

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**ELECTRONIC APPLICATION OF)
BLUEGRASS WATER UTILITY)
OPERATING COMPANY, LLC FOR AN) Case No. 2022-00432
ADJUSTMENT OF SEWAGE RATES)**

**BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC’S
RESPONSE TO REQUESTS TO INTERVENE**

Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”), by counsel, and pursuant to 807 KAR 5:001 Section 4(11), Section 5, and other applicable law, hereby responds to the requests for intervention filed by: 1) Terri Parris; 2) Jennifer Shather; 3) Nicole Russell; 4) Allan Coldiron; 5) Eileen Baker; 6) Gary Gaugler;¹ 7) Heather Stout; 8) Robert Evans; 9) Nathan Head; 10) Michael Caines; 11) Sidney Milton;² 12) Elisabeth Harper; 13) Joshua Magher;³ 14) Kathy Hackney;⁴ 15) William Daughtery; 16) Madalynn Wolfe Davis;⁵ 17) Brian

¹ It does not appear that Mr. Gaugler asked to be an intervenor but instead filed a public comment requesting Commission intervention. *See* Email Mar. 7, 2023 (“I am asking for the PSC to intervene and not permit this rate increase.”) https://psc.ky.gov/pscscf/2022%20cases/2022-00432/Public%20Comments/20230309_Multiple%20Public%20Comments.pdf. Bluegrass Water opposes Gaugler’s intervention, to the extent the Commission believes he sought it, about of an abundance of caution.

² Sidney Milton’s filing was originally docketed as a Request for Intervention. Bluegrass Water’s opposes Milton’s intervention, to the extent the Commission believes she sought it, out of an abundance of caution.

³ Joshua Magher’s filing was originally docketed as a Request for Intervention. Bluegrass Water opposes Magher’s intervention, to the extent the Commission believes she sought it, out of an abundance of caution.

⁴ It does not appear that Ms. Hackey asked to be an intervenor but instead filed a Public Comment requesting Commission intervention. *See* Letter dated Mar. 10, 2023 (“Please intervene for me.”). https://psc.ky.gov/pscscf/2022%20cases/2022-00432/20230313_Kathy%20Hackney%20Request%20for%20Intervention.pdf. Bluegrass Water opposes Hackney’s intervention, to the extent the Commission believes she sought it, out of an abundance of caution.

⁵ Bluegrass Water previously opposed Ms. Davis’s intervention, in its response filed on March 8. An additional filing by Ms. Davis was docketed as a Request for Intervention on March 13. https://psc.ky.gov/pscscf/2022%20cases/2022-00432/20230313_Madalynn%20Wolfe%20Davis%20Request%20for%20Intervention.pdf. Bluegrass Water opposes Ms. Davis’s newly-filed Request for Intervention.

Shelton; 18) Bryant Nicoson;⁶ 19) Eric Isbell;⁷ 20) Tammy Chambers; 21) Mendy Burgess;⁸ 22) Ronald and Bonita McManus;⁹ 23) William Akers;¹⁰ and all other individual customers of Bluegrass Water (together, “Movants”).¹¹ The Commission should deny the Movants’ requests for intervention, as explained below.

1. The only person with a statutory right to intervene in this matter is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (“Attorney General”), pursuant to KRS 367.150(8)(b). Specifically, Kentucky law permits the Attorney General “[t]o be made a real party in interest to any action on behalf of consumer interests” in a ratemaking case “whenever deemed necessary and advisable in the consumers’ interest by the Attorney General.” KRS 367.150(8)(b).

2. The Commission granted the Attorney General’s request for intervention in this case on January 10, 2023.

⁶ It does not appear that Mr. Nicoson asked to be an intervenor but instead filed a Public Comment requesting Commission intervention. See Letter dated March 4, 2023 https://psc.ky.gov/pscscf/2022%20cases/2022-00432/20230313_Bryant%20Nicoson%20Request%20for%20Intervention.pdf. (“I am formally requesting the Commission to intervene in the request by Bluegrass Water for a 15.6% rate increase for the areas served by this company.”). Bluegrass Water opposes Nicoson’s intervention, to the extent the Commission believes he sought it, out of an abundance of caution.

⁷ Mr. Isbell’s filing was initially docketed as a Request for Intervention. Bluegrass Water opposes Isbell’s intervention, to the extent the Commission believes he sought it, out of an abundance of caution.

⁸ Ms. Burgess’s filing was initially docketed as a Request for Intervention. Bluegrass Water opposes Burgess’s intervention, to the extent the Commission believes she sought it, out of an abundance of caution.

⁹ The McManuses’ filing was initially docketed as a Request for Intervention. Bluegrass Water opposes the McManuses’ intervention, to the extent the Commission believes they sought it, out of an abundance of caution.

¹⁰ Mr. Akers’s filing was initially docketed as a Request for Intervention. Bluegrass Water opposes Akers’s intervention, to the extent the Commission believes he sought it, out of an abundance of caution.

