

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)	CASE NO.
TARIFFS; (3) APPROVAL OF ACCOUNTING)	2022-00372
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (4) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

This matter arises upon the motion of The Kroger Co. (Kroger), filed January 3, 2023, for full intervention. As a basis for its motion, Kroger stated that it has a special interest as a large commercial customer of Duke Energy Kentucky, Inc. (Duke Kentucky) in this proceeding. Kroger also stated that its expansive history in participating in similar regulatory proceedings will allow it to assist the Commission in developing facts without unduly complicating the proceeding.

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.¹

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

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 Kroger has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Kroger is 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.

The Commission finds that Kroger has a special interest related to large, multi-site Service at Distribution Voltage (DS) and Time-of-Day Rate for Service at Distribution Voltage (DT) customers rate schedules.² According to the motion, Kroger's facilities are also distinguished by the fact that they are largely high-load factor facilities that use the Duke Kentucky's system's capacity resources in a relatively efficient manner.³ Kroger also has a special interest in ensuring that Duke Kentucky's rates properly recover demand-related costs through demand charges.⁴

² Kroger's Motion to Intervene (filed on Jan. 3, 2023) at 2.

³ Kroger's Motion to Intervene at 2.

⁴ Kroger's Motion to Intervene at 2.

The Commission finds Kroger will assist in presenting issues or developing facts without unduly complicating the proceedings. Kroger has extensive experience in regulatory proceedings.⁵ According to the motion, Kroger intends to assist in developing facts related to customer charge and issues related to large energy usage customers.⁶

Based on the above, the Commission finds that Kroger is granted full rights of a party in this proceeding. The Commission directs Kroger to the Commission's July 22, 2021 Order in Case No. 2020-00085⁷ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Kroger's motion to intervene is granted.
2. Kroger 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. Kroger 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. Kroger 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, Kroger shall file a written statement with the Commission that:

⁵ Kroger's Motion to Intervene at 3.

⁶ Kroger's Motion to Intervene at 2-3.

⁷ 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).

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.

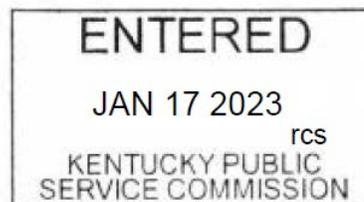
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PUBLIC SERVICE COMMISSION

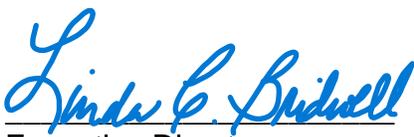

Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

Case No. 2022-00372

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Joshua Smith
Sierra Club
2101
Webster St. , Suite 1300
Oakland, CALIFORNIA 94612

*Rocco O D'Ascenzo
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Debbie Gates
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Sarah Lawler
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Elizabeth Brama
Taft Stettinius & Hollister LLP
1717 Dixie Highway, Suite 340
Covington, KENTUCKY 41011-4707

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Larisa Vaysman
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Valerie T. Herring
Attorney
Taft Stettinius & Hollister LLP
2200 IDS Center
80 South 8th Street
Minneapolis, MINNESOTA 55402-215

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Joe F. Childers
Childers & Baxter PLLC
300 Lexington Building, 201 West Sho
Lexington, KENTUCKY 40507

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*John G Horne, II
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Minna Sunderman
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201