

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY)	
UTILITIES COMPANY FOR APPROVAL OF AN)	CASE NO.
ECONOMIC DEVELOPMENT RIDER SPECIAL)	2022-00371
CONTRACT WITH BITIKI-KY, LLC)	

ORDER

This matter arises upon the joint motion of Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Mountain Association , and the Kentucky Resources Council (collectively, Joint Movants), filed November 10, 2022, for full intervention. As a basis for its motion, Joint Movants stated that their interest is different than the existing parties and that they are likely to develop facts that will assist the Commission in considering the matter, without complication or disrupting the proceedings.¹

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). 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 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a

¹ Motion to Intervene (filed November 10, 2022).

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

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.

JOINT MOVANTS' MOTION TO INTERVENE

In their motion, Joint Movants asserted that they will present issues or develop facts regarding the marginal cost analysis filed by Kentucky Utilities Company (KU) in support of the special contract, the possibility of ratepayers bearing the burden of additional costs arising from the collateral and security terms of the proposed special contract, and the demand level for the economic development discount. Joint Movants also asserted that they have a special interest in the proceeding that is not adequately represented by other parties.

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 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.

As discussed above, Joint Movants have identified with specificity the issues they will present and facts they will develop that align with issues and facts that the Commission must evaluate in reaching a determination in this issue. As discussed in their motion, Joint Movants were parties who actively participated in KU's 2021 integrated

resource plan (IRP) proceeding in which similar issues were raised by Joint Movants.³ For these reasons, the Commission finds that Joint Movants 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, and therefore Joint Movants' motion to intervene should be granted.

Because 807 KAR 5:001, Section 4, requires a party to meet only one of the two prongs to satisfy the legal standard to grant permissive intervention, the Commission finds that it is not necessary to address the "special interest" standard to grant Joint Movants' motion to intervene.

Based on the above, the Commission finds that Joint Movants should be granted full rights of a party in this proceeding. The Commission directs the Joint Movants to the Commission's July 22, 2021 Order in Case No. 2020-00085⁴ regarding filings with the Commission.

The Commission finds that each of the Joint Movants should 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 or in a written agreement.

IT IS HEREBY ORDERED that:

1. Joint Movants' motion to intervene is granted.

³ Case No. 2021-00393, *Electronic 2021 Joint Integrated Resources Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (filed Oct. 25, 2021).

⁴ 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 5:001, Section 8, related to the service and electronic filing of documents.

4. Joint Movants shall adhere to the procedural schedule set forth in the Commission's November 4, 2022 Order and as amended by subsequent Orders.

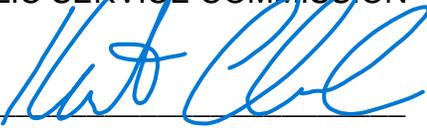
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Joint Movants shall file a written statement with the Commission that:

a. Certifies that they, or their agent, possess 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.

6. 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



ATTEST:


Executive Director

Case No. 2022-00371

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