

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Electronic Application of Water Service                    )  
Corporation of Kentucky for a General                    )            Case No. 2020-00160  
Adjustment in Existing Rates                                    )

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**WSCK RESPONSE TO CITY OF CLINTON’S MOTION TO INTERVENE**

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Water Service Corporation of Kentucky (“WSCK”), by counsel, respectfully submits the following Response to the City of Clinton’s (“Clinton”) Motion to Intervene and requests that the Public Service Commission deny Clinton’s motion.

On June 19, 2020, Clinton filed a Motion to Intervene with the Public Service Commission. Administrative Regulation 807 KAR 5:001, Section 4(11)(b) states that the Commission

shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Additionally, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction.

In its motion, Clinton has not stated how it has an interest in the rates and service of WSCK. Most of the comments in the motion relate to WSCK’s management of Clinton’s

wastewater system. Because those facilities are owned by a City, those operations are not related to the rates and services of a utility and, therefore, are not under the Commission's jurisdiction.

Clinton has not specifically stated what special interest it has in the case that is not otherwise adequately represented. It states its concerns about the impact of a rate increase on residents and businesses. The Attorney General has been granted intervention in this matter and has the duty to represent consumer interests, including those of residents and businesses. Accordingly, even if Clinton had a special interest, the Attorney General can adequately represent those special interests.<sup>1</sup>

Based on prior history, Clinton is not likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings. Part of determining whether a potential intervenor is likely to present issues or develop facts is whether the party has been an active participant in previous cases. As this Commission recently stated, it “expects that persons requesting to intervene will fully participate throughout the entire course of a proceeding by taking affirmative steps to present the issues and facts that will assist the Commission in considering the matter.” Order at 4, Louisville Gas & Elec. Co. and Kentucky Utils. Co., Case No. 2018-00005 (Ky. PSC Aug. 30, 2018). In that Order, the Commission criticized an intervening party because it did not seek any information from the applicant utilities, did not provide any testimony, and did not file a post-hearing brief. Id.

Clinton has not been an “active participant” in any rate case filed by WSCK since 2008. See Clinton Motion to Intervene at ¶ 7. Clinton did not seek intervention in Case No. 2008-00563. It was denied intervention in Case No. 2010-00476. See Order at 4, Water Service

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<sup>1</sup> In addition, several customers have recently filed “motions to intervene.” The Commission has routinely denied intervention to individual customers when the Attorney General has intervened in a matter.

Corp. of Kentucky, Case No. 2010-00476 (Ky. PSC July 13, 2011). Clinton was granted intervention in both Case Nos. 2013-00237 and 2015-00382, but its participation cannot be considered “active.” In those two cases, Clinton has never submitted a written request for information to WSKK, filed testimony, or submitted a post-hearing brief in WSKK rate cases. In addition, it appears that Clinton even failed to comply with Commission orders in both Case Nos. 2013-00237 and 2015-00382 that required Clinton to file a written statement that it waives any right to service of Commission orders by mail and that it or its authorized agent possesses the facilities to receive electronic transmissions. These facts demonstrate that Clinton has not been a participant in every WSKK rate case since 2008, nor an “active” participant in any rate case, as is required.

The Commission validated this position in its denial of Clinton’s motion to intervene in WSKK’s last rate case, stating: “Water Service Kentucky argues that Clinton has not been an ‘active participant’ in every rate case filed by Water Service Kentucky since 2008. Water Service Kentucky’s argument is well taken; the Commission expects that intervenors will fully participate throughout the entire course of a proceeding.”<sup>2</sup>

Because Clinton has not stated how it has an interest in the rates and service of WSKK, because Clinton does not have a special interest in the case that is not otherwise adequately represented and because Clinton’s intervention is not likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, Clinton’s motion should be denied.

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<sup>2</sup> See Water Serv. Corp. of Kentucky, Case No. 2018-00208 at 2 (Ky. PSC Oct. 22, 2020)

Respectfully submitted,



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