

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2022 INTEGRATED RESOURCE)	CASE NO.
PLANNING REPORT OF KENTUCKY POWER)	2023-00092
COMPANY)	

ORDER

This matter arises upon the motion of the LS Power Development, LLC (LS Power), filed May 8, 2023, for full intervention. As a basis for its motion, LS Power stated that it has a special interest not otherwise adequately represented, and it will present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Kentucky Power Company (Kentucky Power) has made no objection to LS Power's motion. LS Power's motion to intervene is now before the Commission for a decision on the merits.

The parties granted intervention in this proceeding to date are the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) and Kentucky Industrial Utility Customers, Inc. (KIUC).

BACKGROUND

LS Power first argued that it has a special interest not otherwise adequately represented. LS Power maintained that its special interest is twofold: (1) a LS Power affiliate, Riverside Generating Company, L.L.C. (Riverside), is an industrial customer of Kentucky Power and is an electric generator in Kentucky Power's service territory that participates as a capacity resource in PJM Interconnection, LLC's (PJM) market; and (2)

LS Power is developing of renewable and energy storage in Kentucky with interconnection needs. LS Power argued that it had a special interest in the cost, procurement, and reliability of Kentucky Power's future supply mix because it will be impacted by those decisions.

LS Power also maintained that it would present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or delaying the proceeding. Specifically, LS Power argued that its experience in the PJM market and status as a customer and generator in Kentucky Power's service territory will enable LS Power to present issues or develop facts that will assist the Commission in reaching a decision.

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 5:001E, 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

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

matter without unduly complicating or disrupting the proceedings. A finding of either prong of the standard is enough to warrant intervention.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that LS Power 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 LS Power is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below. Specifically, LS Power demonstrated that its affiliate receives service from Kentucky Power and generates power within Kentucky Power's service territory, which places it in a unique position as compared to other parties and entities that have requested and been granted intervention. LS Power also has significant experience developing generation within PJM and in Kentucky such that it is likely to assist the Commission in developing facts and issues in this matter, and LS Power has intervened in previous Kentucky Power cases without creating undue complications.²

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


² See Case No. 2021-00481, *Electronic Joint Application of American Electric Power Company, Inc., Kentucky Power Company and Liberty Utilities Co. for Approval of the Transfer of Ownership and Control of Kentucky Power Company* (Ky. PSC. Jan. 28, 2022), Order.

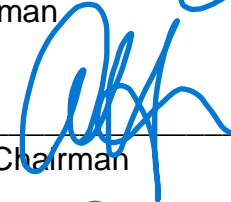
³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).


IT IS HEREBY ORDERED that:

1. LS Power's motion to intervene is granted.
2. LS Power 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. LS Power 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. LS Power shall adhere to the procedural schedule set forth in the Commission's April 14, 2023 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, LS Power 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 06 2023
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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