

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTH	)	
EASTERN WATER ASSOCIATION FOR A	)	Case No.
RATE ADJUSTMENT PURSUANT TO 807	)	2026-00233
KAR 5:076	)	

RESPONSE AND OBJECTION TO MOTION FOR INTERVENTION

By and through the undersigned counsel and pursuant to 807 KAR 5:001, Section 5, South Eastern Water Association, Inc, (“South Eastern Water” or “the Association”) submits its Response and Objection to the Motion for Intervention filed into the record of this proceeding on October 5, 2026, by Michael Hemphill (“Mr. Hemphill”). The Association respectfully requests that the Commission deny Mr. Hemphill’s motion because: (1) he has no interest in this proceeding other than that of any other customer of the Association; and (2) his intervention is likely to unduly complicate this case with issues beyond the Commission’s jurisdiction.

Background

On July 8, 2026, Mr. Hemphill filed a formal complaint against the Association alleging, among other things, that the Association’s Blue John Water Storage Tank, which was constructed two decades ago, sits on land owned by Mr.

Hemphill and not the Association.¹ Before filing his Complaint with the Commission, Mr. Hemphill filed two civil actions in Pulaski County Circuit Court naming South Eastern Water and other parties as Defendants. Essentially he is claiming title to certain parcels of real property that share a common grantor with his family farm. The severance of these parcels from a common grantor dates to 1936. The land upon which the Association's Blue John Water Storage Tank sits is one such parcel. The Association is actively and vigorously defending its title to the Blue John Tank property and has filed Answers and Counterclaims in both civil actions.

On July 16, 2026, the Association filed a response to Mr. Hemphill's Complaint along with a Motion to Dismiss. On August 20, 2026, after numerous additional filings by Mr. Hemphill, the Commission entered an Order finding that Mr. Hemphill had not presented a prima facie case for which the Commission has jurisdiction to grant relief and providing 20 days for Mr. Hemphill to amend his complaint. The 20 days allotted have passed and Mr. Hemphill has made numerous filings. However, the Commission has not entered an Order finding that a prima facia case exists. On October 5, 2026, South Eastern Water filed a Response to Mr.

¹ *Michael Hemphill v. South Eastern Water Association, Inc.* Case No. 2026-00191, Complaint (Ky. PSC July 8, 2026).

Hemphill's most recent filing in Case No. 2026-00191 and renewed its Motion to Dismiss.

Response and Objection to Intervention

In response to Mr. Hemphill's motion in this proceeding, South Eastern Water states the following:

1. Commission regulation 807 KAR 5:001, Section 4(11)(b) limits intervention in Commission proceedings to those having a "special interest in the case that is not otherwise adequately represented" or those who are "likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings."

2. In his motion Mr. Hemphill makes seven statements alleging a special interest and states that his intervention will not disrupt the orderly conduct of these proceedings. Below, the Association responds to each allegation made in the motion.

3. Statement 1. In numbered paragraph 1 of Mr. Hemphill's motion, he references Case No. 2026-00191,² an ongoing formal complaint proceeding that he initiated against the Association nearly three months before he filed his Motion to Intervene in this case. He alleges that his active formal complaint constitutes a special interest that cannot be adequately represented without his intervention in the

² *Michael Hemphill v. South Eastern Water Association, Inc.* Case No. 2026-00191, Complaint (Ky. PSC July 8, 2026).

rate case. The General Assembly granted the Commission jurisdiction over complaints regarding utility rates and services in KRS 278.260. The Commission promulgated 807 KAR 5:001, Section 20 to provide a process for hearing such complaints. Mr. Hemphill's concerns are being actively addressed in Case No. 2026-00191 according to the regulation governing complaints. Mr. Hemphill has no interest that can be properly litigated in the current rate case, other than that of any other customer of the Association.

4. The Commission has held that a person's status as a customer of a utility seeking a rate adjustment is not a special interest meriting full intervention in the proceeding.³

