

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

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER)
COMPANY FOR (1) A GENERAL ADJUSTMENT OF ITS RATES)
FOR ELECTRIC SERVICE; (2) AN ORDER APPROVING ITS)
2017 ENVIRONMENTAL COMPLIANCE PLAN; (3) AN ORDER)
APPROVING ITS TARIFFS AND RIDERS; (4) AN ORDER)
APPROVING ACCOUNTING PRACTICES TO ESTABLISH)
REGULATORY ASSETS AND LIABILITIES; AND (5) AN ORDER)
GRANTING ALL OTHER REQUIRED APPROVALS AND RELIEF)

Case No.
2017-00179

**KENTUCKY LEAGUE OF CITIES
RESPONSE TO OAG MOTION FOR LEAVE**

Comes now the Kentucky League of Cities (“KLC”) and pursuant to 807 KAR 5:001, Section 5, files this response in opposition to the Attorney General’s Motion seeking leave from the Commission to file rebuttal testimony. For the reasons stated herein, the Attorney General’s Motion should be denied.

The Attorney General’s argument in summary is that other intervenors filed testimony on cost of service, cost allocation, and rate of return, which could negatively impact residential rates. KLC echoes Kentucky Power Co. response in highlighting “the potential for disagreement among other intervenors on the issue of cost and revenue allocation among classes was made plain in the intervention motions.”¹ Indeed, the Kentucky Commercial Utility Counsel (“KCUC”) stated its intention to “represent the interests of commercial customers,”² Kentucky School Board Association (“KSBA”) stated its intent to “represent[] all of the public school

¹ Kentucky Power Co., Response at 3 (October 13, 2017).

² Motion to Intervene (July 14, 2017).

boards within KPC's service territory,"³ the Kentucky Industrial Utility Customers ("KIUC") stated its intent to "represent the industrial viewpoint,"⁴ Kentucky Cable Telecommunications Association ("KCTA") stated its intent to represent its members interest on "modification to its pole attachment rates, terms, and conditions,"⁵ and KLC stated its intent to address how Kentucky Powers "currently proposed revenue allocation does little to address the disparity of ROR between classes."⁶ Thus, the Attorney General had clear notice of the topics each intervenor intended to address.

In addition, the Attorney General had the opportunity to cross examine witnesses from each of the intervening parties, except KIUC, on what types of issues the parties intended to raise. This was an opportunity that was not afforded to the other intervenors. So instead of experiencing undue prejudice, the Attorney General actually had an advantage over most of the other intervenors by being afforded an opportunity to cross-examine witnesses prior to the intervenors gaining party status. Simply failing to capitalize on this advantage, and failing to offer testimony contradicting the other intervenors, does not implicate an undue prejudice. On the contrary, the other intervenors would be unduly prejudiced by allowing the Attorney General to take a "wait and see" approach, and then filing testimony on cost allocation and rate of return if he did not like what the other intervening party witnesses had to say.

Finally, in both his Motion and Reply, the Attorney General failed to cite a single statute, regulation, or precedent suggesting that a grant of leave to file rebuttal testimony is appropriate in this situation. The Attorney General's only legal justification was referencing Case No. 2016-00370 and 206-00371, despite the fact that those cases have very little resemblance to the facts at

³ Motion to Intervene (July 13, 2017).

⁴ Motion to Intervene (May 11, 2017).

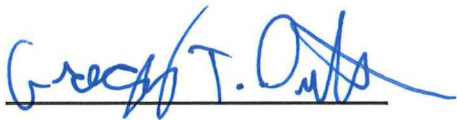
⁵ Motion to Intervene (July 10, 2017).

⁶ Motion to Intervene (July 12, 2017).

hand. In those two referenced cases, the utility filed an amended cost of service study and accompanying testimony after the intervenors had filed their direct testimony. Thus, much of the testimony filed by intervenors was nullified by the changes to the utilities testimony on cost of service. No such scenario exists here. Therefore, the only legal justification asserted by the Attorney General is negated by the undisputed facts. KLC notes, however, that while no reasonable justification for filing rebuttal testimony has been provided by the Attorney General in this circumstance, future cases may present scenarios justifying the filing of rebuttal testimony by intervening parties.

In conclusion, because the Attorney General had notice of the issues other intervenors intended to address, was provided the same opportunity as all other parties to submit testimony, and granting the Attorney General's motion would prejudice KLC and the other intervenors, his motion should be denied.

Respectfully submitted,



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