

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS)	CASE NO.
WATER UTILITY OPERATING COMPANY, LLC)	2022-00432
FOR AN ADJUSTMENT OF SEWAGE RATES)	

ORDER

This matter arises upon the motion of Scott County, Kentucky, through its County Judge Executive and Fiscal Court (Scott County) filed April 14, 2023, for full intervention pursuant to 807 KAR 5:001E, Section 4(11). Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) filed a response to the motion on April 21, 2023. Scott County filed a reply to Bluegrass Water's response on April 25, 2023.

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 on January 10, 2023, by Commission Order. Intervention by all others is permissive and is within the sole discretion of the Commission.¹

The regulatory standard for permissive intervention 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

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

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.

MOTION TO INTERVENE

As a basis for its motion, Scott County stated that it has broad statutory powers in representing the interests of Scott County and its citizens, including interests in, among other things, economic development, health and sanitation, and other matters concerning the welfare and protection of its citizens. Scott County stated that it passed a resolution on April 14, 2023, authorizing a request for intervention in this proceeding.

Scott County argued that it had a special interest in this proceeding because two of Bluegrass Water's facilities, Longview/Homestead and Delaplain, are located within Scott County and, combined, serve 682 Scott County residents, representing 28 percent of Bluegrass Water's connections and 27 percent of Bluegrass Water's customer bills.² Scott County noted that Delaplain is the only Bluegrass Water facility with metered connections and the only facility that services commercial customers. Scott County also noted that Bluegrass Water's proposed rates, if approved, would result in a 15.6 percent rate increase for Longview/Homestead customers, a 694.9 percent increase for Delaplain residential customers, and a 90.6 percent increase for Delaplain commercial customers.³ Scott County argued that it has a special interest in the case not otherwise represented because the rate increase impacts rate affordability, health, safety, and economic development in Scott County. Scott County asserted that its special interest is not otherwise

² Scott County's Motion to Intervene (filed Apr. 14, 2023) at 4, paragraph 9.

³ Scott County's Motion to Intervene (filed Apr. 14, 2023) at 4, paragraph 10.

adequately represented by the Attorney General, who is an intervenor in this proceeding and represents the interests of consumers, because Scott County's interests in rate affordability, health, safety, and economic development are different than the Attorney General's interests.⁴ Scott County further argued that the Attorney General's statutory role representing consumers in Commission proceedings does not preclude other governmental entities from representing their special interests as intervenors in Commission proceedings.⁵

Scott County maintained that it will present issues and develop facts that will assist the Commission in fully considering this matter and can do so without unduly complicating or disrupting the proceedings. Scott County asserted that it will present issues and develop facts regarding the reasonableness of the cost of service study and rate design.

In Bluegrass Water's response, it argued that Scott County's motion should be denied because Scott County did not demonstrate a special interest in the case that is not otherwise adequately represented by the Attorney General, who represents all consumer interests like those of Scott County's citizens. Bluegrass Water also argued that Scott County is not likely to present issues or develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings because Scott County's request does not set forth any new issues or facts. Finally, Bluegrass Water asserted that Scott County governmental entities do not take wastewater service from Bluegrass Water and thus do not have an interest in rates or service.

⁴ Scott County's Motion to Intervene (filed Apr. 14, 2023) at 4, paragraph 12.

⁵ Scott County's Motion to Intervene (filed Apr. 14, 2023) at 4–5, paragraphs 12 and 13.

In Scott County's reply, argued that Commission regulations for permissive intervention do not include a presumption that the Attorney General adequately represents the interests of all customers, and that such an interpretation would prevent permission intervention from ever being granted. Scott County asserted that its motion reasonably set forth the issues it would present and facts it would develop regarding the cost of service study and rate design.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Scott County established both a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Scott County 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.

The Commission finds that Scott County has a special interest in this case due to economic and public health impact of operations of wastewater services within Scott County. The economic impact on the Delaplain residential and commercial customers is significant and unique because those are the only Bluegrass Water customers taking metered service and Delaplain also includes Bluegrass Water's only commercial customers, whose interests are different than interests represented by the Attorney General because commercial customers take service on different rate schedules than

residential customers.⁶ Scott County is also likely to present issues and develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings, particularly with regards to the unique portion of the rate design applied to Delaplain and the cost of service study.

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

IT IS HEREBY ORDERED that:

1. Scott County's motion to intervene is granted.
2. Scott County 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. Scott County 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. Scott County shall adhere to the procedural schedule set forth in the

⁶ See Case No. 2021-0048, *Electronic Joint Application of American Electric Power Company, Inc., Kentucky Power Company and Liberty Utilities Co. for Approval of the Transfer of Ownership and Control of Kentucky Power Company* (Ky. PSC Jan. 10, 2022), Order at 3, finding that intervention was appropriate for a party seeking to represent the interests of industrial customers, who take service on different rate schedules than residential customers. See also See Case No. 2022-00402, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan* (Ky. PSC Feb. 7, 2023), Order at 2, in which a municipality/county, Lexington Fayette Urban County Government, was found to have a special interest in part because of potential rate effects on its residents.

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).

Commission's April 14, 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, Scott County 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



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Vice Chairman



Commissioner



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