

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

**In the Matter of:**

**ELECTRONIC APPLICATION OF )  
KENTUCKY UTILITIES COMPANY FOR AN ) CASE NO. 2018-00294  
ADJUSTMENT OF ITS ELECTRIC RATES )**

**KENTUCKY UTILITIES COMPANY'S  
OBJECTION TO REQUEST FOR INTERVENTION**

Kentucky Utilities Company (“KU” or the “Company”) respectfully requests that the Commission deny the request of Teresa V. Miller (“Ms. Miller”) for intervention. Ms. Miller’s request should be denied for four principal reasons: (1) Ms. Miller does not have standing to intervene because she is not a KU customer; (2) the request fails to include Ms. Miller’s full mailing address as required by 807 KAR 5001 § 4(11)(a)(1); (3) the request does not demonstrate a special interest in the proceeding because Ms. Miller’s stated interest is common to all customers and is adequately represented by other parties; (4) the request fails to show that Ms. Miller 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. Even if Ms. Miller has standing to intervene, she has not satisfied the requirements for intervention under 807 KAR 5:001 § 4(11), and therefore KU respectfully requests that the Commission deny Ms. Miller’s request for intervention.

**Ms. Miller Does Not Have Standing to Intervene**

Under 807 KAR 5:001 and KRS 367.150(8)(b), only the Attorney General has a statutory right to intervene in a matter on behalf of consumers’ interests.<sup>1</sup> All other intervenors are

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<sup>1</sup> See *In the Matter of: Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvement Project Pursuant to KRS 278.020 and 278.300*, Case No. 2014-00084, Order (Ky. PSC April 16, 2014).

considered permissive and within the discretion of the Commission.<sup>2</sup> To be eligible for permissive intervention, the intervenor must have standing or an individual interest in the rates or services of the proceeding.<sup>3</sup> The Commission's orders have interpreted this to mean the intervenor must be a customer of the utility.<sup>4</sup> Because Ms. Miller is not a customer of KU, she has no individual interest in the rates or services in this proceeding and thus lacks standing to intervene.

#### **Ms. Miller's Request Fails to Include a Full Mailing Address**

The Commission's regulations require that a person who wishes to intervene must include in the motion requesting leave to intervene the movant's full name, mailing address, and electronic mail address. Ms. Miller's request to intervene states her address is "6117 Park Road," but includes no further information about the city, state, or zip code. Ms. Miller has requested intervention in this proceeding and the proceeding of Louisville Gas and Electric Company ("LG&E"). After review, it was determined that Ms. Miller is a customer of LG&E, not KU. Because Ms. Miller's request for intervention fails to meet the requirements of 807 KAR 5:001 § 4(11)(a)(1), it should be denied.

#### **Ms. Miller Does Not Have a Special Interest in This Proceeding**

The Commission may grant Ms. Miller's request for intervention only if it meets the requirements of 807 KAR 5:001 § 4(11)(b). Ms. Miller does not satisfy the first basis for

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<sup>2</sup> *Id.*

<sup>3</sup> *In the Matter of: Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvement Project Pursuant to KRS 278.020 and 278.300*, Case No. 2014-00084, Order (Ky. PSC April 16, 2014); *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, Case No. 2009-00141, Order (Ky. PSC July 15, 2009).

<sup>4</sup> *In the Matter of: Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvement Project Pursuant to KRS 278.020 and 278.300*, Case No. 2014-00084, Order (Ky. PSC April 16, 2014) (The individual intervenor was not a customer of Jessamine-South Elkhorn. Therefore he did not have an individual interest in the rates or services in the proceeding. His petition to intervene was denied); *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, Case No. 2009-00141, Order (Ky. PSC July 15, 2009) ("SEC Customer Group is not a customer of Columbia Gas and, thus, has no individual interest in the rates or service at issue in this case.").

