

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FILING OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. TO REQUEST)	CASE NO.
APPROVAL OF PROPOSED CHANGES TO ITS)	2008-00128
QUALIFIED COGENERATION AND SMALL)	
POWER PRODUCTION FACILITIES TARIFF)	

O R D E R

On April 10, 2008, Geoffrey M. Young, a resident of Lexington, Kentucky, filed a petition for full intervenor status in this case pursuant to 807 KAR 5:001, Section 3(8). In support of his petition, Mr. Young states that he wants to ensure that an “environmentalist perspective” is represented in this matter. He further states that he has spent his entire professional career trying to “help eliminate impediments to the enhancement of energy end-use efficiency in all sectors of Kentucky’s economy” and that he has recently performed volunteer work related to energy efficiency for a number of environmental organizations.

On April 16, 2008, East Kentucky Power Cooperative, Inc. (“EKPC”) filed a response to Mr. Young’s petition, objecting to his request for full intervenor status. EKPC argues that Mr. Young does not have a statutory right to intervene in the present matter and that he has failed to provide adequate justification for the Commission to grant his request, because he has not demonstrated a “special interest” in the case, which is limited to the Commission’s review of EKPC’s cogeneration and small power

production facilities (“Qualifying Facilities”) tariff. More particularly, EKPC argues that Mr. Young does not represent the rate or service interests of the member cooperative distribution system members of EKPC or the interests of owners of any Qualifying Facilities to whom the terms of the tariff apply.

EKPC further argues that the environmental issues that Mr. Young seeks to address in this matter are not relevant to the proceeding and are beyond the Commission’s jurisdiction. EKPC states that the proper subject matter of this case is EKPC’s avoided costs and whether the tariff represents fair, just, and reasonable rates for EKPC’s purchases of power from Qualifying Facilities. However, while EKPC objects to Mr. Young’s participation as a full intervenor pursuant to 807 KAR 5:001, Section 3, it does not object to Mr. Young submitting comments for the Commission’s consideration in this proceeding.

On April 21, 2008, Mr. Young filed a reply to EKPC’s response. In his reply, Mr. Young asserts that, pursuant to Section 50 of Kentucky’s 2007 Energy Act, the Commission is obligated to consider the following issues in the present case:

the environmental costs of various strategies for meeting future energy demand; a range of ways the Commission might act to help achieve enhanced energy efficiency and minimize life-cycle energy costs to all classes of taxpayers; [and] encouraging the diversification of utility energy portfolios through the use of renewable energy technologies and distributed generation.

Mr. Young asserts that these issues are relevant to the issues in the present case, vis-à-vis the 2007 Energy Act study, and that, therefore, his stated interests in the present case are not beyond the Commission’s jurisdiction and are not beyond the scope of this proceeding.

Mr. Young further asserts that certain language in the Commission's December 5, 2007 Order in Case No. 2006-00472¹ indicates that the Commission would be receptive to further arguments regarding the interpretation of the regulation governing small power production and cogeneration, 807 KAR 5:054, which the Sierra Club (through its witness, Mr. Young) advocated during the hearing and in its filings in that case. Mr. Young states that he would use this case as an opportunity to "clarify" what he characterizes as erroneous findings in the Commission's December 5, 2007 Order in Case No. 2006-00472, relating to the Sierra Club's proposed tariff for small power production and cogeneration.

Based on Mr. Young's petition, EKPC's response and objections, and Mr. Young's reply, the Commission denies Mr. Young's petition for full intervenor status in this matter. The Commission agrees with EKPC's assertion that Mr. Young's interest in representing an "environmentalist perspective" and promoting energy efficiency in general is beyond the scope of this proceeding. The Commission does not agree with Mr. Young's assertion that the enactment of the 2007 Energy Act has expanded the Commission's jurisdictional limitations to include the issues he seeks to advocate in this case. To the contrary, the 2007 Energy Act directed the Commission to study and make recommendations to the legislature regarding issues of energy efficiency and energy costs – not to implement those issues. Nor would it be appropriate or lawful to revisit the Sierra Club's issues that were adjudicated in Case No. 2006-00472, because no timely request was filed to rehear those issues in that case.

¹ Case No. 2006-00472, General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.

The Commission also finds that, as a resident of Lexington, Kentucky, which is entirely within the exclusive service area of Kentucky Utilities Company, Mr. Young is not a customer of any EKPC distribution cooperative member – an issue not discussed by Mr. Young in his petition nor addressed by EKPC in its response. Therefore, if allowed to participate as a full intervenor in this matter, Mr. Young would not be likely to present issues and develop facts that would assist the Commission in fully considering the relevant issues in the present case without unduly complicating or disrupting the proceedings. However, the Commission will give due consideration to any comments which Mr. Young may choose to file in compliance with the procedural schedule in this matter.


IT IS HEREBY ORDERED that the petition of Mr. Young for full intervenor status is denied.

Done at Frankfort, Kentucky, this 28th day of April, 2008.

By the Commission

Chairman Goss Abstains.

ATTEST:


Executive Director *for Stephanie Stumbo*
by permission

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