

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE FUEL)	
ADJUSTMENT CLAUSE REGULATION 807 KAR)	CASE NO.
5:056, PURCHASED POWER COSTS, AND)	2022-00190
RELATED COST RECOVERY MECHANISMS)	

ORDER

This matter arises upon the motion¹ of Kentuckians for the Commonwealth (KFTC), Mountain Association (MA), Metropolitan Housing Coalition (MHC) and Earth Tools, Inc. (ETI), (collectively, Joint Movants), filed November 17, 2022, for full intervention.

As a basis for the joint motion, Joint Movants stated that they will present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. Joint Movants further stated that existing parties to the proceeding do not adequately represent Joint Movants' respective interests. Joint Movants also stated that they will speak with one voice with coordinated participants. In support of their statement that they will present issues and develop facts to assist the commission in considering the matter, without complication or disrupting the proceedings.

¹ Joint Motion of Kentuckians for The Commonwealth, Mountain Association, Metropolitan Housing Coalition, and Earth Tools, Inc. for Full Intervention of Joint Intervenors (filed Nov. 17, 2022) (Joint Motion).

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, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). The Attorney General has been granted intervention in this case proceeding. Intervention by all others is permissive and is within the sole discretion of the Commission.²

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001E, Section 4, is twofold. Commission regulation 807 KAR 5:001E, 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 Joint Movants have demonstrated that they have a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Joint Movants are likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

KFTC is a nonprofit organization that advocates for a broad range of economic and energy issues. KFTC is a 41-year-old, multi-issue grassroots organization of

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

Kentuckians whose members organize for a fair economy, a healthy environment, new safe energy, and an honest democracy. KFTC asserts that its members include numerous individuals across the Commonwealth who take service from utilities regulated by the Commission and who have been made parties to this case. As such, those individuals are directly impacted financially by application of the Fuel Adjustment Clause (FAC) and have a direct interest in the exploration of measures that could be adopted to ameliorate the dramatic and volatile negative impact of the FAC on their utility costs. KFTC asserts it is uniquely positioned to be a voice for the needs and interests of residential ratepayers of those utilities who are also KFTC members whose interests are not otherwise represented.

MA works with people and small businesses in eastern Kentucky and Central Appalachia to create economic opportunity, strengthen democracy, and support the sustainable use of natural resources. MA states that its energy programs work to strengthen the region's residents, small businesses, local governments, communities, and non-profits by helping to reduce energy costs and consumption, increase energy security, and build resilience in the face of climate change. MA states that it has worked with customers of Commission-regulated utilities over the last 15 years providing financing to access investments in energy efficiency and renewable energy, resulting in reduced operating expenses. MA asserts that it has a special interest not otherwise represented because the FAC has a profound effect on its customers and that over the last year, the FAC has resulted in a 19 percent increase in electricity rates to the areas it serves. MA's argues that its familiarity with the needs of residential and commercial

customers and impacts of the FAC would assist in the exploration of the FAC and reforms that could be considered to address those impacts and needs.

MHC is a nonprofit, nonpartisan membership organization of over 300 individual and organizational members. MHC members include representatives of low-income households, private and non-profit housing developers, service providers, financial institutions, labor unions, faith-based and neighborhood groups, as well as other advocacy groups, advocating in a united voice for fair, accessible, and affordable housing in the Metro Louisville area. MHC claims that as part of its mission it has focused on electric and gas utility costs as part of fair and affordable housing. MHC also claims that it brings a perspective on the impact of decisions regarding resource planning for electric service and the particular and disproportionate impacts that utility costs have on access to affordable housing for fixed- and low-income individuals and families.

ETI is a small business that sells and services agricultural equipment to small farmers throughout Kentucky and the United States. In addition, since 2014 ETI has provided solar energy system consulting and project development services to customers in Central Kentucky through its Sustainable Systems and Apogee programs. ETI is a business with a commitment to environmental sustainability and has supplied most of its net electricity needs since 2011 with on-site net-metered solar PV systems. ETI has a public service program, called Apogee, the mission of which is to advance the transition to 100% clean renewable energy and solutions to the climate crisis through technical assistance, education, policy research, and advocacy. ETI argues that Apogee's clients and partners include families, farmers, small businesses, and non-profit organizations who seek to reduce their energy use, costs, and environmental impacts, and to employ

renewable energy and energy efficient technologies. The methods by which the FAC are implemented have a direct impact upon Apogee's clients and partners, providing ETI with a special interest not otherwise represented.

As stated in the motion to intervene the Joint intervenors have members that represent a wide variety of Kentucky ratepayers. The Joint Movants also represent a wide knowledge base that deal specifically with the matter at hand and have in depth experience with the FAC. Thus, the Joint Movants meet the second prong of the test under 807 KAR 5:001E, Section 4(11)(b) and are likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

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

In light of Joint Movants' statement that they will speak as one party, the Commission finds that each of the Joint Movants shall file a separate copy of all documents that evidence their individual agreement regarding their joint participation in this matter, whether the agreement is executed by email in a written agreement.

IT IS HEREBY ORDERED that:

1. Joint Movants' motion to intervene is granted.

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).

2. Joint Movants are 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. Joint Movants shall comply with all provisions of the Commission's regulations, 807 KAR 5:001E, Section 8, related to the service and electronic filing of documents.

4. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of service of this Order, Joint Movants 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 shall be served.

5. Each of the Joint Movants shall file a separate copy with the Commission of their individual agreement regarding their joint participation in this matter within ten days of entering into the agreement.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
JUN 13 2023
rcs
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