed no later than March 7, 2016.⁸ Our Order further required any such motion submitted thereafter to demonstrate good cause for the delay, in addition to any other requirements.⁹ These provisions implement and enforce the timely motion requirement of 807 KAR 5:001, Section 4(11), that we found necessary to ensure the orderly review of Caldwell County's application.¹⁰ We find that the requirements of 807 KAR 5:001, Section 4(11), and the provisions of our February 18, 2016 Order result from an exercise of power clearly within our authority pursuant to KRS 278.040(3) and KRS 278.310.

The Attorney General states that KRS 367.150(8) provides him with an unconditional right to intervene at any time and for any reason. The Commission has noted on numerous occasions that KRS 367.150(8) provides the Attorney General with

⁸ Feb. 18, 2016 Order at 3.

⁹ *Id.*

¹⁰ *Id.* at 1.

a unique statutory right to intervene.¹¹ In construing KRS 278.310 and KRS 367.150(8), we are required to harmonize the law as to give effect to both statutes.¹² We find that, pursuant to KRS 367.150(8), the Attorney General is not required to explain his reasons for requesting to intervene in a case, while KRS 278.310 authorizes the Commission to establish the procedures for processing cases, including the establishment of a procedural schedule to be followed by all parties, including the Attorney General. We find this construction gives meaning to each statute without impairing either.

The Attorney General, having a statutory right to intervene, is unlike any other intervenor and is not required to demonstrate his interest in the rates or service of a utility to be granted intervention, and the Commission, in ruling upon his motion to intervene, is not required to make any findings regarding his interest in the rates or service of a utility. Nonetheless, the right afforded to the Attorney General pursuant to KRS 367.150(8) does not provide him with the authority to ignore the Commission's other procedural rules, including those regarding the manner and timing of intervention. The Attorney General is required, like any other party before the Commission, to comply with all other provisions of KRS Chapter 278, KAR Title 807, and Commission Orders.

In the instant case, we find that the Attorney General's Supplemental Motion to Intervene demonstrates good cause for his late intervention into the case. We find that requiring the Attorney General to accept and abide by the existing procedural schedule

¹¹ Case No. 2007-00374, *Application of South Kentucky Rural Electric Cooperative Corporation for Approval to Purchase the Fixed Assets of the Monticello Electric Plant Board, Monticello, Kentucky*, (Ky. PSC Dec. 13, 2007), Order at 4.

¹² *Commonwealth v. Phon*, 17 S.W.3d 106, 108 (Ky. 2000) ("[S]tatutes should be construed in such a way that they do not become meaningless or ineffectual.").

is adequate to protect the rights of the applicant and maintain an orderly review of the application. Having found good cause, we will grant the Attorney General's motion to intervene.

IT IS HEREBY ORDERED that:

1. The Attorney General's Supplemental Motion to Intervene is granted.
2. The Attorney General shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. The Attorney General shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and filing of documents.
4. The Attorney General shall adhere to the procedural schedule set forth in the Commission's February 18, 2016 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days from the date of this Order, the Attorney General shall file a written statement with the Commission that:
 - a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and
 - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission

ENTERED
MAY 11 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Acting Executive Director

Case No. 2016-00054

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

*Caldwell County Water District
118 West Market Street
Princeton, KY 42445

*Betty Creasey
Office Manager
Caldwell County Water District
118 West Market Street
Princeton, KY 42445

*Jimmy Littlefield
Caldwell County Water District
118 West Market Street
Princeton, KENTUCKY 42445

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204