

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE)	
IMPACT OF MADISON COUNTY FISCAL)	CASE NO.
COURT'S USE OF MADISON COUNTY)	2021-00422
UTILITIES DISTRICT'S SYSTEM FOR ITS FIBER)	
OPTIC CABLE INSTALLATION PROJECT)	

ORDER

This matter arises upon the motion of the Madison County Fiscal Court (Madison Fiscal Court), filed February 14, 2022, for full intervention. As a basis for its motion, Madison Fiscal Court states that Madison County Utilities District (Madison District) is participating in a project to run broadband fiber optic cables through its water lines.¹ Madison Fiscal Court is responsible for the financing of the project and will own the cables.²

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). Intervention by all others is permissive and is within the sole discretion of the Commission.³

¹ Madison Fiscal Court's Motion for Leave to Intervene at 1.

² *Id.*

³ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

The statutory standard for permissive intervention, 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 jurisdiction of the PSC.”⁴

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 sufficiently advised, the Commission finds that Madison Fiscal Court demonstrated that Madison Fiscal Court has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Madison Fiscal Court is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

Madison Fiscal Court has a special interest not otherwise represented by Madison District. Madison Fiscal Court will own the fiber optic broadband cables.⁵ Madison Fiscal Court is financing the project to run the cables in the water lines managed by Madison District.⁶ Without the participation of the Madison District, the project may not move

⁴ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

⁵ Madison Fiscal Court’s Motion for Leave to Intervene at 1.

⁶ *Id.*

forward, and the Madison Fiscal Court is uniquely situated to assist the Commission in understanding the project.

Madison Fiscal Court will be able to provide the financial information for the project. Madison Fiscal Court also will have engineering reports and specifications for the project that Madison District may not have immediate access too. Madison Fiscal Court will be able to provide copies of any agreements, contracts or plans for the project. Madison Fiscal Court and Madison District both have a substantial interest in the project as noted in the opening Order to the case.

Based on the above, the Commission finds that Madison Fiscal Court shall be granted full rights of a party in this proceeding. The Commission directs Madison Fiscal Court to the Commission's July 22, 2021, Order in Case No. 2020-00085⁷ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. The motion of the Madison Fiscal Court to intervene is granted.
2. Madison Fiscal Court shall be 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. Madison Fiscal Court 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.

⁷ 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).

4. Madison Fiscal Court shall adhere to the procedural schedule set forth in the Commission's November 22, 2021 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, Madison Fiscal Court 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. Set forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

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By the Commission

ENTERED
FEB 28 2022 rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Linda C. Bidwell
Executive Director

Case No. 2021-00422

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