

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY AND)	2016-00026
APPROVAL OF ITS 2016 COMPLIANCE PLAN)	
FOR RECOVERY BY ENVIRONMENTAL)	
SURCHARGE)	

ORDER

On March 7, 2016, Stephen L. Phillips submitted a request to intervene in this matter. Mr. Phillips asks in his request to be exempt from the surcharge sought by Kentucky Utilities Company (“KU”) in this proceeding and states that he wants to intervene in his capacity “as a citizen.” On March 1, 2016, KU filed a response objecting to this intervention request.

The only person entitled to intervene as a matter of right is the Attorney General (“AG”), pursuant to KRS 367.150(8)(b). The AG petitioned for full intervenor status in this case, noting in his motion that KRS 367.150(8) “grants him the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent consumers’ interests.”¹ The Commission granted the AG’s petition by Order dated March 1, 2016. Intervention by all others is permissive and is within the sound discretion of the Commission.²

¹ AG’s Motion to Intervene at 1.

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

In considering a motion to intervene, the Commission is cognizant 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 [its] jurisdiction.”³ Pursuant to 807 KAR 5:001, Section 4(11)(a), the person requesting leave to intervene is required to file a request in writing, which “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.”⁴ The Commission’s regulations further provide:

The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has 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.⁵

We find that Mr. Phillips does not articulate a special interest in this proceeding, and has not shown that he is likely to present issues or to develop facts that will assist the Commission in resolving this matter. Mr. Phillips in his request states that he wants to intervene “as a citizen.” To the extent that he is a utility customer of KU, the Commission finds that the AG, pursuant to KRS 367.150(8), will duly represent the interests of all KU customers in this matter. Because the requisites of 807 KAR 5:001, Section 4(11), have not been satisfied, the Commission finds that Mr. Phillips’s request for intervention should be denied.

³ *EnviroPower, LLC v. Public Service Commission*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007) (citing KRS 278.040(2)).

⁴ 807 KAR 5:001, Section 4(11)(a).

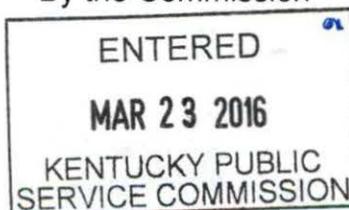
⁵ 807 KAR 5:001, Section 4(11)(b).

Mr. Phillips will have ample opportunity to participate in this proceeding even though he has not been granted intervenor status. Mr. Phillips may submit comments that will be entered into the record of this case and considered by the Commission. Mr. Phillips may also review all filings in the case and monitor the proceedings through the Commission's website at the following web address: https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?Case=16-26. Finally, Mr. Phillips may attend and present public comment at any public meeting and at the public hearing in this case.

With respect to Mr. Phillips's request to be exempt from the proposed increase in KU's environmental surcharge, the Commission notes that KRS 278.160(2) prohibits a utility from charging any person a greater or lesser compensation for service rendered or to be rendered than that prescribed in its filed schedules of rates and conditions of service. The Commission further notes that KRS 278.170(1) prohibits a utility from giving any person an unreasonable preference or advantage as to rates or service. In light of these statutory requirements, the Commission finds that Mr. Phillips's request to be exempt from the proposed environmental surcharge increase should be denied.

IT IS THEREFORE ORDERED that Mr. Phillips's requests to intervene and be exempt from KU's proposed environmental surcharge increase are denied.

By the Commission



ATTEST:


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