

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF A)	CASE NO.
SPECIAL CONTRACT WITH EBON)	2022-00387
INTERNATIONAL, LLC)	

ORDER

This matter arises upon the motion of Kentucky Industrial Utility Customers, Inc. (KIUC), filed November 25, 2022, for full intervention. As a basis for its motion, KIUC stated that it has a special interest in this matter, acting on behalf of Catlettsburg Refining LLC—a member of KIUC and a customer of Kentucky Power Company (Kentucky Power)—who will be affected by cost allocation resulting from Kentucky Power’s special contract with Ebon International, LLC (Ebon). KIUC argued that this special interest could not be adequately represented by any existing party. KIUC stated that the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), is statutorily charged with representing the interests of “consumers” pursuant to KRS 367.150(8), and that duty relates primarily to residential customers. KIUC further stated that its interest is exclusively related to large industrial customers, who take service on different rate schedules than residential customers.

LEGAL STANDARD

The only person with a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). The Attorney General filed a motion

to intervene on November 23, 2022. Intervention by all others is permissive and is within the sole discretion of the Commission.¹

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case or (2) that 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.

DISCUSSION AND FINDINGS

Based on a review of the motion and being otherwise sufficiently advised, the Commission finds that KIUC has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

KIUC has a special interest in this case as they represent large industrial customers, including Catlettsburg Refining LLC, in Kentucky Power's service territory and may have their electric costs directly impacted by Kentucky Power's special contract with Ebon and the resulting allocation of costs.² In addition KIUC could provide additional questions for discovery purposes and could assist in the development of the case record.

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

² See Case No. 2022-00036, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from May 1, 2021 Through October 31, 2021* (Ky. PSC May 3, 2022), Order.

Thus, the Commission finds that KIUC should be granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.
2. KIUC is 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. KIUC shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. KIUC shall adhere to the procedural schedule set forth in the Commission's November 23, 2022 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KIUC 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 shall be served.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

PUBLIC SERVICE COMMISSION

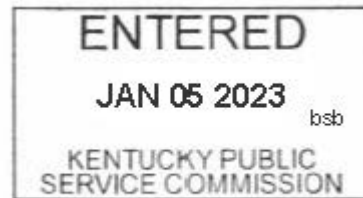


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