

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF	)	
KENTUCKY UTILITIES COMPANY AND	)	
LOUISVILLE GAS AND ELECTRIC COMPANY	)	CASE NO.
FOR CERTIFICATES OF PUBLIC CONVENIENCE	)	2022-00402
AND NECESSITY AND SITE COMPATIBILITY	)	
CERTIFICATES AND APPROVAL OF A DEMAND	)	
SIDE MANAGEMENT PLAN	)	

ORDER

This matter arises upon the motion of Kentucky Industrial Utility Customers, Inc. (KIUC), filed December 21, 2022, for full intervention. As a basis for its motion, KIUC stated that it has a special interest in this matter, acting on behalf of several KIUC members who are also customers of Louisville Gas & Electric Company or Kentucky Utilities Company (LG&E/KU) and who will be affected by the impact on rates due to LG&E/KU's proposed projects for which a CPCN is requested.<sup>1</sup> KIUC further asserted that the change in generation sources will fundamentally change the nature, cost of energy, and capacity provided to KIUC members, who are large, energy-intensive industrial customers. KIUC argued that its special interest cannot be represented by the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General); the other current intervenor in this case. KIUC stated

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<sup>1</sup> KIUC identified these members as AAK USA K2, LLC, Air Liquide Industrial U.S. LP, Alliance Coal, LLC, Carbide Industries LLC, Corning Incorporated, Dow Silicones Corporation, Ford Motor Company, Ingevity, JBSSA North American Stainless, The Chemours Company FC, LLC and Toyota Motor Manufacturing, Kentucky, Inc.

that the 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.

KIUC stated that it is likely to present issues or develop facts related to the rate impact of the proposed CPCNs on industrial customers and the Kentucky economy, in general. KIUC stated that it will, at a minimum, conduct discovery, potentially file expert testimony, and actively participate in the hearing.

#### 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). The attorney General filed a motion to intervene on November 23, 2022, which the Commission granted on November 30, 2022. Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>2</sup>

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.

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

## DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that KIUC 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 KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, and therefore KIUC's motion should be granted for the reasons discussed below.

The Commission concludes that KIUC has a special interest in this case because LG&E/KU's requests for CPCNs for new generation and purchased power agreements, if approved, would have an impact on the rates of KIUC's industrial members.<sup>3</sup> Further, because KIUC members take service on different customer classes than residential customers, and whose interests may therefore be in conflict with residential customers, the interests of KIUC's industrial members are not otherwise uniquely represented in this proceeding.

In addition, KIUC could present issues and develop facts regarding effect on industrial customers' rates for discovery purposes and could assist in the development of the case record.

Based on the above, the Commission finds that KIUC should be granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>4</sup> regarding filings with the Commission.

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<sup>3</sup> See Case No. 2022-00036, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from May 1, 2021 Through October 31, 2021* (Ky. PSC May 3, 2022), Order.

<sup>4</sup> 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

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 5:001E, Section 8, related to the service and electronic filing of documents.
4. KIUC shall adhere to the procedural schedule set forth in the Commission's January 6, 2023 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, 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.

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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

  
\_\_\_\_\_  
Chairman

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Vice Chairman

  
\_\_\_\_\_  
Commissioner



ATTEST:

  
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