

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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)	CASE NO.
PRACTICES TO ESTABLISH REGULATORY)	2023-00159
ASSETS AND LIABILITIES; (4) A)	
SECURITIZATION FINANCING ORDER; AND (5))	
ALL OTHER REQUIRED APPROVALS AND)	
RELIEF)	

ORDER

This matter arises upon the motion of the Walmart Inc. (Walmart), filed August 2, 2023, for full intervention. As a basis for its motion, Walmart stated that it has a unique, special interest that cannot be adequately represented by another party.¹

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.² 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

¹ Walmart, Inc.'s Motion to Intervene (filed Aug. 2, 2023) at 1-4.

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

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 sufficiently advised, the Commission finds that Walmart has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented for the reasons discussed below.

The Commission finds that Walmart has a special interest in this proceeding. The retailer has nine facilities, independently spread throughout the service area of Kentucky Power Company (Kentucky Power).³ According to Walmart, it purchased more than 28.3 million kWh during the previous 12 months from Kentucky Power.⁴ The purchases were billed generally using Industrial General Service Rate Schedule.⁵ Walmart is not a residential customer and its interest as a single, large commercial customer that takes service on different rate schedules than residential customers means that no other party can represent its unique interest.⁶

Although prior intervention is not determinative in this matter, Walmart also cited to its prior Commission case involvement as well as its ability to provide testimony with a

³ Walmart's Motion to Intervene at 2.

⁴ Walmart's Motion to Intervene at 2.

⁵ Walmart's Motion to Intervene at 2.

⁶ Walmart's Motion to Intervene at 3.

different perspective.⁷ Based on the above, the Commission finds that Walmart is granted full rights of a party in this proceeding. The Commission directs Walmart to the Commission's July 22, 2021 Order in Case No. 2020-00085⁸ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. The motion of Walmart to intervene is granted.
2. Walmart shall be 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. Walmart 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. Walmart shall adhere to the procedural schedule set forth in the Commission's July 20, 2023 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, Walmart 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 should be served.


⁷ Walmart's Motion to Intervene at 4.

⁸ 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

*not
signed
w/permission*



ATTEST:


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