

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, A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO. 2020-00349
AND NECESSITY TO DEPLOY ADVANCED)	
METERING INFRASTRUCTURE,)	
APPROVAL OF CERTAIN REGULATORY)	
AND ACCOUNTING TREATMENTS, AND)	
ESTABLISHMENT OF A ONE-YEAR)	
SURCREDIT)	

**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 ChargePoint, Inc. (“ChargePoint”) for intervention. The request should be denied for two principal reasons: (1) the request does not demonstrate a direct interest, much less a special interest, in the proceeding because ChargePoint is not a retail customer of KU and therefore does not have an interest in KU’s rates and service and (2) the request fails to show that ChargePoint 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 ChargePoint has not satisfied the requirements for intervention under 807 KAR 5:001 § 4(11), KU respectfully requests that the Commission deny the request for intervention.

ChargePoint Does Not Have a Direct or Special Interest in This Proceeding

The Commission may grant ChargePoint’s request for intervention only if the request meets the requirements of 807 KAR 5:001 § 4(11)(b). ChargePoint’s request 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 ChargePoint’s claimed interest in this proceeding is its market presence in Kentucky, its sale of its electric vehicle (“EV”) charging equipment and services to Kentucky consumers, and its “economic interests in the sustainable and scalable growth of EV charging infrastructure within Kentucky and the utility infrastructure supporting it.”² KRS 278.040(2) limits the Commission’s jurisdiction to regulating the rates charged, and the services provided, by a utility to its retail customers. Therefore, ChargePoint cannot have any special interest in the proceeding because ChargePoint does not pay any retail rate to KU and does not receive any retail service from KU. Instead, ChargePoint is the vendor for KU’s public EV charging stations.

Should the Commission find that ChargePoint does have a special interest in this proceeding, that interest could adequately be represented by the Attorney General. 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 10, 2020.³ The Attorney General has significant expertise and years of experience in representing ratepayers’ interests in rate proceedings, including every prior KU rate case.⁴ The

¹ *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order (Ky. PSC Dec. 9, 2020) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

² Case No. 2020-00349, ChargePoint, Inc.’s Motion to Intervene at 3 (Ky. PSC Dec. 23, 2020).

³ Case No. 2020-00349, Order (Ky. PSC Nov. 10, 2020).

⁴ *See, e.g., Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294; *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370; *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371; *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221; *Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548; *Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251.

Attorney General will have the ability in this case to present issues relating to EV charging infrastructure on behalf of all KU ratepayers.

The Commission Should Deny ChargePoint’s Request to Intervene Because ChargePoint Has Not Demonstrated That It Will Present Issues or Develop Facts That Would Assist the Commission

Because ChargePoint lacks a special interest in this proceeding that is not adequately represented by other parties, ChargePoint 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.⁵ ChargePoint’s interest in this proceeding, as stated in its Motion to Intervene, relates solely to EV charging infrastructure and not retail rates or service from KU. Because the Attorney General’s participation will be sufficient to address the EV charging infrastructure issue, ChargePoint’s participation as an intervenor would be duplicative. As stated above, the Attorney General will have the ability in this case to present issues relating to EV charging infrastructure on behalf of all KU ratepayers.

Furthermore, ChargePoint was denied intervention in Duke’s most recent rate case. In its Petition for Full Intervention, ChargePoint claimed the same direct and substantial interests as in this proceeding.⁶ The Commission denied ChargePoint’s request for intervention in that case, stating that ChargePoint would have “ample opportunity to participate in the proceeding even though it is not granted intervenor status.”⁷ ChargePoint referenced this denial in its Motion to

⁵ Case No. 2020-00349, Order (Ky. PSC Dec. 9, 2020) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

⁶ *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Tariffs*, Case No. 2019-00271, Petition for Full Intervention by ChargePoint, Inc. (Ky. PSC Oct. 2, 2019) (“ChargePoint has a direct and substantial interest in the outcome of these proceedings, and its interests will be directly affected by the discussion and resolution of the topics covered therein. ChargePoint’s position and market presence within this State relates directly to the details of Duke Energy Kentucky, Inc.’s proposal. ChargePoint has substantial and specific economic interests in the sustainable and scalable growth of EV charging infrastructure within Kentucky. ChargePoint currently sells electric vehicle charging equipment and services directly to consumers in Kentucky.”).

⁷ Case No. 2019-00271, Order (Ky. PSC Oct. 14, 2019).

Intervene in this proceeding and stated its desire to participate as a non-party in this proceeding should its request to intervene be denied. KU has no objection to ChargePoint's participation in this proceeding by filing public comments or offering comments at the public hearings.


Conclusion

ChargePoint has not satisfied either of the bases for permissive intervention set forth in 807 KAR 5:001 §4(11)(b). ChargePoint 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 KU's proposed rates without unduly complicating and disrupting this proceeding.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission deny ChargePoint's request to intervene.

Dated: December 30, 2020

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kentucky Utilities Company's December 30, 2020 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 December 30, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a true and correct copy in paper medium will be delivered to the Commission within 30 days of the lifting of the State of Emergency.



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