

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
UTILITIES COMPANY FOR AN ADJUSTMENT OF	)	
ITS ELECTRIC RATES, A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO	)	CASE NO.
DEPLOY ADVANCED METERING	)	2020-00349
INFRASTRUCTURE, APPROVAL OF CERTAIN	)	
REGULATORY AND ACCOUNTING	)	
TREATMENTS, AND ESTABLISHMENT OF A	)	
ONE-YEAR SURCREDIT	)	

ORDER

The matter is before the Commission upon the motion of ChargePoint, Inc. (ChargePoint) requesting full intervention in this matter. ChargePoint states that it seeks full intervention in order to fully present its direct and substantial interests in the instant matter for the Commission to consider. However, ChargePoint also recognizes that its intervention may be denied and states that it has filed this request “primarily out of an abundance of procedural caution so as to preserve its right to comment and participate as a non-party in the proceeding under the Commission’s rules.”<sup>1</sup> Specifically, ChargePoint states that because the language of 807 KAR 5:001, Section 4(11)(e), might suggest that a request to intervene is a precondition to having an ongoing right to comment as a nonparty, it has filed the instant motion primarily to preserve its right and to notify the Commission of its intent to comment and participate, at the very least, as a nonparty.

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<sup>1</sup> ChargePoint’s Motion to Intervene at 1–2 (noting that its intervention request in Case No. 2019-00271 involving Duke Energy Kentucky, Inc.’s rate application was denied).

In support of its motion, ChargePoint states that it is a corporation organized under the laws of the state of Delaware, and its corporate headquarters is located in Campbell, California. ChargePoint also states that it operates more than 120,000 charging stations around the world, including more than 200 public charging ports in Kentucky. ChargePoint further states that it currently sells electric vehicle (EV) charging equipment and services to customers in Kentucky. ChargePoint asserts that it has substantial and specific economic interests in the sustainable and scalable growth of EV charging infrastructure within Kentucky and the utility infrastructure supporting it.

Kentucky Utilities Company (KU) filed a response, opposing ChargePoint's request to intervene in this matter. KU contends that ChargePoint's request does not demonstrate a direct interest, much less a special interest, in the proceeding because ChargePoint is not a retail customer of KU and therefore does not have an interest in KU's rates and service. KU further contends that the request fails to show that ChargePoint will identify any issues or develop facts that will assist the Commission in the resolution of this matter without unduly complicating and disrupting the proceeding.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky (Attorney General), pursuant to KRS 367.150(8)(b). The Commission notes that the Attorney General has been granted intervention in this matter. Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>2</sup> The Kentucky Court of

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

Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.<sup>3</sup> The statutory limitation, 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>4</sup>

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which 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.

In reviewing the pending motion to intervene, we find that ChargePoint has failed to demonstrate that it should be granted permissive intervention in the proceeding. The Commission's jurisdiction is limited to regulating the rates charged, and the service provided, by KU to its retail customers. Here, ChargePoint has not established that it pays any retail rate to KU or that it receives any retail service from KU. Thus, ChargePoint has not established any direct interest in KU's retail rates or service, much less one that is not otherwise adequately represented. Because only retail customers of KU have an interest in its rates or service, ChargePoint failed to establish that it should be permitted to intervene based on a special interest that is not otherwise adequately represented.

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

<sup>4</sup> *Id.* at 3.

Lastly, the Commission finds that ChargePoint has failed to show that, if granted intervention, it is likely to present issues or develop facts that would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Based upon a review of its motion, the Commission finds that ChargePoint's interest is to promote the EV charging infrastructure market and in doing so may be a potential competitor of KU or a potential vendor seeking increased sales. Such an interest is not sufficient to support intervention under the regulatory standard.

ChargePoint will have an opportunity to participate in this proceeding even though they are not granted intervenor status. ChargePoint can review all public documents filed in this case and monitor the proceedings via the Commission's website at the following web address: [https://psc.ky.gov/PSC\\_WebNet/ViewCaseFilings.aspx?case=2020-00349](https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?case=2020-00349). In addition, ChargePoint may file comments as frequently as it chooses, and those comments will be entered into the record of this case. The Commission will take this opportunity to clarify that a request for intervention is not a precondition for the acceptance of comments by a nonparty in any proceeding before the Commission.

IT IS THEREFORE ORDERED that the motion to intervene filed by ChargePoint is denied.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Andwell". The signature is written in a cursive style.

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