

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR)	
ELECTRIC SERVICE; (2) APPROVAL OF)	
TARIFFS AND RIDERS; (3) APPROVAL OF)	CASE NO.
ACCOUNTING PRACTICES TO ESTABLISH)	2020-00174
REGULATORY ASSETS AND LIABILITIES; (4))	
APPROVAL OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY; AND (5))	
ALL OTHER REQUIRED APPROVALS AND)	
RELIEF)	

ORDER

This matter arises upon a motion filed on July 31, 2020, by the Sierra Club requesting to intervene in this matter on behalf of Kentucky Power Company (Kentucky Power) residential customers who are members of, and thus represented by, the Sierra Club.

As a basis for its motion to intervene, Sierra Club explained that it has a special interest in energy efficiency, conservation, and distributed generation that is advanced by rate design. Sierra Club identified the issues it would present and the facts it would develop to assist the Commission in this matter, including the residential customer charge, net metering tariff, and advanced meter infrastructure (AMI) system that Kentucky Power proposed to purchase and install. Sierra Club discussed its experience in previous cases and averred that its expertise directly implicated the identified issues. Sierra Club stated that it would be an active participant in the proceeding in the form of discovery, witness testimony, and cross-examination.

Commission regulation 807 KAR 5:001, Section 4(11)(b), requires a person seeking intervention in a Commission proceeding to demonstrate a special interest that is not otherwise adequately represented, or that intervention 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.

The only person with a statutory right to intervene is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.¹

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. The statutory limitation, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”² The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires “[a] person who wishes to become a party to a case before the commission may, by timely motion, request leave to intervene . . . and shall state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”³ It is under these statutory and regulatory criteria that the

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

² *EnviroPower, LLC v. Public Service Comm’n*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

³ 807 KAR 5:001, Section 4(11)(b).

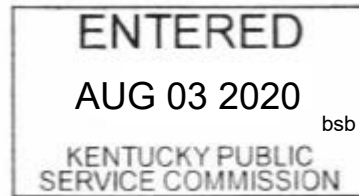
Commission reviews a motion for permissive intervention.

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Sierra Club has not satisfied the statutory requirement of an interest in rates or service because it is neither a customer of Kentucky Power nor has it demonstrated that it represents a specific Kentucky Power ratepayer in this matter. Because Sierra Club has not satisfied the statutory requirement, we will not address the regulatory requirement. Instead, the Commission finds that Sierra Club's motion should be held in abeyance and that Sierra Club should have leave to amend its motion to satisfy the statutory requirement by demonstrating that it represents a specific Kentucky Power ratepayer within seven days of the date of this Order.

IT IS THEREFORE ORDERED that:

1. Sierra Club's motion to intervene is held in abeyance for seven days from the date of entry of this Order.
2. Sierra Club shall have seven days from the date of entry of this Order to amend its motion and identify a specific Kentucky Power ratepayer that it represents in this matter.

By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

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