

**Commonwealth of Kentucky
Before the Public Service Commission**

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)
UTILITIES COMPANY FOR AN ADJUSTMENT)
OF ITS ELECTRIC RATES AND FOR CERTIFICATES)
OF PUBLIC CONVENIENCE AND NECESSITY)

Case No.
2016- 00370

**KENTUCKY LEAGUE OF CITIES REPLY TO KENTUCKY UTILITIES COMPANY'S
OBJECTION TO KLC MOTION TO INTERVENE**

In compliance with the Public Service Commission's ("the Commission") procedural schedule dated December 13, 2016, the Kentucky League of Cities ("KLC") moved for timely intervention on December 22, 2016. KLC stated its special interest in the proceeding that is not adequately represented by any other party, and that KLC will identify issues and develop facts likely to assist the Commission in the resolution of this matter without unduly complicating and disrupting the proceeding. Kentucky Utilities Company ("KU") filed a response on December 29, 2016, styled as an "objection," to the KLC Motion to Intervene. KLC now files its Reply reasserting the need and benefit of having KLC participate in this proceeding.

KLC's Special Interest

To begin, KU claims that "it is not clear from KLC's motion which KU municipal customers KLC is representing."¹ The second numbered paragraph of KLC's Motion to Intervene lists a series of cities that are KU municipal customers and as members of KLC will be represented in this case. In the Kentucky School Board Association's ("KSBA") Motion to Intervene, KSBA stated that "KSBA represents all of the public school boards within Kentucky

¹ KU Objection at 1.

Utility Company's service territory."² Significantly, the Commission found KSBA's statement to be sufficiently specific, as the Commission has already granted the KSBA's Motion to Intervene.³ To ease KU's insecurity with regards to KLC on this point, KLC will state for the record that KLC represents 380 cities and municipal agencies across the Commonwealth and for purposes of this proceeding it represents all municipalities receiving service from KU, except Lexington which has retained its own counsel, but specifically including the Cities of Middlesboro, Williamsburg, Corbin, London, Somerset, Columbia, Richmond, Winchester, Mt. Sterling, Flemingsburg, Maysville, Versailles, and Paducah.

KU next argues that the Lexington-Fayette Urban County Government's ("LFUCG") participation in this case and the Louisville/Jefferson County Metro Government's ("Louisville Metro") participation in the Louisville Gas and Electric Company's ("LG&E") rate case are sufficient to represent KLC's interests with regards to street and traffic lights.⁴ This argument by KU is ill conceived. To begin, Louisville Metro are intervenors in Case No. 2016-00371, not the case at hand. Thus, any reference to the LG&E case or Louisville Metro's involvement in that case is totally irrelevant to the consideration of KLC's intervention in this case. Second, KU appears to be taking positions on behalf of LFUCG, which LFUCG itself has not asserted. KU posits the following in its objection: "To the extent there is a special interest in street lights and traffic lights, the two biggest cities in Kentucky have been granted intervention to represent those interests in KU's and LG&E's rate proceedings."⁵ KU's assertion that LFCUG intends to explore issues regarding street and traffic lights is noticeably without citation. The only statement LFCUG has made regarding its interest in this case is the following:

² KSBA Motion to Intervene at 1.

³ Order dated December 27, 2016.

⁴ KU Objection at 2.

⁵ *Id.*

“Approval of the application in this matter will have a significant impact on LFUCG and the citizens of Fayette County. LFUCG has a special interest in this matter, and it will not be adequately represented by the other parties.”⁶

Noticeably absent from that quote is any mention of street or traffic lights. KLC has specifically taken the position that it has a special interest in the street light and traffic light tariffs, having stated in its Motion to Intervene that “KLC represents the customers paying the majority of revenue generated under these tariffs,” a position that no other party requesting intervention in this case has specifically stated.⁷

Next, KU argues that it “has not proposed any changes to its Lighting Energy Service rate, which encompasses certain street lighting equipment and facilities.”⁸ KU fails to mention that under the new loss of load probability (“LOLP”) methodology chosen by KU witness Conroy and constructed by KU consultants the Prime Group,⁹ Lighting Energy Service and Traffic Energy Service tariffs would generate the two highest rates of return, at 18.56% and 13.11% respectively.¹⁰ Those rates of return are greatly in excess of the total system 7.29% rate of return using the LOLP method.¹¹ Certainly the Commission will acknowledge that KLC has an interest in two tariffs that primarily impact cities and will potentially generate a significantly higher rate of return than the rest of the KU tariffs.

