

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR A DECLARATORY ORDER)	CASE NO.
REGARDING RECOVERY OF COSTS TO)	2025-00142
TO CONVERT CUSTOMERS TO ALTERNATE)	
SOURCE OF FUEL)	

RESPONSE TO REQUEST FOR INTERVENTION BY
MORNING SCOTT, LLC

Comes now Duke Energy Kentucky, Inc. (“Duke Energy Kentucky”), by counsel, in accordance with 807 KAR 5:001, Section 5, and other applicable law, and for its Response to Morning Scott, LLC (“Scott”) for full intervention as intervenors, respectfully states as follows:

Scott’s Motion to Intervene should be denied for failing to meet the criteria required by 807 KAR 5:001, Section 4(11). The legal standard for intervention in Commission proceedings is well settled, and based upon the standard Scott’s request should be denied. Intervention by all parties other than the Attorney General of the Commonwealth of Kentucky (“Attorney General”) is permissive and within the sole discretion of the Commission. The statutory standard for permissive intervention requires the person have an interest in the rates or services of a utility. 807 KAR 5:001, Section 4(11) requires a person to have either a special interest in the proceeding that is not otherwise adequately represented in the case, or that 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. The Movant has the burden of proof to

establish that they satisfy the criteria for being granted intervention¹ and the Commission may use its “sound discretion” to determine whether a movant satisfies the high standards of the intervention regulation.² The Movant failed to show that they have a special interest that is not otherwise adequately represented or that they are likely to present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceedings. In addition, the Application in this proceeding has been pending for more than six months. Scott’s motion is not timely. Accordingly, Duke Energy Kentucky requests that the Commission deny Scott’s Motion to Intervene.

A. Scott does not have a special interest that is not otherwise adequately represented.

The Commission laid out a requisite evidentiary basis for satisfying the regulatory standard of having a “special interest” saying:

...any person requesting to intervene in a Commission proceeding must state with specificity the person’s special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the impact of possible modification of rates will not be deemed sufficient to establish a special interest.³

Scott’s Motion to Intervene contains nothing more than general statements regarding Scott’s property might be one of the property’s impacted by TC Energy Corporation’s (“TC Energy”) modernization project and Duke Energy Kentucky’s proposed solutions for the issue. Scott’s

¹ See *In the Matter of the Adjustment of Rates of Kentucky-American Water Company*, Order, Case No. 2000-00120, p. 2 (Ky. P.S.C. May 30, 2000).

² See *Inter-County Rural Electric Coop. Corp. v. Public Service Comm’n*, 407 S.W.2d 127, 130 (Ky. 1966) (“The regulation reposes in the Commission the responsibility for the exercise of sound discretion in the matter of affording permission to intervene.”).

³ See *Electronic Application of Flemming-Mason Energy Cooperative, Inc. for Pass-Through of Duke Energy Kentucky, Inc. Wholesale Rate Adjustment*, Order, Case No. 2021-00109, p. 4 (Ky. P.S.C. Apr. 15, 2021) (emphasis added).

motion presupposes that Duke Energy Kentucky is going to abandon the lines leaving customers without natural gas service. When in reality, Duke Energy Kentucky has presented three options to the Commission on the issue and abandonment of service, without replacement in any capacity, is not Duke Energy Kentucky's preferred solution. Duke Energy Kentucky is asking the Commission to issue an order in this proceeding with enough time before TC Energy's abandonment to negotiate with customers regarding the costs of their conversion to an alternate fuel source, or if required, to construct a new natural gas main extension, which is a more expensive and time-consuming process, and one that a certificate of public convenience and necessity would likely be required. Further delays would result in the Company not having sufficient time to design, construct, and seek necessary regulatory approvals to extend its natural gas delivery system to serve customers, if that is ultimately determined to be the desired solution.

B. Scott is not likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Scott's status as a customer in the area does not rise to the level of a special interest that should be granted intervention. However, even if the Commission believes Scott has a special interest that is not otherwise represented, Scott will not present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceeding.⁴ It appears from the Motion, Scott's issue is the cost of the conversion to an alternate fuel source. Duke Energy Kentucky has informed the Commission it will negotiate with the affected customers the amount to be paid to convert to an alternate fuel source.⁵

⁴ Case No. 2020-00350, Order (Ky. P.S.C. Dec. 9, 2020) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

⁵ PSC Letter Filing IC Memo and Attendance List into the Record (filed December 1, 2025).

The issue presented in this matter is not terms of the negotiations with the customers, but whether or not the Commission will allow Duke Energy Kentucky the option of converting these customers to an alternate fuel source or if Duke Energy Kentucky must extend its natural gas delivery system to build new distribution mains and service lines to serve these currently transmission line connected customers. If the Commission allows Scott to intervene, the proceedings will quickly turn into a proceeding regarding potential payments to customers. While this is very important to the customers, that is not the issue before the Commission.

Duke Energy Kentucky understands the frustration of Scott because the customers have not been given an answer regarding the future of natural gas service in the area. Duke Energy Kentucky has attempted to move expeditiously in providing answers to the affected customers, however without guidance from the Commission on the issues presented, Duke Energy Kentucky is not able to provide those answers. Duke Energy Kentucky is aware that the uncertainty surrounding the issue is causing concern to all of the customers. However, Duke Energy Kentucky cannot engage in meaningful conversations with the affected customers until such time that Duke Energy Kentucky receives direction from the Commission whether the lower cost fuel conversion option is reasonable or if the Company should extend its delivery system to serve the customers. Duke Energy Kentucky shares the customers' concerns because the longer Duke Energy Kentucky goes without an answer of how to proceed potential solutions are taken off the table. Indeed, extending the natural gas delivery system cannot be accomplished overnight and requires sufficient time to design, procure materials, obtain necessary easements, seek regulatory approval of a certificate of public necessity and convenience to construct such an extension and then complete the construction itself. Permitting further delays in this proceeding will adversely affect the Company's ability to execute a natural gas system extension strategy if that is what the

Commission determines as the most reasonable, albeit higher cost, solution. In addition, the longer the time without direction on how to proceed the more uncertainty and concern the customers in the area will have. Duke Energy Kentucky wishes to move forward to resolve the issue in whatever manner the Commission deems appropriate but does need the direction to move forward. This will alleviate Scott's concern, as well as all other customers in the area. Allowing intervention at this late stage, after the Application has been pending for six months, would cause additional delay. Duke Energy Kentucky needs a resolution to this matter swiftly in order to have a plan that is executable prior to TC Energy beginning to de-energize portions of the pipeline. The de-energizing of the lines will not occur at the same time with portion of the line being de-energized before other portions.

CONCLUSION

For the foregoing reasons, Duke Energy Kentucky respectfully requests that the Commission deny Scott's Motion to Intervene because there is no special interest and intervention will unduly complicate the proceedings. Duke Energy Kentucky respectfully request the Commission issue directives on the ultimate issue presented in this proceeding so that any concerns presented by Scott can be addressed by Duke Energy Kentucky during the conversion to an alternate fuel source or extension of distribution lines.

This the 12th day of December 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing was transmitted to the Commission on December 12, 2025 that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of the filing will be made.

Heather S. Temple

Counsel for Duke Energy Kentucky, Inc.