

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 Walmart Inc. (Walmart), filed January 3, 2023, for full intervention. As a basis for its motion, Walmart stated that it has a unique, special interest that cannot be adequately represented by another party.¹ Walmart also stated that it would present issues and develop facts that will assist the Commission.²

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.³

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

¹ Walmart's Motion to Intervene (filed on Jan. 3, 2023) at 2-3.

² Walmart's Motion to Intervene at 3.

³ *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.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Walmart 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 Walmart 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 Walmart has a special interest in this proceeding. The retailer has five facilities, independently spread throughout the service area of Duke Energy Kentucky, Inc. (Duke Kentucky).⁴ According to Walmart, it purchased more than 17.6 million kWh of electricity in 2021 from Duke Kentucky.⁵ The business is classified for billing purposes principally under the Time-of-Day Rate for Service at Distribution Voltage (DT) and Service at Distribution Voltage (DS) Rate Schedules.⁶ Walmart also stated that it is attempting to move toward the use of all renewable energies by 2035 and

⁴ Walmart's Motion to Intervene at 2, 3.

⁵ Walmart's Motion to Intervene at 2.

⁶ Walmart's Motion to Intervene at 2.

as such, it has a special interest in the renewable energy initiatives in Duke Kentucky's application.⁷ All of these factors support Walmart's special interest in this case.

The Commission finds that, although only one prong of 807 KAR 5:001E, Section 4(11) must be met to be granted intervention, Walmart will assist the Commission by presenting issues or developing facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Walmart specifically pointed to its involvement in Duke Energy's rate case in Florida which included the proposed Clean Energy Connection.⁸ Although prior intervention is not determinative in this matter, Walmart also cited to its prior Commission case involvement as well as its ability to provide testimony with a different perspective.⁹

Based on the above, the Commission finds that Walmart is granted full rights of a party in this proceeding. The Commission directs Walmart to the Commission's July 22, 2021 Order in Case No. 2020-00085¹⁰ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Walmart's motion to intervene is granted.
2. Walmart 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.

⁷ Walmart's Motion to Intervene at 3.

⁸ Walmart's Motion to Intervene at 3.

⁹ Walmart's Motion to Intervene at 4.

¹⁰ 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).

3. Walmart 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. Walmart 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, Walmart shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

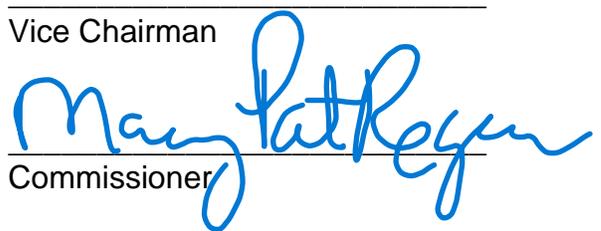
b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


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