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.<sup>5</sup> Ms. Miller's *only* claimed special interest in this proceeding is her general status as a consumer of electricity. Ms. Miller is an LG&E customer, not a KU customer. Even if Ms. Miller were a KU residential customer, the Commission has consistently held that a person's status as a customer is *not* a special interest meriting full intervention.<sup>6</sup> Therefore, the Commission has denied many individual residential customers' petitions to intervene in rate cases.<sup>7</sup>

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 filed on October 2, 2018. The Attorney General has significant expertise and years of experience in representing ratepayers' interests in rate proceedings, including every prior KU rate case.<sup>8</sup> In an order denying intervention, the Commission

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<sup>5</sup> *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Oct. 11, 2018) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

<sup>6</sup> *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 (Ky. PSC 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 (Ky. PSC 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 (Ky. PSC 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).").

<sup>7</sup> *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Bruce Nunn's request for intervention); *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Michael Whipple's request for intervention); *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548 (Ky. PSC June 2, 2010) (denying customer Geoffrey M. Young's request for intervention); *In the Matter of: An Adjustment of the Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company*, Case No. 2003-00433, Order (Ky. PSC Jan. 21, 2004) (denying customer Robert L. Madison's request for intervention).

<sup>8</sup> See, e.g., *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370; *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371; *In the Matter of:*



reaffirmed that the Attorney General represents the generalized interest Ms. Miller claims in this case:

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 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.<sup>9</sup>

The same analysis merits denying intervention to Ms. Miller.

Ms. Miller states that the proposed rate increase will negatively affect low-income customers, including those who are elderly, on fixed incomes, and single mothers. Although not stated in Ms. Miller's request, to the extent Ms. Miller believes her advocacy for low-income customers merits intervention, this interest is likewise already well represented in this proceeding. The Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc. ("CAC") sought intervention on October 2, 2018. The CAC, as in prior KU rate cases, represents the interests of low-income customers in KU's service territory. As a result, Ms. Miller does not have a special interest in the proceeding and her motion to intervene should be denied.

**The Commission Should Deny Ms. Miller's Request to Intervene  
Because Ms. Miller Has Not Demonstrated That She Will Present Issues  
or Develop Facts That Would Assist the Commission**

Because Ms. Miller lacks an interest in this proceeding that is not adequately represented by other parties, Ms. Miller may intervene only if she can show that she will present issues or develop facts that will assist the Commission without unduly complicating or disrupting the

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*Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221; *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548; *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251.

<sup>9</sup> *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, Order (Ky. PSC Nov. 12, 2013).

proceeding.<sup>10</sup> The request fails to do so. Ms. Miller has never intervened in a Commission proceeding and the request does not allege any expertise or experience with ratemaking. Ms. Miller's request does not identify any specific issue or component of the case that she will present, or the facts she intends to develop. It does not allege she will file expert testimony. In short, Ms. Miller has not shown she 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 Ms. Miller to participate in this case is through filing public comments. She has filed what appears to be public comment in the record. Moreover, Ms. Miller may also provide oral comments at the public hearing in this matter. These mechanisms ensure that Ms. Miller is given an opportunity to present her comments without unduly complicating the pending action.

### Conclusion

Ms. Miller lacks standing to intervene in this proceeding. Additionally, assuming for the sake of argument that she has standing to intervene, Ms. Miller has not satisfied either of the bases for permissive intervention set forth in 807 KAR 5:001 §4(11)(b). Ms. Miller does not have a special interest that is not already adequately represented by other parties, and she has not shown an ability to present issues or develop facts that will assist the Commission in considering KU's proposed rates without unduly complicating and disrupting this proceeding.

**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission deny Ms. Teresa V. Miller's request to intervene.

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<sup>10</sup> *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Oct. 11, 2018) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

Dated: October 15, 2018

Respectfully submitted,



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*Counsel for Kentucky Utilities Company*

**CERTIFICATE OF COMPLIANCE**

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kentucky Utilities Company's October 15, 2018 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on October 15, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original of the filing will be filed by hand-delivery with the Commission within two business days from the date of the electronic filing; and on October 15, 2018, a true and accurate copy of the response was served on Ms. Teresa V. Miller by regular U.S. mail, postage prepaid.

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*Counsel for Kentucky Utilities Company*