

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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

This matter arises upon the motion of ChargePoint, Inc. (ChargePoint), filed October 2, 2019, for full intervention. In support of its motion, ChargePoint states that it is a corporation organized under the laws of the state of Delaware, and its corporate headquarters is located in Campbell, California. According to ChargePoint, it designs, manufactures, installs, and maintains Level 2 and DC fast-charging stations and operates a cloud-connected charging network to manage charging activities. ChargePoint also states that it operates more than 100,000 charging stations around the world, including more than 75 public charging ports in Kentucky. ChargePoint further states that it currently sells electric vehicle (EV) charging equipment and services to customers in Kentucky.

ChargePoint notes that it regularly participates in regulatory proceedings before utility commissions nationwide in cases that involve electric vehicle charging infrastructure, networks, or rates. Because of its commercial presence in Kentucky, ChargePoint contends that it has a direct and substantial interest in the instant matter and

that its interests will be directly affected by the outcome of the issues in this matter relating to EV charging stations and infrastructure. Lastly, ChargePoint asserts that it has substantial and specific economic interests in the sustainable and scalable growth of EV charging infrastructure in Kentucky.

### DISCUSSION

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that the only person with a statutory right to intervene in a proceeding before the Commission is the Attorney General of the Commonwealth of Kentucky (Attorney General).<sup>1</sup> Intervention by all others is permissive and within the sole discretion of the Commission.<sup>2</sup> In the unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, the Kentucky Court of Appeals held that the Commission retains power in its discretion to grant or deny a motion for intervention, but that discretion is not unlimited. The *EnviroPower* Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions to intervene.<sup>3</sup> The statutory limitation, KRS 278.040(2), requires that the person seeking intervention must have an interest in the rates or service of a utility, since those are the only two subjects under the jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 3(11)(b), requires that a person demonstrate a special interest in the proceedings which is not otherwise adequately represented or that intervention is likely to present issues or

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<sup>1</sup> See KRS 367.150(8)(b).

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

<sup>3</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Applying the statutory standard to the instant request for intervention, the Commission finds that ChargePoint has failed to demonstrate that it should be granted permissive intervention in the proceeding. The Commission's jurisdiction is limited to regulating the rates charged, and the service provided, by Duke Kentucky to its retail customers. Here, ChargePoint has not established that it pays any retail rate to Duke Kentucky or that it receives any retail service from Duke Kentucky. Thus, ChargePoint has not established any direct interest in Duke Kentucky's retail rates or service, much less one that is not otherwise adequately represented. Because only retail customers of Duke Kentucky have an interest in its rates or service, ChargePoint failed to establish that it should be permitted to intervene based on a special interest that is not otherwise adequately represented.

The Commission further finds that ChargePoint has failed to show that, if granted intervention, it is likely to present issues or develop facts that would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Rather than an interest in the rates or service of Duke Kentucky as a retail customer, ChargePoint's interest in this matter relates solely to Duke Kentucky's proposal to implement a pilot EV charging program. Thus, ChargePoint's interest is to promote the EV charging infrastructure market and in doing so may be a potential competitor of Duke Kentucky or a potential vendor seeking increased sales. Such an interest is not sufficient to support intervention under the regulatory standard. In addition, the Attorney General has requested and been granted intervention on behalf of all ratepayers of Duke

Kentucky. The Commission is confident that the Attorney General will be able to present issues and develop facts relating to EV charging infrastructure that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

ChargePoint will have ample opportunity to participate in this proceeding even though it is not granted intervenor status. ChargePoint can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address: [https://psc.ky.gov/PSC\\_WebNet/ViewCaseFilings.aspx?case=2019-00271](https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?case=2019-00271). ChargePoint may also file comments in this matter as frequently as it chooses, and those comments will be entered into the record of this case. Finally, it may also attend and present public comments at the public hearing to be held in our offices in Frankfort, Kentucky. The date for that hearing will be scheduled in the near future.

IT IS THEREFORE ORDERED that ChargePoint's motion for intervention is denied.

By the Commission

ENTERED  
OCT 14 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2019-00271

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