³ *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Nov. 16, 2018) (denying intervention requests of Don Daugherty, Travis Goodin, Conrad Lanham, Teresa Miller, and Elizabeth Shannon because their requests did not articulate a special interest in the proceeding, only a general interest that they shared in common with all other KU customers. Additionally, the Commission noted that these individuals did not show that they were likely to present issues or to develop facts that would assist the Commission in resolving this matter); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295, Order (Ky. PSC Nov. 16, 2018) (denying intervention request of Teresa Miller because her request did not articulate a special interest in the proceeding, only a general interest that she shared with all other LG&E customers. Additionally, the Commission noted that she did not show that she was likely to present issues or to develop facts that would assist the Commission in resolving this matter); *Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00198, Order (Ky. PSC Aug. 28, 2009) (denying intervention to customer Tammy Stewart on ground she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *See, e.g.*, Case No. 2018-00294, Order (Ky. PSC Nov. 16, 2018); Case No. 2018-00295, Order (Ky. PSC Nov. 16, 2018); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Bruce Nunn's request for intervention); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Michael Whipple's request for intervention); *Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548 (Ky. PSC June 2, 2010) (denying customer Geoffrey M. Young's request for intervention); *An Adjustment of the Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company*, Case No. 2003-00433, Order (Ky. PSC Jan. 21, 2004) (denying customer Robert L. Madison's request for intervention).

5. Statement 2. In numbered paragraph 2 of his motion, Mr. Hemphill reasserts allegations made in his September 29, 2026 filing in Case No. 2026-00191 regarding the assessment of state sales tax on water sold to Mr. Hemphill. On October 5, 2026, the Association filed a response to those allegations explaining that it does not have a Department of Revenue Farm Exemption Certificate, Form 51A58 in its records for Mr. Hemphill. Such a certificate is required for the farm exemption from state sales tax on water used in the production of crops and the care of livestock, which is set forth in KRS 139.480(26).

6. Additionally, Mr. Hemphill's home address on file with the Association is outside of Kentucky. The Association has no Department of Revenue Declaration of Domicile, Form 51A380 in its records indicating that Mr. Hemphill is domiciled in Kentucky and therefore exempt from sales tax on water used at his Kentucky home. As the Commission is aware, KRS 139.470(7) exempts from sales tax water used by a Kentucky resident at his place of domicile. Mr. Hemphill does not appear to be a resident of Kentucky, and the Association has no record that indicates Mr. Hemphill is domiciled in Kentucky. This is an example of the enmeshment of issues that is likely to occur should Mr. Hemphill be granted full intervention.

7. Statement 3. In numbered paragraph 3 of his motion, Mr. Hemphill references the property dispute concerning the site of the Blue John Water Storage Tank. This is a dispute concerning real property over which the Commission

has no jurisdiction. As such, this issue cannot serve as the basis for a special interest in these proceedings. The full intervention of Mr. Hemphill in these proceedings would serve only to unnecessarily complicate the issues in the rate case by enmeshing them in this issue over which the Commission has no jurisdiction.

8. Statement 4. In numbered paragraph 4 Mr. Hemphill again repeats allegations made in his filings in Case No. 2026-00191. On August 5, 2026, Mr. Hemphill filed information from the Kentucky Division Water (“DOW”) listing 2419 Blue John Road as a compliance sampling point and assumed it referenced the Blue John Water Storage Tank. Apparently, Mr. Hemphill believes the Association has somehow misrepresented the “address” of the water storage tank. It has not. 2419 Blue John Road is a DOW approved sampling point for water quality purposes. The Association has a hydrant and a 3/4-inch sampling port at this address. It takes quarterly water samples at this location. If the Commission grants Mr. Hemphill full intervention in this proceeding, it risks delaying a final Order in this case by addressing issues not directly relevant to the rates charged for water service.

9. Statement 5. In numbered paragraph 5 of his motion, Mr. Hemphill alleges that Molly Hardy, a local Pulaski County lawyer who represents the Association in the civil actions initiated by Mr. Hemphill and the firm of Stoll Keenon Ogden, PLLC have “confessed” that the Association “deliberately engaged

in con-compliant, customized, and preferential tariff discrimination” in violation of KRS 278.160 and KRS 278.170.

10. Mr. Hemphill reached this conclusion because the Association’s management agreed to delay charging Mr. Hemphill the monthly minimum charge for water after his most recently installed water meter (he has 3 meters in his name) was set. As explained in the Association’s Response and Motion to Dismiss filed into the record of Case No. 2026-00191 on July 17, 2026, Mr. Hemphill signed a Contract for Water Services, was charged, and paid the Commission-accepted \$1,665 Meter Tap Fee on September 19, 2025. The Water Services Contract indicates that it is expected that the applicant will connect to the system immediately and begin using water or be charged a minimum monthly amount. However, following installation of the meter, Mr. Hemphill complained to the utility and stated that although he had signed the contract and paid the Meter Tap Fee, he had not **intended** for the meter to be set right away, as he was not yet ready to attach to the system and begin using water. Giving Mr. Hemphill the benefit of the doubt and believing a genuine misunderstanding could have occurred, the Association agreed to delay charging Mr. Hemphill until he attaches to the system.

