

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY )  
UTILITIES COMPANY FOR AN ADJUSTMENT OF ) CASE NO.  
ITS ELECTRIC RATES AND FOR CERTIFICATES ) 2016-00370  
OF PUBLIC CONVENIENCE AND NECESSITY )

ORDER

This matter is before the Commission upon a request to intervene set forth in a letter tendered on behalf of the Greater Muhlenberg Parks & Recreation System ("Muhlenberg Parks"). On December 6, 2016, the Executive Director of Muhlenberg Parks, Tommy Barton, tendered a letter requesting to intervene in the instant proceeding. As a basis for its request, Muhlenberg Parks, a customer of Kentucky Utilities Company ("KU"), states that it runs a municipal athletic complex that benefits the community's economic development through revenue produced from hosting baseball and softball tournaments. Muhlenberg Parks further states that its electric bill increased substantially when KU changed Muhlenberg Parks' customer classification from General Rate to Power Service Rate in May 2015. Muhlenberg Parks contends that it may have to close the facility as a result of the increased electric bill.

On December 12, 2016, KU filed a response objecting to Muhlenberg Parks' request to intervene. First, KU argues that the request to intervene should be rejected because it was not signed by an attorney, as is required by Commission regulations. Second, KU asserts that the request does not meet the regulatory requirements for

intervention and should be denied because: 1) Muhlenberg Parks does not demonstrate a special interest in the proceeding as required by 807 KAR 5:001, Section 4(11)(b), because its interests are adequately represented by the Attorney General; and 2) Muhlenberg Parks fails to identify relevant issues or facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding as required by 807 KAR 5:001, Section 4(11)(a)(1).

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Muhlenberg Parks' request to intervene was not signed by an attorney and therefore should be rejected for filing for failing to comply with Kentucky law. On information and belief, Mr. Barton is not an attorney licensed to practice law in Kentucky. No person may engage in the practice of law in Kentucky without first obtaining a license to practice.

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.<sup>1</sup>

As Kentucky's highest court held in *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967), the practice of law includes the representation of an entity before a state administrative agency.

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.<sup>2</sup>

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<sup>1</sup> Kentucky Supreme Court Rule 3.020.

<sup>2</sup> Administrative Case No. 249, *Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2.

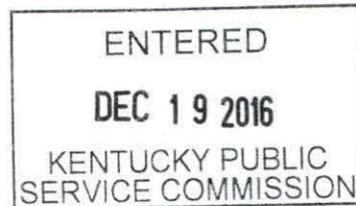
Commission regulations incorporate, at least in part, these sentiments. 807 KAR 5:001, Section 4(4), states in part: "A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2)."

The Commission established a procedural schedule in this proceeding on December 12, 2016, which was after Muhlenberg Parks tendered its request to intervene. Pursuant to the procedural schedule, all requests for intervention shall be filed by December 22, 2016. Any motion to intervene filed after December 22, 2016, must show a basis for intervention and good cause for being untimely. If the untimely motion is granted the movant must accept and abide by the existing procedural schedule. Thus, the Commission finds that Muhlenberg Parks may refile by December 22, 2016, its motion to intervene signed by an attorney licensed to practice law in Kentucky. Further, KU's objections on the grounds that the motion to intervene fails to satisfy the requirements of 807 KAR 5:001, Section 4(11) should be held in abeyance until such time as the motion to intervene is properly filed. In refiling its motion, Muhlenberg Parks should respond to KU's objections as to compliance with 807 KAR 5:001, Section 4(11). If the motion to intervene is tendered after December 22, 2016, it should also include an explanation sufficient for the Commission to find good cause for the untimely filing. Finally, the Commission finds that the letter tendered by Mr. Barton on behalf of Muhlenberg Parks should be considered as public comment in this proceeding.

IT IS THEREFORE ORDERED that:

1. Muhlenberg Parks' request to intervene is rejected for filing.
2. The tendered letter requesting to intervene shall be considered as public comment.
3. Muhlenberg Parks may file by December 22, 2016, a timely motion to intervene signed by an attorney licensed to practice law in Kentucky and containing a response to KU's objections as to compliance with 807 KAR 5:001, Section 4(11). Any motion to intervene filed after that date shall also include good cause for the untimely motion.

By the Commission



ATTEST:

  
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