

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF KENTUCKY POWER COMPANY)	2022-00263
FROM NOVEMBER 1, 2021 THROUGH APRIL 30,)	
2022)	

ORDER

Kentucky Industrial Utility Customers, Inc. (KIUC), filed a motion for full intervention on September 16, 2022, and filed a motion to amend the procedural schedule on September 20, 2022. As a basis for its motion to intervene, KIUC stated that it has a special interest in this matter, acting on behalf of Catlettsburg Refining LLC—a member of KIUC and a customer of Kentucky Power Company (Kentucky Power)—who will be affected by Kentucky Power’s Fuel Adjustment Clause (FAC) rates. KIUC argued that this special interest cannot be adequately represented by any existing party. KIUC stated that the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), is statutorily charged with representing the interests of “consumers” pursuant to KRS 367.150(8), and that duty relates primarily to residential customers. KIUC further stated that its interest is exclusively related to large industrial customers, who take service on different rate schedules than residential customers. As a basis for the motion to amend the procedural schedule, KIUC stated that it intends to submit testimony.

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the 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 it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that it is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings. KIUC has a special interest in this case as they represent large industrial customers, including Catlettsburg Refining LLC, in Kentucky Power's service territory and will have

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

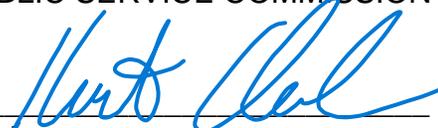
² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

their electric costs directly impacted by the Commission's review of Kentucky Power's FAC rates. KIUC could also provide additional questions for discovery purposes and could assist in the development of the case record. The Commission also finds that in order to allow intervenors to file testimony and be subject to discovery requests, the September 13, 2022 procedural schedule shall be amended, and the procedural schedule attached as an Appendix to this Order is adopted.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.
2. KIUC is 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.
4. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service 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 shall be served.
5. The procedural schedule attached as an Appendix to the Commission's September 13, 2022 Order is amended, and the procedural schedule as set forth in the Appendix to this Order shall be followed.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ENTERED
SEP 30 2022
rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00263 DATED SEP 30 2022

Last day for intervention requests to be accepted.....	09/30/2022
Kentucky Power shall file responses to initial requests for information no later than.....	09/30/2022
All supplemental requests for information to Kentucky Power shall be filed no later than	10/14/2022
Kentucky Power shall file responses to supplemental requests for information no later than	10/28/2022
All additional supplemental requests for information to Kentucky Power shall be filed no later than	11/14/2022
Kentucky Power shall file responses to additional supplemental requests for information no later than	11/28/2022
Intervenor testimony, if any, in verified prepared form shall be filed no later than.....	12/05/2022
All requests for information to Intervenors shall be filed no later than.....	12/19/2022
Intervenors shall file responses to requests for information no later than.....	01/06/2023
Kentucky Power shall file, in verified form, its rebuttal testimony no later than.....	01/13/2023
Last day for Parties to request a Public Hearing or submit a request for the matter be decided based upon the written record	01/18/2023

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