

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY	)	
KENTUCKY, INC. FOR 1) AN ADJUSTMENT OF	)	
THE ELECTRIC RATES; 2) APPROVAL OF NEW	)	CASE NO.
TARIFFS; 3) APPROVAL OF ACCOUNTING	)	2019-00271
PRACTICES TO ESTABLISH REGULATORY	)	
ASSETS AND LIABILITIES; AND 4) ALL OTHER	)	
REQUIRED APPROVALS AND RELIEF	)	

ORDER

This matter arises upon the motion of Zeco Systems, Inc. d/b/a Greenlots (Greenlots), filed October 3, 2019, for full intervention. In support of its motion, Greenlots states that it is a corporation organized under the laws of the state of Delaware, and its corporate headquarters is located in Los Angeles, California. According to Greenlots, it is a leading provider of electric vehicle (EV) charging software, equipment, and services to both consumers and utilities. Greenlots also states that it is committed to accelerating transportation electrification in Kentucky and that its networks support a significant percentage of the DC fast-charging infrastructure in North America as well as an increasing percentage of Level 2 infrastructure.

Greenlots states that it has a special interest in the pilot EV program proposed by Duke Energy Kentucky, Inc. (Duke Kentucky). Greenlots asserts that it has a significant interest in the growth of EV charging infrastructure, the role of utilities in scaling the market for EV charging infrastructure, and in regulatory developments that affect this landscape.

Greenlots contends that its interests will be affected by a final determination in this proceeding as it relates to Duke Kentucky's pilot EV program.

Lastly, Greenlots states that it will present issues or develops facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings. Greenlots attention will be focused solely on Duke Kentucky's pilot EV program and will also develop facts related to the broader EV industry. Greenlots notes that it has participated in similar cases before the utility commissions in Oregon, Massachusetts, and the District of Columbia.

#### DISCUSSION

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that the only person with a statutory right to intervene in a proceeding before the Commission is the Attorney General of the Commonwealth of Kentucky (Attorney General).<sup>1</sup> Intervention by all others is permissive and within the sole discretion of the Commission.<sup>2</sup> In the unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, the Kentucky Court of Appeals held that the Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The *EnviroPower* Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions to intervene.<sup>3</sup> 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

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<sup>1</sup> See KRS 367.150(8)(b).

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

<sup>3</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 3(11)(b), requires that a person demonstrate a special interest in the proceedings which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Applying the statutory standard to the instant request for intervention, the Commission finds that Greenlots has failed to demonstrate that it should be granted permissive intervention in the proceeding. The Commission's jurisdiction is limited to regulating the rates charged, and the service provided, by Duke Kentucky to its retail customers. Here, Greenlots has not established that it pays any retail rate to Duke Kentucky or that it receives any retail service from Duke Kentucky. Only retail customers of Duke Kentucky pay its rates and receive its service. Thus, only retail customers of Duke Kentucky have an interest in its rates or its service. For these reasons, Greenlots has failed to show that it should be granted intervention based on a special interest that is not otherwise adequately represented.

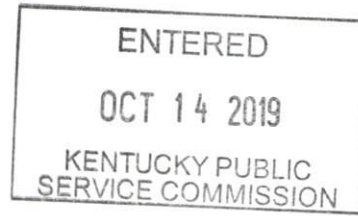
The Commission further finds that Greenlots has failed to show that, if granted intervention, it is likely to present issues or develop facts that would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Rather than an interest in the rates or service of Duke Kentucky as a retail customer, Greenlots' acknowledged interest in this matter relates solely to Duke Kentucky's proposal to implement a pilot EV charging program. Thus, Greenlots' interest is that of a supplier in the EV charging infrastructure market. Such an interest is not sufficient to support intervention under the regulatory standard. In addition, the Attorney

General has requested and been granted intervention on behalf of all ratepayers of Duke Kentucky. The Commission is confident that the Attorney General will be able to present issues and develop facts relating to EV charging infrastructure that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings

Greenlots will have ample opportunity to participate in this proceeding even though it is not granted intervenor status. Greenlots can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address: [https://psc.ky.gov/PSC\\_WebNet/ViewCaseFilings.aspx?case=2019-00271](https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?case=2019-00271). Greenlots may also file comments in this matter as frequently as it chooses, and those comments will be entered into the record of this case. Finally, it may also attend and present public comments at the public hearing to be held in our offices in Frankfort, Kentucky. The date for that hearing will be scheduled in the near future.

IT IS THEREFORE ORDERED that Greenlots' motion for intervention is denied.

By the Commission



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