

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF UNION)	CASE NO.
COUNTY WATER DISTRICT FOR AN)	2022-00160
ALTERNATIVE RATE ADJUSTMENT)	

ORDER

On July 7, 2022, the city of Sturgis, KY (Sturgis), filed a letter stating that it was “a request for written intervention for the proposed rate increase of 9.48 percent by the Union County Water District (Union District) on water sold currently to the City of Sturgis – Sturgis, KY.” The letter was signed by the Mayor, Douglas Rodgers, and co-signed by several other parties, including the Sturgis Public Works Superintendent, Tyler Gentry, and several members of the Sturgis City Council: Pete Van, Dawna Brewer, Kent Sayle, and Bernie Vinroe. The letter was sent via facsimile, with a cover page identifying the typewritten name of Mayor Rodgers. Commission Staff contacted the city by telephone in order to properly identify the correct spelling of the names of the other signees to the document due to the fact that only their handwritten signatures were contained on the document, making them difficult to read. None of the individuals who signed the document appear to be attorneys licensed to practice law in the Commonwealth of Kentucky, according to a search of the Kentucky Bar Association (KBA) website database by Commission Staff.

As a basis for its motion, Sturgis made several assertions. Sturgis stated it had never received notice of the proposed rate increase. It further stated that “(w)e have

never had the opportunity to ask for assistance from the Public Service Commission to intervene in any of the increases we have had over the past 8 years has nearly double (sic) from the base rate starting in 2014.” Sturgis further stated that it had received a previous increase in January, and that its wholesale rate is “extreme for us to keep the rising cost of living down for the residents of Sturgis.” It ended with a conclusory statement that the rate increase was unjustifiable because “the purchase rate for (Union District) has not increased from their supplier, City of Morganfield.” The letter ended by asking the Commission to “accept this letter and take into consideration our request of opposing this rate increase.”

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (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 regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that 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.

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

Commission regulation 807 KAR 5:001, Section 4(4) prohibits a person not licensed to practice law in Kentucky from filing papers with the Commission on behalf of another person or otherwise representing another person in a matter before the Commission.

DISCUSSION AND FINDINGS

Based on a review of the pleading at issue and being otherwise sufficiently advised, the Commission finds that Sturgis has failed to demonstrate that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Sturgis is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings. The letter did not clearly state the nature of the relationship between Sturgis and Union District. The letter stated that Sturgis never had the opportunity to intervene with the Commission concerning increases that have allegedly taken place over the past eight years. The letter did not state what efforts Sturgis had made previously to contact the Commission to express any objections to prior rate increases, or how it was prevented from contacting the Commission during the past eight years to request assistance. The letter stated general concerns for rising cost of living for residents of Sturgis. The letter finished by making a conclusory statement that the increase was unjustifiable because “the purchase rate for UC Water District has not increased from their supplier, City of Morganfield.”

The Commission further finds that even if the letter were to be found to have either stated a special interest that is not otherwise represented, or that Sturgis established that its 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, the request for intervention by Sturgis should be denied because no attorney licensed to practice law in the Commonwealth of Kentucky has filed these papers with the Commission on behalf of the Sturgis, thereby violating the requirements of 807 KAR 5:001, Section 4(4) that a licensed Kentucky attorney must file the request for intervention on behalf of Sturgis. While Mayor Rodgers is a duly-elected official of Sturgis, he does not appear to be licensed to practice law in Kentucky, nor are any of the other signees to the letter. In order for Sturgis to be permitted to intervene in this case, it must be represented by a licensed attorney who is permitted to practice law before the Commission.

However, despite the fact that the Commission is denying the request of Sturgis to intervene in this matter at this juncture of the proceedings, Sturgis is permitted to refile its request for intervention in a timely manner according to the procedural schedule that will be issued shortly which will schedule the deadline for all requests for intervention by any interested parties, and as long as the deficiencies noted above are corrected by (a) filing a motion for intervention that establishes clearly that Sturgis has a special interest in the case that is not otherwise adequately represented, or that its 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 pursuant to 807 KAR 5:001, Section 4(11), and (b) having all its filings and appearances before the Commission performed by an attorney licensed to practice to law in the Commonwealth of Kentucky, as required by 807 KAR 5:001, Section 4(4). Therefore, Sturgis will be given the opportunity to remedy the deficiencies of the July 7, 2022 filing.

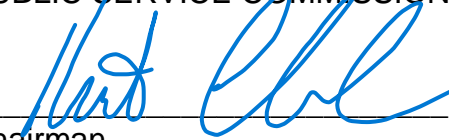
Should Sturgis not obtain intervenor status by hiring counsel and making new pleadings that comply with the findings above, it will still have an opportunity to participate in this proceeding. Sturgis can review all public documents filed in this case and monitor the proceedings via the Commission's website [View Case Filings for: 2022-00160 \(ky.gov\)](https://psc.ky.gov/Case/ViewCaseFilings/2022-00160) (<https://psc.ky.gov/Case/ViewCaseFilings/2022-00160>)

In addition, Sturgis may file comments as frequently as it chooses via the Commission's website at the address listed above, facsimile, or regular mail, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that Sturgis' motion to intervene is denied.

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PUBLIC SERVICE COMMISSION

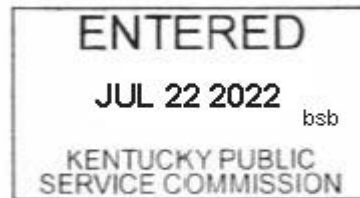


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ATTEST:



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