11. Because the Association set the meter **after** being paid the appropriate fee and receiving a Water Services Contract, but before receiving an **express directive** from Mr. Hemphill about **when** he wanted the meter to be set, Mr.

Hemphill has repeatedly referred to the Association’s installation of this meter as a “stealth” action designed to charge him for water before he plans to use it.⁴ However, in his Motion for Intervention in this matter Mr. Hemphill characterizes South Eastern Water’s attempt to address his complaint about the timing of the meter installation as “preferential tariff discrimination.” The Association lacks knowledge concerning how to satisfy Mr. Hemphill on this issue. South Eastern Water considers both characterizations of its actions to be inaccurate, if not disingenuous. In any event, it does not believe litigating the matter in its pending rate case is appropriate.

12. Statement 6. In numbered paragraph 6 of his motion, Mr. Hemphill alleges that the City of Burnside, Kentucky (“Burnside”) operates as a wholesale water provider “selling utility assets directly to SEWA. . .” In fact, the Association provides wholesale water service to Burnside. Further, Mr. Hemphill alleges that Burnside City Attorney, Molly Hardy, “simultaneously operates through her private practice as the defense architect helping SEWA push through an additional \$3.00 monthly minimum meter fee. . .” He further claims that his intervention is necessary to “expose” conflicts of loyalty that “distort the transparency of SEWA’s wholesale operational expenses.”

13. To be clear, there is **no** conflict of interest between Attorney Hardy’s representation of the Association in non-regulatory matters, such as the civil actions

⁴ See Hemphill filings, Case No.2026-00191, (Ky PSC July 8, 2026; July 31, 2026; Aug. 3, 2026; and Sep. 1, 2026).

currently pending in Pulaski County Circuit Court, and her role as the Burnside City Attorney. Attorney Hardy does **not** practice in front of the Commission, has **not** entered an appearance in this case, and has **no intention** of doing so. She advises the Association on non-regulatory matters such as property law. Further, the Association and Burnside are each aware of her representation of the other, and neither entity finds this to be a conflict of interest.

14. Statement 7. In numbered paragraph 7 of his motion, Mr. Hemphill alleges that his participation will not disrupt the orderly conduct of the proceeding but will assist the Commission Staff in performing its review of the Application. Commission Staff ("Staff") is well-equipped to review the information provided by South Eastern Water. Staff routinely reviews information provided in rates cases, performs its own analysis and calculations, and advises the Commission without the need for additional assistance. However, should Staff require any assistance in performing its duties, KRS 278.040(5) and KRS 278.110 permit the Commission to contract with consultants to perform professional services and to file the reports of those consultants into the record of the proceeding.⁵

⁵ KRS 278.040(5) provides that the Commission may engage hearing officers, consultants, and other persons and entities on a contractual basis as needed to assist with the performance of the Commission's duties. KRS 278.110(1) provides that the commission may contract for services of persons in a professional or scientific capacity to conduct a temporary special inquiry, investigation, or examination. KRS 278.110(2)(a) requires filing the nonprivileged report of a professional contract to conduct a special inquiry into the record of the proceeding.

15. As South Eastern Water has demonstrated, Mr. Hemphill's motion rests exclusively upon the same issues he has brought forth in Case No. 2026-00191. Granting his request for intervention in this proceeding will likely result in the enmeshment of those issues, which are irrelevant in a rate case, with the matters at hand in this proceeding. South Eastern Water should not be required to litigate Mr. Hemphill's complaint in two Commission proceedings.

16. It is evident from Mr. Hemphill's filings in Case No. 2026-00191 that his complaint lies entirely with the property dispute currently being litigated in Pulaski Circuit Court, an issue over which the Commission has no jurisdiction.

17. Mr. Hemphill has not demonstrated that he has a special interest in these proceedings which can not be represented without his intervention. He has demonstrated: (1) that he is a customer of the Association; and (2) that he is currently litigating a complaint against the Association in two forums, at the Commission and in Pulaski County Circuit Court. Neither constitutes a special interest in the Association's rate case.

18. Further, the contents of Mr. Hemphill's motion indicate that his intervention is likely to unduly complicate this proceeding and delay a final Order in this matter.

WHEREFORE, on the basis of the foregoing, South Eastern Water objects to the intervention of Michael Hemphill in this case and moves the Commission for an Order denying such intervention.

Dated: October 8, 2026

Respectfully submitted,

/s/ Tina C. Frederick
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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, and the Commission's Order of July 22, 2021 in Case No. 2020-00085, I certify that this document was submitted electronically to the Public Service Commission on October 8, 2026, and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.

/s/ Tina C. Frederick
Tina C. Frederick