

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
POWER COMPANY FOR AN ORDER	)	
APPROVING THE COMPANY'S AMENDED	)	
TARIFF E.D.R. TO INCREASE CAPACITY	)	CASE NO.
AVAILABLE TO BE SERVICED UNDER THE	)	2022-00181
TARIFF AND FOR REQUIRED DEVIATIONS	)	
FROM THE COMMISSION'S SEPTEMBER 24,	)	
1990 ORDER IN ADMINISTRATIVE CASE NO.	)	
327	)	

ORDER

This matter arises upon the motion of Kentucky Industrial Utilities Customers, Inc. (KIUC), filed June 22, 2022, for full intervention.

As a basis for its motion, KIUC asserted that it had a special interest not otherwise adequately represented. KIUC explained that some of its members are served by Kentucky Power Company (Kentucky Power), and thus have a special interest in Kentucky Power's rates and service. KIUC is representing its member, Catlettsburg Refining, LLC (Catlettsburg). KIUC explained that its interest relates exclusively to large industrial customers, who take service on a different rate schedule than residential customers. The Attorney General has the statutory duty to represent the interests of consumers, which relates primarily to residential customers. Thus, according to KIUC, the Attorney General could not adequately represent KIUC's interests.

KIUC also asserted that it can present issues and develop facts related to the proposed economic development rate. KIUC alleged that the proposed economic

development rate discounts to serve cryptocurrency mining facilities, which could increase rates for other customers through the fuel adjustment clause. KIUC asserted that it will assist the Commission in rendering a decision without unduly complicating or disrupting the proceedings. KIUC pointed to its long history of being an active participant in matters before the Commission. KIUC avowed that it will actively participate in this proceeding by conducting discovery and cross examining witnesses at a formal hearing.

### 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). The Attorney General is an intervenor in this proceeding. Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>1</sup>

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.

### DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that KIUC demonstrated that KIUC has a special interest in the

---

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

proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without undue complication the proceedings, for the reasons discussed below.

KIUC established that it has a special interest because it represents large industrial customers that have an interest in Kentucky Power's rates and service. Industrial customers take service on different rate schedules; to date, no other party represents the same interest.

The Commission further finds that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without undue complication the proceedings, for the reasons discussed below. The Commission notes KIUC's history of being an active participant in proceedings, and presenting issues and developing facts that have assisted the Commission in considering matters before it. Finally, based on KIUC's past participation, the Commission expects that KIUC will be an active participant in this matter.

Based on the above, the Commission finds that KIUC is granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>2</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.

---

<sup>2</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

2. KIUC is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

3. KIUC shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

4. KIUC shall adhere to the procedural schedule set forth in the Commission's June 20, 2022 Order and as amended by subsequent Orders.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KIUC shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Commissioner

ENTERED  
JUN 30 2022 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director

\*Angela M Goad  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Michael West  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Hector Garcia  
Kentucky Power Company  
1645 Winchester Avenue  
Ashland, KY 41101

\*Honorable Michael L Kurtz  
Attorney at Law  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

\*Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

\*Honorable Mark R Overstreet  
Attorney at Law  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KENTUCKY 40602-0634

\*John Horne  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Honorable Kurt J Boehm  
Attorney at Law  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

\*Kentucky Power Company  
1645 Winchester Avenue  
Ashland, KY 41101

\*Larry Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204