

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF WATER |) | |
| SERVICE CORPORATION OF KENTUCKY FOR A |) | CASE NO. |
| GENERAL ADJUSTMENT IN EXISTING RATES |) | 2018-00208 |

ORDER

On September 28, 2018, the city of Clinton, Kentucky (Clinton) filed a motion to intervene in this matter. Water Service Corporation of Kentucky (Water Service Kentucky) filed a response in opposition to Clinton's motion on October 3, 2018.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.¹ The Kentucky Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.² The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."³

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) 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.

In reviewing the pending motion to intervene, we find that the motion to intervene is not timely. Water Service Kentucky argues Clinton provides no good cause for missing the deadline for intervention and the Commission agrees. The deadline for motions to intervene in this matter ran on July 27, 2018, pursuant to the procedural schedule attached as Appendix A to Commission's Order of July 19, 2018. Clinton argues that the excuse for delay was due to the public notification of this case was made over the Fourth of July holiday and that the matter was not reviewed by the City Council at meetings that allowed it to intervene by the deadline. The Commission finds the explanation does not establish good cause to grant untimely intervention. Last, the Commission finds that granting Clinton intervention in this matter at this late date would unduly complicate and disrupt the proceedings. Water Service Kentucky argues that Clinton has not been an "active participant" in every rate case filed by Water Service Kentucky since 2008. Water Service Kentucky's argument is well taken; the Commission expects that intervenors will fully participate throughout the entire course of a proceeding. For the above reasons, the Commission finds that Clinton's request to intervene should be denied because Clinton failed to establish good cause to permit

³ *Id.* at 3.

untimely intervention and because allowing intervention at this late date in the proceedings would unduly complicate and disrupt the proceedings.

Clinton will have an opportunity to participate in this proceeding even though they are not granted intervenor status. Clinton can review all public documents filed in this case and monitor the proceedings via the Commission's website at the following web address: http://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?case=2017-00212. In addition, Clinton may file comments as frequently as they choose, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that:

1. The motion to intervene filed by Clinton is denied.
2. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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By the Commission

ENTERED
OCT 22 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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