

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	CASE NO.
CORPORATION FOR AN ADJUSTMENT OF	)	2012-00535
RATES	)	

ORDER

On February 6, 2013, Petitioner, International Brotherhood of Electrical Workers Local 1791, filed a petition requesting that it be granted full intervenor status in the instant matter. In support of its request, Petitioner asserts that it has a special interest in this proceeding in that Petitioner is the bargaining agent for almost 300 Big Rivers' employees who operate and maintain the generating stations owned by Big Rivers. Petitioner avers that Big Rivers' application will directly affect current and retired members of Petitioner's organization. Petitioner contends that its special interest cannot be adequately represented by any other entity and that its participation in this matter will not unduly prejudice any party. If allowed to intervene and participate in this matter, Petitioner maintains that it will assist the Commission in fully considering this matter by providing information about its union members and community members within Big Rivers' service area.

In analyzing the instant petition to intervene, the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion

of the Commission.<sup>1</sup> In the recent unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), the Court of Appeals ruled that this Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions for intervention. The statutory limitation, KRS 278.040(2), requires that the person seeking intervention have an interest in the rates or service of a utility, as those are the only two subjects under the jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 3(8), requires that a person demonstrate a special interest in the proceeding which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that Petitioner has offered no evidence that it has a special interest in the proceeding. Other than stating that it is the bargaining agent for some of Big Rivers' power plant workforce, Petitioner has not demonstrated that it has the requisite interest in the rates or service of Big Rivers. Nor has Petitioner established that it has a special interest in this matter that is not otherwise adequately represented notwithstanding its generalized representation that its current and retired members would be impacted by Big Rivers' application. Big Rivers provides power to approximately 112,000 customers, and each one of those customers will be impacted financially by the issues in this rate

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<sup>1</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407, S.W.2d 127, 130 (Ky. 1996).

case. The petition to intervene does not specify how the interests of Big Rivers' generation station employees differ from the interests of all other customers of Big Rivers. As ratepayers and customers, the interest of Big Rivers' generation station employees is adequately represented by the AG, who is an intervenor in this matter and is more than sufficiently knowledgeable about ratemaking issues and principles. Lastly, Petitioner has failed to fully articulate how the provision of information about its union members and community members within the Big Rivers service area would be relevant and helpful to the Commission in fully considering this complex rate matter.

Petitioner will have ample opportunity to participate in this proceeding even though it is not granted intervenor status. Petitioner can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address:

<http://psc.ky.gov/Home/Library?type=Cases&folder=2012 cases/2012-00535>.

Petitioner may also file comments as frequently as it chooses, and those comments will be entered into the record of this case. Finally, it may also attend and present public comment at the public hearing to be held at our offices in Frankfort, Kentucky. The date for that hearing will be scheduled in the near future.

IT IS THEREFORE ORDERED that Petitioner's request for intervention is denied.

By the Commission

ENTERED  
APR 15 2013  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST

  
\_\_\_\_\_  
Executive Director

Case No. 2012-00535

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