

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)	
FOR CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY AND SITE)	2022-00402
COMPATIBILITY CERTIFICATES AND)	
APPROVAL OF A DEMAND SIDE MANAGEMENT)	
PLAN)	

ORDER

This matter arises upon the motion of the Walmart Inc. (Walmart) filed January 18, 2023, for full intervention. As a basis for its motion, Walmart stated that it has a special interest in this proceeding that is not adequately represented by other parties and that it is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings. Relating to its special interest, Walmart argued that it has a special interest in this case because it is a large commercial customer that receives service from both Louisville Gas & Electric Company and Kentucky Utilities Company (LG&E/KU) across a total of 49 facilities and across different service territories in Kentucky. As a large commercial customer, Walmart also takes service on different rate schedules than residential customers and industrial customers. LG&E/KU have not filed a response opposing Walmart's intervention in this case.

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 filed a motion to intervene in this case on November 21, 2022, which the Commission granted on November 30, 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 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 sufficiently 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 and that Walmart is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

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

Walmart has a special interest in this case due to the potential effects on the rates it pays across multiple facilities in different service territories. In total, Walmart operates 49 different facilities spanning LG&E/KU's service territories in Kentucky. Walmart also represents interests unique to large commercial customers served by LG&E/KU. No other such large commercial customers sought to intervene in this case.

As to the second prong of 807 KAR 5:001E, Section 4(11), Walmart's interest in the commercial rate effect of this application will likely present issues or develop facts that will assist the Commission. Walmart has regularly been granted intervention in other matters involving LG&E/KU.² The anticipated testimony from Walmart's witnesses will likely provide a more complete and robust record in this case. Walmart even identified one potential witness, Walmart's senior manager overseeing the company's energy policy, that it anticipated filing testimony from in this case.³ Further, Walmart also stated that it has participated as a member of LG&E/KU's Demand-Side Management (DSM) Advisory Board, which should provide insight into the development of LG&E/KU's proposed DSM and Energy Efficiency (EE) plan that is at issue in this case.⁴

² Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Sept. 24, 2021); Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Sept. 24, 2021).

³ Walmart's Motion to Intervene (filed Jan. 18, 2023) at 6.

⁴ Walmart's Motion to Intervene (filed Jan. 18, 2023) at 4.

Based on the above, the Commission finds that Walmart should be granted full rights of a party in this proceeding. The Commission directs Walmart to the Commission's July 22, 2021 Order in Case No. 2020-00085⁵ 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.
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 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, 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.

⁵ 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



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

Case No. 2022-00402

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