

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>BLUEGRASS WATER UTILITY</b>	)	
<b>OPERATING COMPANY, LLC FOR AN</b>	)	<b>Case No. 2025-00354</b>
<b>ADJUSTMENT OF WATER AND</b>	)	
<b>SEWAGE RATES</b>	)	

**BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC’S  
RESPONSE TO SCOTT COUNTY’S MOTION FOR INTERVENTION**

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 request for intervention filed by Scott County, Kentucky on January 6, 2026. As explained below, the Commission should deny Scott County’s Motion because Scott County has not met the Commission’s intervention standards.

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”). 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 October 30, 2025.

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). “In exercising [its] discretion to determine permissive intervention, there are both

statutory and regulatory limitations on the Commission.” *In the Matter of: Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase*, Case No. 2016-367 (Mar. 14, 2017).

4. “The statutory limitation, KRS 278.040(2), requires that the person seeking intervention have an interest in the rates or service of a utility, as those are the only two subjects under the jurisdiction of the Commission.” *Joint Application of Kenergy Corp. & Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order*, Case No. 2013-221 (Jul. 19, 2013) (emphasis added).

5. From there, the Commission’s regulations are “clear that the provision permitting [Scott County] to intervene . . . 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)).

6. Before granting intervention, the Commission must find that the request to intervene was timely and demonstrate 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 Scott County’s request for intervention because Scott County has not shown a special interest in this case that is not otherwise adequately represented by the Attorney General. *See* 807 KAR 5:001, Section 4(11)(b). The Attorney General is the statutory advocate for all consumers’ interests in ratemaking proceedings, which includes Scott County citizens. KRS 367.150(8)(b). *See In the Matter of: Electronic Application of*

*Kentucky Utilities Company for an Adjustment of its Electric Rates and Approval of Certain Regulatory and Accounting Treatments*, Case No. 2025-00113, Order (Ky. PSC Aug. 20, 2025) (“The Attorney General has been granted intervention in this matter, and the Commission has long recognized that he is the proper party to represent the ratepayers.”).

8. Second, the Commission should deny Scott County’s request for intervention because Scott County has not shown 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. 807 KAR 5:001, Section 4(11)(b). Scott County’s request does not set forth new issues or facts that would assist the Commission in fully considering the matter.

9. Third, Commission precedent establishes that intervention should be denied when a proposed intervenor does not show an interest in the rates or service of a utility as a retail customer. Specifically, the Commission has held that “[b]ecause only retail customers of [the utility] have an interest in rates or service, [the proposed intervenor] failed to establish that it should be permitted to intervene based on a special interest that is not otherwise adequately represented.” *In the Matter of: Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief*, Case No. 2019-00271, Order at 3 (Oct. 14, 2019) (emphasis added).

10. Here, Scott County has not alleged that it is a retail customer of Bluegrass Water, and Bluegrass Water confirms that Scott County is, in fact, not a retail customer of Bluegrass Water. As a result, pursuant to established Commission precedent, Scott County does not have an interest in the rates or service of Bluegrass Water.

11. Finally, the Commission should deny the requested intervention because it poses an inherent conflict of interest that will unduly complicate this matter and disrupt the proceedings. Scott County broadly seeks intervention on behalf of all residential and commercial customers located within Scott County. However, given Bluegrass Water's proposed rate design, Scott County cannot simultaneously represent the interests of residential and commercial customers.

12. As indicated in the Motion, Bluegrass Water proposes allocating 40 percent of the wastewater revenue requirement to the Delaplain commercial class, based upon the significant investments required to improve the Delaplain system. If Scott County were permitted to intervene and subsequently oppose such allocation to commercial customers, then Scott County would be, in effect, advocating the interests of commercial customers over the interests of residential customers. Indeed, however Scott County proposes to allocate the revenue requirement in this case between the residential and commercial classes that proposal will simultaneously advantage one group and disadvantage the other – an inherent and unavoidable conflict of interest.<sup>1</sup>

13. Put simply, Scott County cannot simultaneously represent the interests of residential and commercial customers without placing at least one class of Scott County citizens at a disadvantage and causing confusion as to whose interests Scott County truly represents.

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<sup>1</sup>As a result of this inherent and unavoidable conflict, it is also questionable whether counsel for Scott County can ethically purport to simultaneously represent the interests of residential and commercial customers located in Scott County. *See* Ky. SCR Rule 1.7 cmt. 8 (“A conflict of interest exists if there is a significant risk that a lawyer’s ability to consider, recommend or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer’s other responsibilities or interests.”); Ky. SCR Rule 1.7 cmt. 29 (“[B]ecause the lawyer is required to be impartial between commonly represented clients, representation of multiple clients is improper when it is unlikely that impartiality can be maintained. Generally, if the relationship between the parties has already assumed antagonism, the possibility that the clients’ interests can be adequately served by common representation is not very good.”).

Because such a conflict of interest will unduly complicate and disrupt the proceedings, the Commission should deny Scott County's request for intervention.

14. Alternatively, to the extent the Commission permits intervention, the Commission should limit the scope of Scott County's intervention to issues that are not already represented by the Attorney General. The Commission has previously limited the scope of an intervening party's interests to specific issues that were not already represented by another party. *See In the Matter of: Electronic Application of Kenergy Corp. for a Certificate of Public Convenience and Necessity for the Construction of a High-Speed Fiber Network and for Approval of the Leasing of the Network's Excess Capacity to an Affiliate to be Engaged in the Provision of Broadband Service to Unserved and Underserved Households and Businesses of the Commonwealth*, Case No. 2021-00365, Order at 4 (Ky. PSC Dec. 9, 2021) (limiting scope of intervention to specific issues that were not already represented by the Attorney General).

15. Specifically, if the Commission determines that Scott County has met the requirements for intervention (it has not), the Commission should limit Scott County's intervention to issues of "economic and public health impact of operations of wastewater services within Scott County,"<sup>2</sup> which is Scott County's purported special interest, but not allow Scott County to intervene for the purpose of challenging proposed rates, rate design or services of Bluegrass Water.

16. Allowing Scott County to intervene only for such limited purpose would (1) allow Scott County to provide facts on economic and public health matters generally affecting Scott County citizens, (2) avoid the inherent conflict of interest that would be presented by authorizing Scott County to challenge proposed rates or rate design, (3) still leave all of Scott County's citizens

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<sup>2</sup> Scott County, Kentucky Motion to Intervene, at 4, ¶ 12.

represented for the purpose of rates and rate design through the intervention of the Attorney General, and (4) comply with Commission precedent establishing that only retail customers of a utility have an interest in the rates and services of a utility.

17. Because Scott County's request for intervention fails to establish a special interest not already represented in the case and fails to show that its intervention will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, the request for intervention should be denied. However, to the extent the Commission grants intervention, the scope of Scott County's intervention should be restricted to issues relating to issues of economic and public health generally affecting all Scott County citizens.

WHEREFORE, Bluegrass Water respectfully requests that Scott County's Motion to Intervene be denied. Alternatively, Bluegrass Water respectfully requests that the scope of Scott County's status as an intervenor be limited to certain issues not already represented by the Attorney General.

This the 12th day of January, 2026.

Respectfully submitted,

/s/ Edward T. Depp

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**Certification**

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 hereby certify that a copy of this Notice has been served electronically on all parties of record for whom an e-mail address is given in the online Service List for this proceeding through use of the Commission's electronic filing system.

*/s/ Edward T. Depp*

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