

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)
KENTUCKY, INC. FOR (1) AN ADJUSTMENT OF)
ELECTRIC RATES; (2) APPROVAL OF NEW)
TARIFFS; (3) APPROVAL OF ACCOUNTING)
PRACTICES TO ESTABLISH REGULATORY)
ASSETS AND LIABILITIES; AND (4) ALL OTHER)
REQUIRED APPROVALS AND RELIEF)

CASE NO.
2022-00372

ORDER

This matter arises upon the petition of Sierra Club, filed December 21, 2022, for full intervention. As a basis for its petition, Sierra Club stated that it satisfies both prongs of 807 KAR 5:001E, Section 4(11), although only one prong is required. Sierra Club stated that Duke Energy Kentucky, Inc.'s (Duke Kentucky) application implicates several areas of Sierra Club's expertise, including whether accelerated depreciation for an uneconomic coal asset is appropriate; the propriety of the Duke Kentucky's proposed electric vehicle tariff; and the propriety of the Duke Kentucky's proposed new pilot renewable energy program. Sierra Club has participated in other cases before other Commissions addressing similar issues including providing testimony and briefing and as a result, can assist the Commission in identifying and clarifying key issues related to these issues.

Sierra Club argued that even if the Commission does not believe Sierra Club can assist the Commission in fully considering the issues before it without unduly complicating the proceedings, Sierra Club has a special interest in the matter, not otherwise

represented, allowing for intervention. The petition alleged that Sierra Club members have a greater interest in renewable energies and items such as Duke Kentucky's proposed EV tariff. Sierra Club notes that no other party represents similar interests in this matter.

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 was granted intervention in this matter by Order entered on December 13, 2022. Intervention by all others is permissive and is within the sole discretion of the Commission.¹

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 petition 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 Sierra Club has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise

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

adequately represented or that Sierra Club 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 finds that Sierra Club, representing its members in Kentucky, has a special interest in this proceeding as set out in 807 KAR 5:001E, Section 4(11). As noted in the petition, Sierra Club's members have an interest in renewable energy programs and in retirement of "uneconomic generation assets" in an appropriate manner. These interests are related to Duke Kentucky's proposed rates and tariffs. No other party to this case has similar interests as represented by Sierra Club.

The Commission finds that Sierra Club will assist the Commission in developing facts in this matter without unduly complicating the proceedings as set out in 807 KAR 5:001E, Section 4(11). Although not a determinative factor,² the petition noted that the Sierra Club has extensive prior experience in cases before this Commission and others like it. Specifically, the Sierra Club noted that Duke Kentucky's rate application features several issues that implicate Sierra Club's expertise, including whether accelerated depreciation for an uneconomic coal asset is appropriate; the propriety of the Company's proposed electric vehicle tariff; and the propriety of the Company's proposed new pilot renewable energy program. The Commission notes that Sierra Club also agreed to follow all Commission Orders in this matter, including procedural schedule.

² Case No. 2018-00348 *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Oct. 10, 2020).

Based on the above, the Commission finds that Sierra Club is 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.

IT IS HEREBY ORDERED that:

1. Sierra Club's motion to intervene is granted.
2. Sierra Club 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. Sierra Club 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. Sierra Club shall adhere to the procedural schedule set forth in the Commission's December 19, 2022 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of service 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 shall be served.

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).

PUBLIC SERVICE COMMISSION

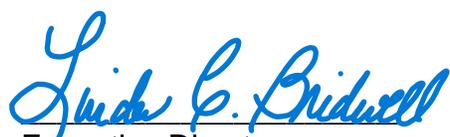

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