

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 Sierra Club, filed January 7, 2022, for full intervention in this proceeding. The subject of this matter is Liberty Utilities Co.'s (Liberty) proposed acquisition of Kentucky Power Company (Kentucky Power), a jurisdictional electric utility subject to the Commission's jurisdiction under KRS Chapter 278.

As a basis for its motion, Sierra Club states that it is representing its member, Amelia "Mimi" Pickering's, interests in this proceeding. Sierra Club asserted that it had a special interest not otherwise represented in cost-effective, clean energy solutions that can lower rates, protect public health, promote sustainable economic growth, and mitigate climate change, which Sierra Club states is at issue due to Liberty's claim that mitigating climate change is a top priority. Sierra Club further asserted that can present issues and develop facts that assist the Commission in considering this matter because Sierra Club is knowledgeable about resource planning, capital investments, rate designs, utility structuring, the impact on local economic growth, and sustainable energy sources. Sierra Club maintained that, in previous proceedings, it provided testimony and arguments, and

developed case records that assisted the Commission in considering matters. Sierra Club stated that it would be an active participant through discovery, hearing examination, and briefing if its motion was granted.

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 To date, the Attorney General and Kentucky Industrial Utility Customers, Inc. (KIUC) are the only parties whose motions to intervene have been granted.

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.

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).

The legal standards that must be satisfied in order for the Commission to approve an acquisition are set forth in KRS 278.020(6) and (7). KRS 278.020(6) requires an acquiring entity to demonstrate that it has the financial, managerial, and technical ability to provide reasonable service. KRS 278.020(7) requires that the applicant demonstrate that the acquisition is made in accordance with law, for a proper purpose, and is consistent with public interest.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Sierra Club demonstrated that Sierra Club is likely to present issues or develop facts to that will assist the Commission in considering whether Liberty, Kentucky Power, and American Electric Power Company, Inc. (AEP) (collectively, Joint Applicants) satisfied the legal standards required for approval of the application without undue complication the proceedings. Sierra Club's stated intention of presenting issues and developing facts regarding resource planning, capital investments, utility structuring, and sustainable energy sources will assist the Commission in considering whether there is substantial evidence of record that Liberty has the managerial, and technical ability to provide reasonable service to customers.

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

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).

IT IS HEREBY ORDERED that:

1. The motion of Sierra Club to intervene is granted.
2. Sierra Club 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. Sierra Club 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.
4. Sierra Club 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, Sierra Club 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

ENTERED
JAN 14 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00481

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