

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR AN)	CASE NO.
ADJUSTMENT OF ITS ELECTRIC)	2014-00371
RATES)	

ORDER

On December 15, 2014, Wallace McMullen and the Sierra Club (collectively “Movants”) filed a petition seeking intervention in this proceeding. Movants state that they have extensive experience in the underlying issues regarding rates and rate design. They assert that their intervention will “help to ensure that the approved rate structure reflects important policy objectives such as encouraging customer adoption of measures that reduce overall system costs and avoiding disproportionate impacts on low-income customers.”¹ Movants note that KU’s proposed rate adjustment significantly increases the fixed monthly residential customer charge. Movants argue that this increase could decrease customer incentive to install energy-efficiency measures, distributed generation, participation in demand-side management programs and individual energy conservation efforts.

Movants additionally state that they have been actively involved in cases in other jurisdictions dealing with time-of-use rates and that they will be able to offer expertise regarding rate design and promoting energy efficiency. Movants contend that no other intervenor will adequately represent their interests.

¹ Wallace McMullen and Sierra Club Motion for Intervention at 2.

KU filed an objection to Movants' petition in which it argues that Movants failed to demonstrate a special interest in the proceeding. KU notes that Mr. McMullen is a customer of Louisville Gas and Electric Company ("LG&E") and not KU, and he can therefore not have an interest in this proceeding. Accordingly, KU argues that while the Sierra Club has asserted that it has members who are KU customers and are impacted by KU's rate application, Sierra Club failed to identify those customers on whose behalf the Sierra Club is intervening.

KU argues that even if the Sierra Club were able to identify a member who was a KU customer, the Sierra Club would still not have a special interest in this proceeding, as the Sierra Club's members have the same interest in rates and services as all other individual customers, and those interests are adequately represented by the Attorney General. KU further questions the Sierra Club's claimed interest in advocating on behalf of low-income ratepayers, and states that in any case, such interests are already well represented by the Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc. ("CAC"). Regarding the Sierra Club's interest in advancing any environmental interests, KU states that such goals are outside of the Commission's jurisdiction over rates and services.

Finally, KU asserts that Movants have not demonstrated that they possess any special expertise that would assist the Commission. It states that Movants' expressed expertise appears to apply only to the Sierra Club and not Mr. McMullen, who has not provided any testimony or otherwise participated in previous proceedings in which he has been granted intervention. As to the Sierra Club's expertise, KU asserts that the Sierra Club has failed to demonstrate any special knowledge in ratemaking. KU argues

that the current intervenors, having routinely intervened in past rate cases, possess sufficient experience and expertise to address all of the areas raised by the Sierra Club, such as time-of-use rates.

On January 7, 2015, the Sierra Club tendered a motion to for leave to file a late reply. In support, it states that its counsel was out of the office until January 2, 2015, and did not become aware of KU's objection until that date. The Sierra Club represents that counsel for KU does not object to filing a late reply. The Sierra Club further requests to add Alice Howell and Carl Vogel, both KU customers, to its request for intervention.

Movants submitted a reply disputing KU's assertion that they lack specific expertise regarding rates. In addition to participating in a rate proceeding before this Commission in 2012, Movants state they have participated in multiple recent rate proceedings in other jurisdictions. Movants state that they have retained an expert, Jonathan Wallach with Resource Insight, Inc., to provide expert testimony in this proceeding. Movants note that in KU's most recent application to adjust its rates, issues pertaining to efficiency and conservation were not raised in intervenor testimony. Because their primary focus will be on conservation and efficiency, they argue, their intervention differs from those of current intervenors and will be of assistance to the Commission.

Finally, Movants agree with KU that their initial petition did not identify a member who is a current KU customer. Movants state that Alice Howell and Carl Vogel are Sierra Club members who receive service from KU. They assert that both Ms. Howell and Mr. Vogel have an interest in a rate structure that promotes energy efficiency and

conservation that is not adequately met by any other party, including the Attorney General. Movants contend that public interest groups would rarely be granted intervention if the Attorney General were found to have sufficient expertise on all matters relevant to the group.

The Commission notes that the Attorney General is the only person that has a statutory right to intervene in a proceeding before the Commission and the intervention of any other person is within the discretion of the Commission.² A person other than the Attorney General may be granted leave to intervene in a proceeding before the Commission if that person possesses “a special interest in the case that is not otherwise adequately represented or that his or her 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.”³

As a preliminary matter, the Commission finds that in consideration of KU's acquiesce to the motion to file a late reply, the Sierra Club's motion to file a late reply should be granted. The Commission further finds that the Sierra Club's motion to add Ms. Howell and Mr. Vogel to the motion for intervention should be granted.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that the Sierra Club possesses special knowledge and expertise in multiple areas, including energy efficiency, the institution of time-of-use rates and the impact of the proposed rate design on both energy efficiency and customer participation

² *Inter-County Rural Electric Cooperative Corporation v. Public Service Comm'n of Kentucky*, 407 SW 2d 127, 130 (Ky. 1966).

³ 807 KAR 5:001, Section 4(11)(b).

in demand-side management. Such issues are all within the scope of the Commission's jurisdiction over rates and service.

Accordingly, because the Sierra Club is likely to present issues and develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings, the Commission finds that its request for intervention should be granted. However, as the Sierra Club is not a KU customer, it must act on behalf of a KU customer. The Sierra Club initially named only one member, Mr. McMullen, on whose behalf it was advocating. Mr. McMullen is a resident of Louisville, Kentucky, and is a customer of LG&E rather than of KU. As Mr. McMullen is not a KU customer, he does not have a personal interest in KU's rates or services, and his request to intervene should be denied. However, the Sierra Club has identified and joined two members who are served by KU and have an interest in this action. Therefore, the Sierra Club's motion for intervention on behalf of Ms. Howell and Mr. Vogel should be granted.

IT IS HEREBY ORDERED that:

1. The Motion of the Sierra Club to file a late reply is granted.
2. The Motion of Alice Howell, Carl Vogel, and the Sierra Club to intervene is granted.
3. The Motion of Wallace McMullen to intervene is denied.
4. Alice Howell, Carl Vogel, and the Sierra Club shall be entitled to the full rights of a party and shall be served with the Commission's Orders after the date of this Order.

5. Alice Howell, Carl Vogel, and the Sierra Club shall adhere to the procedural schedule set forth in the Commission's December 12, 2014 Order and as amended by subsequent Orders.

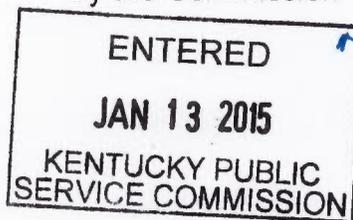
6. Alice Howell, Carl Vogel, and the Sierra Club shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

7. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order Alice Howell, Carl Vogel, and the Sierra Club shall file a written statement, with a copy to parties of record, that:

a. They, or their agent, possesses the facilities to receive electronic transmissions.

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission



ATTEST:

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