

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY)	
WATER DISTRICT FOR AN ADJUSTMENT OF)	CASE NO.
RATES, ISSUANCE OF BONDS, AND TARIFF)	2010-00094
CHANGES)	

O R D E R

On October 21, 2010, the Northern Kentucky Tea Party (“NKYTP”), by counsel, filed a motion with the Commission requesting full intervention. By this Order, the Commission grants NKYTP limited intervention.

NKYTP is a non-profit organization created pursuant to KRS Chapter 273 for the purpose of “political and education advocacy.”¹ It states that it has an interest in this proceeding as an advocate for ratepayers of Northern Kentucky Water District. NKYTP further states that it will “assist the Commission in evaluating how the proposed rate increase as a result of unfunded mandates will impact water customers in the Northern Kentucky Water Service district and other Kentuckians.”²

807 KAR 5:001, Section 3(8), governs intervention in Commission proceedings. “The regulation reposes in the Commission the responsibility for the exercise of sound

¹ Northern Kentucky Tea Party Articles of Incorporation, *available at* [http://apps.sos.ky.gov/ImageWebViewer/\(S\(db3sem451gvwt2vsnrm2eb55\)\)/OBDBDisplayImage.aspx?id=4147125](http://apps.sos.ky.gov/ImageWebViewer/(S(db3sem451gvwt2vsnrm2eb55))/OBDBDisplayImage.aspx?id=4147125) (last visited Oct. 26, 2010).

² Northern Kentucky Tea Party’s Motion for Full Intervention (filed Oct. 21, 2010).

discretion in the matter of affording permission to intervene.”³ 807 KAR 5:001, Section 3(8), provides, in part:

If the [C]ommission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the [C]ommission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Thus, the regulation requires that a person seeking to intervene establish “a special interest” in the proceeding or that intervention is likely to develop facts and issues which will assist the Commission without unduly complicating or disrupting the proceeding. We are not convinced that NKYTP’s motion satisfies either requirement.

Although NKYTP has stated that it has an interest in this proceeding to advocate for the utility’s customers, the Attorney General has been granted full intervention, and he has the obligation to appear before the Commission to represent consumers’ interests.⁴ NKYTP has not presented a unique or special interest in this proceeding that is not otherwise adequately represented.

In addition, NKYTP has not demonstrated that its full intervention will not unduly complicate or disrupt the proceedings. The water district filed its rate application with the Commission on June 4, 2010. It published repeated notices of its rate application.

³ *Inter-County Rural Elec. Cooperative Corp. v. Pub. Serv. Comm’n*, 407 S.W.2d 127, 130 (Ky. 1966).

⁴ KRS 367.150(8)(b); see also Case No. 2007-00337, *Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program*, Application at 7 (Ky. PSC Sept. 14, 2007) (denying limited intervention to an individual on the grounds that the AG was a full intervenor).

NKYTP did not file its motion for full intervention until October 21, 2010. In granting full intervention, due process would require the Commission to amend the procedural schedule. The General Assembly has statutorily articulated the importance of the Commission's efficient processing of rate cases, as evidenced by the statutory deadlines set forth in KRS 278.190(2). Therefore, the Commission finds that granting full intervention at this stage in the proceeding would unduly complicate and disrupt the proceeding.⁵

Nevertheless, the Commission believes that NKYTP can present issues or develop facts that will assist the Commission in fully considering this case. NKYTP has stated that it will assist the Commission in evaluating how the proposed rate increase as a result of unfunded mandates will impact the water district's customers.⁶ Accordingly, we will grant NKYTP limited intervention. Pursuant to 807 KAR 5:001, Section 3(8), NKYTP will be entitled to the full rights of a party at the hearing scheduled for October 27, 2010. At that hearing, NKYTP will be able to cross-examine those witnesses that have already filed testimony, but NKYTP will not be able to present its

⁵ The Commission has previously determined that amending the procedural schedule of a case will unduly complicate or disrupt the proceeding. See, e.g., Case No. 2001-092, *Union Light, Heat and Power Co.* (Ky. PSC Sept. 13, 2001) (denying full intervention to an entity that filed a motion to intervene approximately 80 days after the utility filed, gave notice, and submitted its application); Case No. 99-447, *Western Kentucky Case Co.* (Ky. PSC Mar. 2, 2000) (denying full intervention for an entity that filed a motion two months after a case was initiated and a procedural schedule was set).

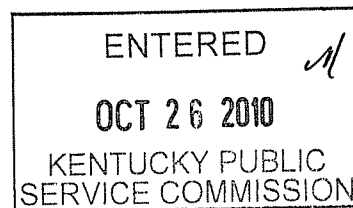
⁶ We caution NKYTP that the Commission's powers are limited to those expressly conferred or necessarily implied by KRS Chapter 278 and this proceeding is limited to the consideration of the water district's proposed rate adjustment, request of authorization to issue bonds, and proposed tariff revision. Cross-examination shall be limited to topics that are relevant to this case.

own witnesses, since the procedural schedule required intervenor testimony to be filed by September 24, 2010.

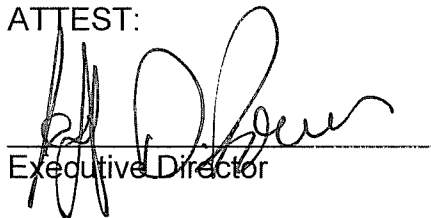
IT IS THEREFORE ORDERED that:

1. NKYTP is granted limited intervention in this proceeding.
2. NKYTP shall be entitled to the full rights of a party at the hearing scheduled for October 27, 2010.
3. NKYTP's motion for full intervention is denied.
4. The Commission's Order of October 21, 2010 that relates to the hearing procedure shall remain in effect.
5. Cross-examination of witnesses shall be conducted in the following order:
 - a. Attorney General;
 - b. NKYTP; and
 - c. Commission Staff.
6. Any exhibits that a party wishes to introduce at the hearing shall be marked with the party's name and a sequential number (e.g., AG Exhibit 1). Reference to a witness is not necessary.

By the Commission



ATTEST:


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