

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 Kirksville Water Association (Kirksville Association), filed February 14, 2022, for full intervention. As a basis for its motion, Kirksville Association states that Kirksville Association manages some of the water line designated in the fiber optic broadband network project at issue in this matter.

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.<sup>1</sup>

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.”<sup>2</sup>

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<sup>1</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

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

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 Kirksville Association demonstrated that Kirksville Association has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Kirksville Association 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.

Kirksville Association has a special interest in this proceeding. A report filed by Madison County Utilities District (Madison District), stated that some of the length of the fiber optic wire will run through water lines managed by Kirksville Association.<sup>3</sup> Kirksville Association's level of participation in the planning process is unclear.

Kirksville Association's intervention will allow the Commission to create a clear record as to the obligations of both Kirksville Association and Madison District regarding financial responsibilities and maintenance of the fiber optic wires. Kirksville Association is a smaller utility and may not share the same interests as Madison District in this project.

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<sup>3</sup> Wet Fiber Hydraulic Analysis (filed Feb. 14, 2022) at 1.

Mr. Jud Patterson filed notices of representation for both Madison District and Kirksville Association. The Commission notes that a conflict may arise. The Commission would not look kindly on any further delays by any party, especially considering that this case has already been delayed.

Based on the above, the Commission finds that Kirksville Association should be granted full rights of a party in this proceeding. The Commission directs Kirksville Association to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>4</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. The motion of Kirksville Association to intervene is granted.
2. Kirksville Association 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. Kirksville Association 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. Kirksville Association 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, Kirksville District shall file a written statement with the Commission that:

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<sup>4</sup> 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).

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 should be served.

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By the Commission

ENTERED  
FEB 28 2022  
rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2021-00422

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