

**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) Alexander Stacy;¹ 2) William Daniel; 3) James E. Dodge; 4) Martin Carpenter;² 5) John Estabrooks;³ 6) Heather J. Campbell; 7) Carl and Lori Wasbutsky; 8) James Goldsmith; 9) Eileen Baker;⁴ and all other individual customers of

¹ It does not appear that Mr. Stacy asked to be an intervenor but instead asked for Commission intervention. *See* Email, Mar. 15, 2023 (“This is a request for intervention from the PSC regarding the proposed rate change by the Bluegrass Water Utility Operating Company (2022-00432).”). https://psc.ky.gov/pscscf/2022%20cases/2022-00432//20230315_Alexander%20Stacy%20Request%20for%20Intervention.pdf. Bluegrass Water opposes Mr. Stacy’s intervention, to the extent the Commission believes he sought it, out of an abundance of caution.

² It does not appear that Mr. Carpenter asked to be an intervenor but instead asked for Commission intervention. *See* Letter, Mar. 15, 2023 (“I am requesting intervention by the Public Service Commission (PSC).”). https://psc.ky.gov/pscscf/2022%20cases/2022-00432//20230317_Martin%20Carpenter%20Request%20for%20Intervention.pdf. Bluegrass Water opposes Mr. Carpenter’s intervention out of an abundance of caution.

³ It does not appear that Mr. Estabrooks asked to be an intervenor but instead filed a public comment requesting Commission intervention. *See* Email, Mar. 5, 2023 (“It states that we have 30 days from the letter dated to appeal to the regulator PSC for intervention.”). https://psc.ky.gov/pscscf/2022%20cases/2022-00432/Public%20Comments//20230317_Multiple%20Public%20Comments01.pdf. Bluegrass Water opposes Mr. Estabrooks’s intervention, to the extent the Commission believes he sought it, out of an abundance of caution.

⁴ Bluegrass Water previously opposed Ms. Baker’s intervention, in its response filed on March 15. On March 17, Ms. Baker’s March 3 email was included again in Public Comments filed by the Commission. Out of an abundance of caution, Bluegrass Water again files this Response to Ms. Baker’s filing to the extent the Commission believes intervention was requested.

Bluegrass Water (together, “Movants”).⁵ 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.

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

⁵ 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.

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).

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) Alexander Stacy; 2) William Daniel; 3) James E. Dodge; 4) Martin Carpenter; 5) John Estabrooks; 6) Heather J. Campbell; 7) Carl and Lori Wasbutsky; 8) James Goldsmith; 9) Eileen Baker; and all other individual customers of Bluegrass Water.

Respectfully submitted,

/s/ Edward T. Depp

John E. Selent

Edward T. Depp

R. Brooks Herrick

Sarah D. Reddick

DINSMORE & SHOHL LLP

101 South Fifth Street

Suite 2500

Louisville, KY 40202

502.540.2300

502.540.2529 (fax)

John.selent@dinsmore.com

Tip.depp@dinsmore.com

Brooks.herrick@dinsmore.com

Sarah.reddick@dinsmore.com

Counsel to Bluegrass Water Operating Company, LLC

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 22nd day of March, 2023, a copy of this filing has been served via United States Mail, postage prepaid, upon the following:

William Daniel
204 Gemini Trail
Georgetown, KY 40324

James E. Dodge
3375 Tori Trail
West Paducah, KY 42086

Alexander Stacy
12821 Sycamore Creek Drive
Alexandria, KY 41001

Martin Carpenter
107 Elizabeth Lane
Georgetown, KY 40324

John Estabrooks
97 Persimmon Ridge Road
Louisville, KY 40245

Heather J. Campbell
6020 Greenvale Lane
Paducah, KY 42003

Carl and Lori Wasbutsky
120 Harting Ridge Road
West Paducah, KY 42086

James Goldsmith
56 West Airview Drive
Elizabethtown, KY 42701

Eileen Baker
954 Darlington Creek Drive
Alexandria, KY 41040

/s/ Edward T. Depp
*Counsel to Bluegrass Water Utility
Operating Company, LLC*