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February 24, 2010

RECEIVED

FEB 24 2010

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: Application of Kentucky Utilities Company for an Adjustment of Base Rates
Case No. 2009-00548

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of Kentucky Utilities Company's Response to the Petition to Intervene of Richard F. Fox in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience.

Yours very truly,

W. Duncan Crosby III

WDC:ec
Enclosures
cc: Parties of Record
Richard F. Fox

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY)
UTILITIES COMPANY FOR AN) CASE NO. 2009-00548
ADJUSTMENT OF BASE RATES)

**RESPONSE OF KENTUCKY UTILITIES COMPANY TO
THE MOTION TO INTERVENE OF RICHARD F. FOX**

Kentucky Utilities Company (“KU”) respectfully requests that the Commission deny the Motion to Intervene of Richard F. Fox in this proceeding. Mr. Fox has not shown that he has a special interest in this proceeding that another party, such as the Attorney General, will not adequately represent, nor has he shown that he will present issues or develop facts that will help the Commission fully consider KU’s Application; in other words, Mr. Fox presents no grounds for intervention under 807 KAR 5:001 § 3(8)(b). KU therefore respectfully requests that the Commission deny Mr. Fox’s Motion to Intervene in this proceeding.

The Commission has consistently held that a person’s status as a customer is not a special interest meriting intervention.¹ Moreover, the Commission has repeatedly held that where, as

¹ *In the Matter of Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00198, Order (Aug. 28, 2009) (denying intervention to customer Tammy Stewart on ground she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *In the Matter of: Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2009-00174, Order (June 26, 2009) (denying Rep. Jim Stewart’s Motion to Intervene because he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision); *In the Matter of Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, Order at 3 (Dec. 5, 2008) (“The interest raised by Mr. Watson relates to the proposed amount of increase in residential rates and the proposed late-payment fee. Both of these issues are of interest to every residential ratepayer, and Mr. Watson has not shown that his interest in either of these issues is indistinguishable from the interest of every other residential ratepayer. In addition, the Commission has already granted intervention to the AG, who has a statutory right to participate ‘on behalf of consumer interests.’”); *In the Matter of: Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program*, Case No. 2007-00337, Order at 6 (Sept. 14, 2007) (“[H]old[ing] a particular position on issues pending in ... [a] case does not create the requisite ‘special interest’ to justify full intervention under 807 KAR 5:001, Section 3(8)(b).”).

here, the Attorney General has intervened in a proceeding,² he represents the interests of a utility's customers: "The interests of ratepayers are represented, as a matter of law, by the Attorney General. *See* KRS 367.150(8)(a)."³ Mr. Fox's motion states no special interest that the Attorney General cannot or will not adequately represent in this proceeding. For these reasons, KU respectfully submits that Mr. Fox cannot receive intervener status in this proceeding under the first prong of 807 KAR 5:001 § 3(8)(b).

Concerning the second prong of 807 KAR 5:001 § 3(8)(b), Mr. Fox's motion does not claim that he possesses any sort of training or expertise that would assist the Commission in rendering a decision; therefore, he cannot be granted intervention on that basis.

To the extent Mr. Fox, as a customer of KU, desires to express his beliefs and opinions concerning KU's application for a change in base rates, he may do so by either submitting his public comments in writing to the Commission or appearing at the public portion of the hearing in this case and expressing his views in person. He will, therefore, have a complete opportunity to express his views and ideas in this proceeding.

WHEREFORE, because Mr. Fox has not presented any ground upon which the Commission can grant him intervention, KU respectfully requests that the Commission deny his Motion to Intervene.

² Although the Commission has not issued an order granting intervention to the Attorney General, he petitioned to intervene on February 10, 2010, which petition the Commission must grant under KRS 367.150(8).

³ *In the Matter of: An Investigation Into East Kentucky Power Cooperative, Inc.'s Continued Need for Certificated Generation*, Case No. 2006-00564, Order at 4-5 (April 19, 2007). *See also* KRS 367.150(8)(b).

Dated: February 24, 2010

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following persons on the 24th day of February, 2010, United States mail, postage prepaid:

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