

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY AND)	CASE NO.
LOUISVILLE GAS AND ELECTRIC COMPANY)	2023-00122
FOR APPROVAL OF FOSSIL FUEL-FIRED)	
GENERATING UNIT RETIREMENTS)	

ORDER

This matter arises upon respective motions filed by Kentucky Industrial Utility Customers, Inc. (KIUC), and Metropolitan Housing Coalition, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association (collectively, Joint Intervenors) requesting to intervene in this proceeding.

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.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

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

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.

KIUC'S MOTION TO INTERVENE

On May 15, 2023, KIUC filed a motion to intervene asserting that it had a special interest that was not otherwise adequately represented and that it would present issues and develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceeding.

KIUC stated that it has a special interest in this matter, acting on behalf of several KIUC members who are also customers of Louisville Gas & Electric Company or Kentucky Utilities Company (LG&E/KU): Air Liquide Industrial U.S. LP, Alliance Coal, LLC, Carbide Industries, LLC, Corning Incorporated, Dow Silicones Corporation, Ford Motor Company, Ingevity, North American Stainless, The Chemours Company FC, LLC, and Toyota Motor Manufacturing, Kentucky, Inc. KIUC asserted that its members will be affected by the impact on rates if LG&E/KU's request to retire certain fossil-fuel-fired generation is approved. KIUC further asserted that the change in generation sources will fundamentally change the nature, cost of energy, and capacity provided to KIUC members, who are large, energy-intensive industrial customers. KIUC argued that its special interest cannot be represented by the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), who was granted intervention in this case. KIUC asserted that the Attorney General is statutorily charged with representing the interests of "consumers" pursuant to KRS 367.150(8), and

that duty relates primarily to residential customers. KIUC maintained that its interest is exclusively related to large industrial customers, who take service on different rate schedules than residential customers.

KIUC also argued that it is likely to present issues or develop facts related to the rate impact of the proposed retirements on industrial customers and the Kentucky economy, in general. KIUC stated that it will, at a minimum, conduct discovery, potentially file expert testimony, and actively participate in the hearing.

JOINT INTERVENORS MOTION TO INTERVENE

On May 15, 2023, Joint intervenors filed a motion to intervene asserting that they had a special interest not otherwise adequately represented and that they would present issues and develop facts that will assist the Commission in fully considering this matter.

Specifically, Joint Intervenors asserted that they would present issues and develop facts related to energy affordability, the impact of supply- and demand-side resource decisions on residential customers, energy-efficiency, and distributed renewable energy.

DISCUSSION AND FINDINGS

KIUC's Motion

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 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 unduly complication the proceedings, and therefore KIUC's motion should be granted for the reasons discussed below. The Commission concludes that KIUC has a special interest in this case because LG&E/KU's request to retire certain fossil-fuel-fired

generation, if approved, would have an impact on the rates of KIUC's industrial members. Further, because KIUC members take service on different customer classes than residential customers, and whose interests may therefore be different from residential customers, the interests of KIUC's industrial members are not otherwise adequately represented in this proceeding. In addition, KIUC could present issues and develop facts regarding effect on industrial customers' rates for discovery purposes and could assist in the development of the case record.

Joint Intervenors' Motion

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Joint Intervenors are likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings. This is because Joint Intervenors have demonstrated, among other things, that they have direct experience with demand side management and energy efficiency programs, and renewable energy resources, which are issues that will be raised in this matter. With direct experience working with and in the interest of customers on those issues is likely to assist the Commission in fully considering those issues in this matter. Joint Intervenors have also asserted that they will speak with one voice and participate in this proceeding to develop a fuller and more robust case record.

CONCLUSION

Based on the above, the Commission finds that KIUC and Joint Intervenors, respectively, should be granted full rights of a party in this proceeding. The Commission

directs KIUC and Joint Intervenors, respectively, to the Commission's July 22, 2021 Order in Case No. 2020-00085² regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.
2. Joint Intervenors' motion to intervene is granted.
3. 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.
4. Joint Intervenors are 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.
5. 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.
6. Joint Intervenors 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.
7. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of service of this Order, KIUC and Joint Intervenors, respectively, shall file a written statement with the Commission that:
 - a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

² 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).

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

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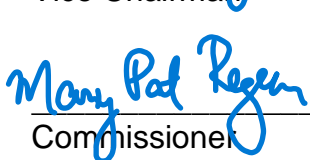
PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

 / *HH with permission*

Commissioner

ENTERED
MAY 24 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

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