

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
AMERICAN ELECTRIC POWER COMPANY, INC.,)	
KENTUCKY POWER COMPANY AND LIBERTY)	CASE NO.
UTILITIES CO. FOR APPROVAL OF THE)	2021-00481
TRANSFER OF OWNERSHIP AND CONTROL OF)	
KENTUCKY POWER COMPANY)	

ORDER

This matter arises upon the motion of the Kentucky Industrial Utilities Customers, Inc. (KIUC), filed January 5, 2022, for full intervention.

As a basis for its motion, KIUC asserted that it had a special interest not otherwise adequately represented. KIUC explained that some of its members are served by Kentucky Power Company (Kentucky Power), and thus have a special interest in Kentucky Power's rates and service. KIUC is representing its member, Catlettsburg Refining, LLC (Catlettsburg). KIUC stated that Catlettsburg represents 20 percent of Kentucky Power's retail energy sales. KIUC explained that its interest relates exclusively to large industrial customers, who take service on a different rate schedule than residential customers. The Attorney General has the statutory duty to represent the interests of consumers, which relates primarily to residential customers. Thus, according to KIUC, the Attorney General could not adequately represent KIUC's interests.

KIUC also asserted that it can present issues and develop facts related to electric rate and service that will assist the Commission in rendering a decision without unduly complicating or disrupting the proceedings. KIUC pointed to its long history of being an active participant in matters before the Commission. KIUC avowed that it will actively

participate in this proceeding by conducting discover, filing expert testimony, and cross examination at a formal hearing.

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 (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.¹

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.”²

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 KIUC demonstrated that KIUC has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented. KIUC represents large industrial customers, including one customer that

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

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

represents one-fifth of Kentucky Power's retail energy sales, and thus have an interest in Kentucky Power's rates and service. Industrial customers take service on different rate schedules; to date, no other party represents the same interests.

The Commission further finds that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without undue complication the proceedings, for the reasons discussed below. The Commission notes KIUC's history of being an active participant in proceedings, and presenting issues and developing facts that have assisted the Commission in considering matters before it. KIUC has been a party to recent and pending proceedings involving Kentucky Power that are impacted by this proceeding. Finally, based on KIUC's past participation, the Commission expects that KIUC will be an active participant in this matter through discovery, filing expert testimony, and cross examination at a formal hearing.

Based on the above, the Commission finds that KIUC should be granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. The motion of KIUC to intervene is granted.
2. KIUC 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. KIUC 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.

³ 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).

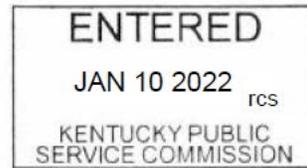
4. KIUC shall adhere to the procedural schedule set forth in the Commission's January 6, 2022 Order and as amended by subsequent Orders.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KIUC shall file a written statement with the Commission that:

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.

By the Commission



ATTEST:


Executive Director

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Brian West
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*John G Horne, II
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Christen M Blend
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Dmitry Balashov
,

*Kenneth Tillotson
,

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Hector Garcia
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Peter Eichler
,

*John C. Crespo
,

*Kentucky Power Company
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Sarah Knowlton
,

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Tanner Wolfram
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216