

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC RATES)	CASE NO. 2016-00371
AND FOR CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

**LOUISVILLE GAS AND ELECTRIC COMPANY'S
OBJECTION TO PETITION FOR FULL INTERVENTION BY JBS SWIFT & CO**

Louisville Gas and Electric Company (“LG&E” or the “Company”) respectfully requests that the Commission deny the petition of JBS Swift & Co (“JBS”) for intervention. Its petition should be denied for two principal reasons: (1) the petition does not demonstrate a special interest in the proceeding because JBS’s stated interest is common to all customers and is adequately represented by other parties; and (2) the petition fails to show that JBS will identify any issues or develop facts that will assist the Commission in the resolution of this matter without unduly complicating and disrupting the proceeding. Because JBS has not satisfied any of the requirements for intervention under 807 KAR 5:001 § 4(11)(b), LG&E respectfully requests that the Commission deny its petition for intervention.

JBS Does Not Have a Special Interest in This Proceeding

The Commission may grant JBS’s petition for intervention only if it meets the requirements of 807 KAR 5:001 § 4(11)(b). JBS does not satisfy the first basis for permissive intervention, which requires the movant to demonstrate a special interest in the proceeding that is not already represented by another party to the action.¹ JBS’s *only* claimed special interest in this proceeding is its general status as an electric and gas customer. JBS claims that “[e]lectric

¹ 807 KAR 5:001 § 4(11)(b).

and gas services represent a significant cost of doing business for JBS. JBS therefore has a special interest in this proceeding because the Application may have a significant impact on the rates paid by JBS to LG&E.”² The Commission has consistently held that a person’s status as a customer is *not* a special interest meriting full intervention.³

Instead, the Attorney General has a statutory right, pursuant to KRS 367.150(8)(b), to represent customers’ interests in proceedings such as this one. The Attorney General’s motion to intervene in this case was granted on November 15, 2016. The Attorney General has significant expertise and years of experience in representing ratepayers’ interests in rate proceedings, including every prior LG&E rate case.⁴ In a recent order denying intervention, the Commission reaffirmed that the Attorney General represents the generalized interest JBS claims in this case, which is that “the Application may have a significant impact on the rates paid by JBS to LG&E”⁵:

The Commission further finds that Petitioner has failed to establish that it has a special interest in this matter that is not otherwise adequately represented, notwithstanding Petitioner’s generalized

² Petition at 1.

³ *In the Matter of Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge* (Case No. 2009-00198) Order, Aug. 28, 2009 (denying intervention to customer Tammy Stewart on ground she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *In the Matter of: Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset* (Case No. 2009-00174) Order, June 26, 2009 (denying Rep. Jim Stewart’s Motion to Intervene because he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision); *In the Matter of: Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program* (Case No. 2007-00337) Order, Sept. 14, 2007 (“[H]old[ing] a particular position on issues pending in ... [a] case does not create the requisite ‘special interest’ to justify full intervention under 807 KAR 5:001, Section 3(8)(b).”).

⁴ *See, e.g., In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (Case No. 2014-00372); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge* (Case No. 2012-00222); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates* (Case No. 2009-00549); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates* (Case No. 2008-00252); *In the Matter of: An Adjustment of Gas and Electric Rates, Terms and Conditions of Louisville Gas and Electric Company* (Case No. 2003-00433).

⁵ Petition at 1.

representation that its current 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 case.⁶

The same analysis merits denying intervention to JBS.

JBS states it is a company with 1,200 employees and is the only major pork processing facility in Kentucky.⁷ Although not stated in the Petition, to the extent JBS believes its status as a large company merits intervention, this interest is likewise already well represented in this proceeding. The motion of the Kentucky Industrial Utility Customers, Inc. ("KIUC") to intervene was granted on November 1, 2016. The KIUC, as in prior LG&E rate cases, represents customers for which energy is a significant cost of doing business such as AAK USA K2, LLC, Carbide Industries LLC and The Chemours Company.⁸ As JBS's petitions mirrors the KIUC's petition in claiming that its electric and gas services represent a significant cost of doing business, this interest is already well represented.⁹ As a result, JBS does not have a special interest in the proceeding and its motion to intervene should be denied.

**The Commission Should Deny JBS's Motion to Intervene
Because JBS Has Not Demonstrated That It Will Present Issues
or Develop Facts That Would Assist the Commission**

Because JBS lacks an interest in this proceeding that is not adequately represented by other parties, JBS may intervene only if it can show that it will present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceeding. The petition fails to do so. JBS has never intervened in a Commission proceeding and the petition

⁶ *In the Matter of: Application of Big Rivers Electric Corporation for a General Adjustment in Rates Supported by Fully Forecasted Test Period* (Case No. 2013-00199) (Ky. PSC Nov. 12, 2013).

⁷ Petition at 1.

⁸ KIUC Motion at 1.

⁹ In addition to KIUC, three other large customers have been granted intervention. While it is unclear from JBS's Petition how its energy usage and operations compare to these customers, to the extent JBS believes its operations are of a similar scope to Wal-Mart Stores East, LP and Sam's East, Inc., Department of Defense/All other Federal Executive Agencies and The Kroger Company, this interest is clearly already represented. To find otherwise and permit every "large" customer, however defined, to intervene would unduly complicate and disrupt the proceeding.

does not allege any expertise or experience with ratemaking. The petition states only that “JBS intends to play a constructive role in the Commission’s decision making process and its participation will not unduly prejudice any party.”¹⁰ It does not identify any specific issue or component of the case that it will present, or the facts it intends to develop. It does not allege it will file expert testimony. In short, JBS has not shown it will present issues or develop facts that will assist the Commission.

Having a significant number of individual customers intervene in this case, especially those without expertise or experience in rate cases, will unduly complicate and disrupt this proceeding. The proper means for JBS to participate in this case is through filing public comments as it did in LG&E’s 2012 rate case.¹¹ Moreover, JBS may also provide oral comments at the public hearing in this matter. These mechanisms ensure that JBS is given an opportunity to present its comments without unduly complicating the pending action.

Conclusion

JBS has not satisfied either of the bases for permissive intervention set forth in 807 KAR 5:001 §4(11)(b). JBS does not have a special interest that is not already adequately represented by other parties, and it has not shown an ability to present issues or develop facts that will assist the Commission in considering LG&E’s proposed rates without unduly complicating and disrupting this proceeding.

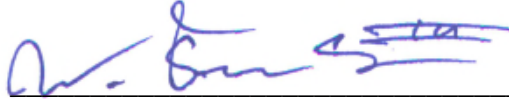
WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission deny JBS Swift & Co’s petition to intervene.

¹⁰ Petition at 1-2.

¹¹ Case No. 2012-00222, Nov. 20, 2012 comment by Jim Mullin on behalf of JBS.

Dated: December 29, 2016

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company's December 29, 2016 electronic filing of the Objection is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on December 29, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and six copies, in paper medium of this Objection will be mailed to the Commission on December 29, 2016. This further certifies that a true and accurate copy of the foregoing was served, via U.S. Mail and electronic mail, on December 29, 2016, upon the following:

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