

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR AN ADJUSTMENT TO)	CASE NO.
RIDER NM RATES AND FOR TARIFF)	2023-00413
APPROVAL)	

ORDER

This matter arises upon the motion of the Kentucky Solar Energy Society (KYES) and Kentuckians for the Commonwealth (KFTC) (jointly, Joint Movants), filed January 17, 2024, for full intervention. As a basis for the joint motion, Joint Movants stated that they will present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. Joint Movants further stated that existing parties to the proceeding do not adequately represent Joint Movants' respective interests.

BACKGROUND

KYES is a non-profit corporation in good standing whose mission is to “promote the use of renewable energy, energy efficiency, and conservation.”¹ KYES's members include solar energy customers taking serving from Duke Energy Kentucky (Duke Kentucky), individuals interested in solar energy, clean energy professionals, academics, and advocates for a transition to a clean energy economy.²

¹ Joint Movants' Motion to Intervene (filed Jan. 17, 2024) at 4–5.

² Joint Movants' Motion to Intervene at 4–5.

KFTC is a non-profit corporation in good standing, which is described in the motion as a “multi-issue grassroots organization of Kentuckians inspired by a vision of working for a brighter future for all people, no matter our color, where we come from, or how much money we have.”³ KFTC states that, of its members, approximately 1,500 households utilize Duke Kentucky’s services.⁴

Joint Movants stated that they have timely filed their request for intervention, and if their request is granted, that they will accept and abide by the procedural schedule, filing of testimony, requests for information, and responses to requests for information.⁵ Joint Movants stated that they have adopted internal procedures to ensure timely decision-making and coordinated participation to act with one voice in this case.⁶ Joint Movants stated that their interests are different from the existing parties and no party represents their current interests and perspectives.⁷ Joint Movants argued that their participation will satisfy 807 KAR 5:001, Section 4(11)(b).⁸

³ Joint Movants’ Motion to Intervene at 5–6.

⁴ Joint Movants’ Motion to Intervene at 5–6.

⁵ Joint Movants’ Motion to Intervene at 2.

⁶ Joint Movants’ Motion to Intervene at 3.

⁷ Joint Movants’ Motion to Intervene at 2–3.

⁸ Joint Movants’ Motion to Intervene at 2–3.

Joint Movants argued that they previously participated in Case No. 2020-00174,⁹ Case No. 2020-00349,¹⁰ and Case No. 2020-00350,¹¹ cases relating to net metering valuation and compensatory rate calculation, resulting in tariff revisions.¹² They also noted their previous participation in two investigations, Case No. 2022-00190¹³ and Case No. 2022-00370¹⁴.¹⁵ They stated that Andrew McDonald, who is a designated representative with KYSES, participated in negotiations of the current interconnection guidelines.¹⁶

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case 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). The Attorney General

⁹ Case No. 2020-00174, *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 Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief* (Ky. PSC May 14, 2021).

¹⁰ Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Sept. 24, 2021).

¹¹ Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Sept. 24, 2021).

¹² Joint Movants' Motion to Intervene at 3–4.

¹³ Case No. 2022-00190, *Investigation of the Fuel Adjustment Clause Regulation 807 KAR 5:056, Purchased Power Costs, and Related Cost Recovery Mechanisms* (Ky PSC November 2, 2022).

¹⁴ Case No. 2022-00370, *Investigation of Amendments to the Public Utility Regulatory Policies Act of 1978 and Demand Response Practices* (Ky. PSC Nov. 7, 2022).

¹⁵ Joint Movants' Motion to Intervene at 4.

¹⁶ Joint Movants' Motion to Intervene at 4.

has intervened in this case. Intervention by all others is permissive and is within the sole discretion of the Commission.¹⁷

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 pleadings at issue and being otherwise sufficient advised, the Commission finds that Joint Movants (hereinafter referred to as Joint Intervenors) are 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.

Joint Intervenors could assist the Commission in developing the case record regarding effects that the proposed tariff changes would have on net metering customers, residential customers, and those interested in energy efficiency for discovery purposes. Joint Intervenors noted that they would follow the procedural schedule and make timely decisions when it comes to the case.

Based on the above, the Commission finds that Joint Intervenors should be granted full rights of a party in this proceeding. The Commission directs Joint Intervenors

¹⁷ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

to the Commission's July 22, 2021 Order in Case No. 2020-00085¹⁸ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Joint Intervenors' motion to intervene is granted.
2. Joint Intervenors are 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. Joint Intervenors 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. Joint Intervenors shall adhere to the procedural schedule set forth in the Commission's January 5, 2024 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Joint Intervenors 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.

¹⁸ 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


Chairman


Vice Chairman


Commissioner

ENTERED
JAN 29 2024 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

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