Finally, KU makes the baffling statement that “the Commission has consistently rejected the argument that the potential impact to a customer’s costs is a special interest warranting

⁶ LFCUG Motion to Intervene at 1.

⁷ At 2

⁸ KU Objection at 3.

⁹ Conroy Direct Testimony at 6, lines 1-19.

¹⁰ Conroy Direct Testimony at 7, Table 1.

¹¹ *Id.*

intervention.”¹² Each instance where the Commission has granted intervention in this case proves the KU statement false. Considering the gross misrepresentation of standing Commission precedent, it is of no surprise that the KU statement was made without citation to even a single Commission decision. Then, KU quotes a Commission decision regarding a motion by Big Rivers Corporation employees to intervene in the Big Rivers rate case. The relevance of that instance on the current issue is lost on KLC. This entire paragraph attempts to misrepresent and mischaracterize long standing precedent by the Commission and should be disregarded.

KLC's Participation Will Assist the Commission

KU tries to assign to KLC the position that KLC only intends to offer “opinions on the generalized impact of the proposed rate increase.”¹³ Again, KU is unable to cite to any KLC pleading, because KLC never took such a position. KLC in fact intends to address numerous aspects of the KU application including the proposed rates of return, the proposed revenue increase, and the proposed cost of service studies tendered by the KU witnesses. These issues are best addressed through formal direct testimony and discovery, not simply “oral comments at the public hearing.”¹⁴

Finally, KU attempts to create a new burden for KLC to meet prior to being granted intervention by asserting that that KLC must advise KU and the Commission of specific issues and facts KLC intends to raise during the course of the case, before the Commission may grant KLC's request to intervene. To begin, the only burden KLC must meet is the one prescribed by 807 KAR 5:001, Section 4(11). Second, the record in this case compromises KU's position on this issue. After simply stating something approximating that “participation in this case is likely

¹² KU Objection at 3.

¹³ KU Objection at 4.

¹⁴ Ku Objection at 4.

to present issues and develop facts that will assist the Commission in fully considering the matter”¹⁵ the following parties were granted intervention in this case: Kentucky Telecommunications Association (“KCTA”),¹⁶ KSBA,¹⁷ LFCUG,¹⁸ Community Action Council,¹⁹ Kroger Company,²⁰ Kentucky Industrial Utility Customers,²¹ and Wal-Mart.²² To the extent that specific issues and facts need to be referenced in order to receive intervention approval, KLC has previously stated its intention to explore the street and traffic light tariffs, as well as the overall revenue increase, rates of return, and cost of service studies.

Conclusion

KLC has satisfied all of the bases for permissive intervention provided in 807 KAR 5:001, Section 4(11)(B). As demonstrated in KLC’s Motion to Intervene and this Reply, KLC has a special interest that is not otherwise adequately represented, and KLC is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

WHEREFORE, the Kentucky League of Cities reasserts its request that the Commission issue an Order granting KLC status as an intervenor party in this action pursuant to 807 KAR 5:001, Section 4(11).

¹⁵ KLC Motion to Intervene at 2.

¹⁶ December 20, 2016 Motion to Intervene. Order granting Intervention dated December 27, 2016.

¹⁷ December 19, 2016 Motion to Intervene. Order granting intervention dated December 27, 2016.

¹⁸ November 22, 2016 Motion to Intervene. Order granting intervention dated December 20, 2016.

¹⁹ November 16, 2016 Motion to Intervene. Order granting intervention dated November 21, 2016.

²⁰ November 14, 2016 Motion to Intervene. Order granting intervention dated November 17, 2016.

²¹ October 26, 2016 Motion to Intervene. Order granting intervention dated November 1, 2016.

²² December 8, 2016 Motion to Intervene. Order granting intervention dated December 20, 2016.

Respectfully submitted,



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