¹¹ Due to the timing constraints associated with responding to requests for intervention, it is possible that certain individuals seeking to intervene may not be capable of identification and address in this motion. Therefore, to the extent the Commission construes any individual public comments filed as of the time of the filing of this Response as also containing a request for intervention, those requests for intervention should also be denied for the reasons set forth herein.

3. A person seeking intervention must have an interest in the “rates and service” of a utility, as those are the only matters over which the Commission exercises jurisdiction. KRS 278.040(2).

4. The Commission’s regulations are “clear” that intervention by parties other than the Attorney General “is permissive, not mandatory.” *Pub. Serv. Comm’n of Ky. v. Metro. Hous. Coalition*, 652 S.W.3d 648, 654 (Ky. App. 2022) (citing 807 KAR 5:001 Section 4(11) & *Inter-County Rural Elec. Co-op. Corp. v. Pub. Serv. Comm’n*, 407 S.W.2d 127, 130 (Ky. 1966)).

5. A person seeking permissive intervention must follow the Commission’s regulations. A proposed intervenor’s motion “shall include the movant’s full name, mailing address, and electronic mail address and shall state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” 807 KAR 5:001 Section 4(11)(a)(1). Heather Stout did not include a mailing address in her filing.

6. Before granting intervention, the Commission must find that the request to intervene was timely; and 2) demonstrated that the proposed intervenor “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.” 807 KAR 5:001 Section 4(11)(b).

7. First, the Commission should deny Movants’ requests for intervention because Movants have not shown a “special interest in the case that is not otherwise adequately represented” by the Attorney General. 807 KAR 5:001 Section 4(11)(b). “A mere recitation of the quantity of water consumed by a movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.” *In*

the Matter of: Electronic Application of Bath County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076, Case No. 2022-00404 (Jan. 11, 2023).

8. The Attorney General is the statutory advocate for consumers in rate cases and therefore adequately represents consumer interests like those of Movants. The Movants do not assert a special interest in this case that the Attorney General does not otherwise adequately represent. Instead, the motions are “general statement[s] regarding the potential impact of possible modification of rates” which is not a special interest. *See id.*

9. Second, the Commission should deny Movants’ requests for intervention because the Movants are not “likely to present issues or develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” 807 KAR 5:001 Section 4(11)(b). Movants’ requests do not set forth new issues or facts that would assist the Commission in fully considering the matter. Instead, the motions are general statements opposing the proposed rate increase without offering new issues or facts beyond what the Attorney General may assert on their behalf.

10. Therefore, because Movants are unlikely to present new issues or develop facts that would assist the Commission in fully considering this matter, Movants’ participation is duplicative and will unduly complicate and disrupt the proceedings.

WHEREFORE, Bluegrass Water respectfully asks the Commission to deny the requests for intervention of 1) Terri Parris; 2) Jennifer Shather; 3) Nicole Russell; 4) Allan Coldiron; 5) Eileen Baker; 6) Gary Gaugler; 7) Heather Stout; 8) Robert Evans; 9) Nathan Head; 10) Michael Caines; 11) Sidney Milton; 12) Elisabeth Harper; 13) Joshua Magher; 14) Kathy Hackney; 15) William Daughtery; 16) Madalynn Wolfe Davis; 17) Brian Shelton; 18) Bryant Nicoson; 19) Eric

Isbell; 20) Tammy Chambers; 21) Mendy Burgess; 22) Ronald and Bonita McManus; 23) William Akers; and all other individual customers of Bluegrass Water.

Respectfully submitted,

/s/ Edward T. Depp

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Certification

I hereby certify that a copy of this filing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

I further certify that, on this the 15th day of March, 2023, a copy of this filing has been served via United States Mail, postage prepaid, upon the following:¹²

Nicole Russell
60 West Airview Drive
Elizabethtown, KY 42701

Eileen Baker
954 Darlington Creek Drive
Alexandria, KY 41040

Terri Parris
195 Harting Ridge Rd.
West Paducah, KY 42086

Robert Evans
250 Harting Ridge Road
West Paducah, KY 42086

¹² Heather Stout was not served with a copy of this Response because the filing did not include a mailing address or any other contact information.

Jennifer Shather
6050 Oakhaven Dr.
Paducah, KY 42003

Allan Coldiron
104 Fallow Circle
Georgetown, KY 40324

Michael Caines
98 Mariner Drive
Georgetown, KY 40324

Elisabeth Harper
10 E. Airview Drive
Elizabethtown, KY 42701

William R. Daugherty
162 Woodland Drive
Shepherdsville, KY 40165

Bryant Nicoson
1005 Kenzeli Court
Louisville, KY 40245

Mendy Burgess
1125 Red Pine Circle
West Paducah, KY 42086

William Akers
116 Cherry Hills Lane
Louisville, KY 40245

Sidney Milton
27 Kalee Lane
287 Golden Acres Loop
Calvert City, KY 42029

Nathan Head
103 Mallard Court
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1210 Red Pine Circle
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Joshua Magher
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Kathy Hackney
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/s/ Edward T. Depp
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