

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY TO AMEND)	CASE NO.
TARIFF TO REVISE QUALIFIED)	2023-00030
INFRASTRUCTURE CHARGE)	

ORDER

On March 28, 2023, Gerald Kemper filed a motion requesting to intervene in this proceeding. As a basis for its motion, Mr. Kemper stated that he wanted to represent his interests as well as those of the general public. He also asserted that he wanted to meet with both Kentucky American Water Company (Kentucky-American) and the Commission to discuss the proposed adjustment.

On March 30, 2023, Kentucky-American filed a response to Mr. Kemper's request. Kentucky-American asserted that Mr. Kemper does not satisfy the criteria for intervention as he does not have a special interest nor does he appear to present issues or facts to assist the Commission in fully considering this matter. Kentucky-American cited to two past Kentucky-American cases¹ and one Kentucky Utilities Company case² as examples of the Commission denying intervention when the person does not meet the regulatory requirements. Kentucky-American requested that the Commission deny intervention.

¹ Case No. 2010-00036, *Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC Mar. 19, 2010), Order and (Ky. PSC Aug. 5, 2010), Order and Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC Jan. 4, 2019), Order.

² Case No. 2018-00294, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates* (Ky. PSC Nov. 16, 2018), Order.

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 within the sole discretion of the Commission.³

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001E, Section 4, is twofold. Commission regulation 807 KAR 5:001E, 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.

Commission regulation 807 KAR 5:001E, Section 4(4) states that a person shall not represent another person before the Commission unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Mr. Kemper has failed to demonstrate that he has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Mr. Kemper 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.

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

Mr. Kemper states that he is a customer and wants to intervene in the “interest of myself and the general public.” First, Mr. Kemper cannot represent the interest of other customers unless he is an attorney licensed to practice law in Kentucky and the persons represented have hired him to represent them as an attorney. Although, Mr. Kemper is an attorney, it does not appear that he has been hired to represent any party.

Second, Mr. Kemper did not state his special interest other than as a customer who wants the opportunity to meet with Kentucky-American and the Commissioners to address issues to the proposed Qualified Infrastructure Program (QIP). Mr. Kemper did not articulate a special interest that is not otherwise adequately represented or that he will develop issues and present facts to assist the Commission in this proceeding. Mr. Kemper offered a brief statement setting forth only a generalized interest, which, as the Commission states in Orders establishing a procedural schedule, will not be deemed sufficient to establish a special interest.

Third, Mr. Kemper’s motion is silent as to any issues he will present or facts he will develop, and therefore Mr. Kemper did not demonstrate that he will present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Regarding his request to have an opportunity to meet with Kentucky-American and the Commission, Mr. Kemper will have an opportunity to participate in this proceeding even though he is not granted intervenor status. Mr. Kemper can review all public documents filed in this case and monitor the proceedings via the Commission’s website [View Case Filings for: 2023-00030 \(ky.gov\)](#). In addition, Mr. Kemper may file written comments as frequently as they choose, and those comments will be entered into the

record of this case. Public comments can be filed via the Commission's website at <https://psc.ky.gov/Case/SearchCasesPublicComments>.

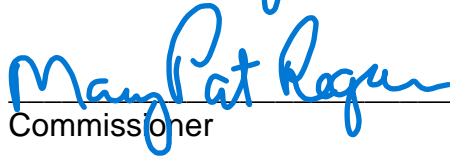
IT IS THEREFORE ORDERED that Mr. Kemper's motion to intervene is denied.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


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