

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF A)	
SPECIAL CONTRACT UNDER ITS ECONOMIC)	CASE NO.
DEVELOPMENT RIDER AND DEMAND)	2022-00424
RESPONSE SERVICE TARIFFS WITH CYBER)	
INNOVATION GROUP, LLC)	

ORDER

This matter arises upon the motion of the Kentucky Industrial Utility Customers, Inc. (KIUC), filed December 21, 2022, for full intervention. As bases for its motion, KIUC stated that it has a special interest in this proceeding that is not adequately represented by other parties and that it is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings. In its motion, KIUC identified one member that is a customer of Kentucky Power Company (Kentucky Power), Catlettsburg Refining LLC, which is a subsidiary of Marathon Petroleum LP.

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 filed a motion to intervene in this case on December 19, 2022, which the Commission granted on December 22, 2022. Intervention by all others is permissive and is within the

sole discretion of the Commission.¹ Subsequent to KIUC's motion to intervene, additional parties sought intervention in a joint motion filed on behalf of Mountain Association, Kentuckians for The Commonwealth, Appalachian Citizens' Law Center, Sierra Club, and Kentucky Resources Council (collectively, Joint Movants).

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001E, Section 4, is twofold. Commission regulation 807 KAR 5:001E, 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 has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings, for the reasons discussed below.

In its motion, KIUC argued that it represents a special interest exclusively related to the industrial utility customers' viewpoint on energy and utility issues before the Commission. In the Joint Movants' motion to intervene, two of the organizations seeking intervention, Kentuckians for The Commonwealth and Kentucky Resources Council,

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

noted that they represented the interests of low-income residential ratepayers in Kentucky Power's service territory. Because KIUC members take service on different customer classes than residential customers, and whose interests may therefore be in conflict with residential customers, the interests of KIUC are not otherwise uniquely represented in this proceeding.

While KIUC identified only one Kentucky Power customer in its motion, the Commission has previously found that Catlettsburg Refining LLC, the Kentucky Power customer that KIUC identified in its motion, is the largest energy consuming customer on the Kentucky Power system.² KIUC intends to participate in this proceeding to determine the potential rate impact if the Commission approves the special contract at issue in this case. Accordingly, the Commission finds that KIUC has a special interest in this proceeding that is not otherwise represented in this proceeding.

In its motion, KIUC argued that it has participated in nearly a hundred cases before the Commission involving utility rate and service issues. With respect to this proceeding, KIUC stated it expected, at minimum, to conduct discovery and actively participate at an evidentiary hearing. Based on KIUC's representations in its motion, the Commission finds that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings. KIUC's participation in this case is likely to develop a fuller and more robust case record for the Commission's consideration.

² See Case No. 2020-00174, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief* (Ky. PSC Aug. 3, 2020).

Based on the above, the Commission finds that KIUC should be granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.
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 5:001E, 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 December 15, 2022 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of service 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.

³ 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).

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman

Commissioner

ENTERED
JAN 12 2023
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KENTUCKY PUBLIC
SERVICE COMMISSION

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