

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PETITION OF KENERGY CORP.)	CASE NO.
FOR A DECLARATORY ORDER)	2023-00309

ORDER

On October 30, 2023, the Commission entered an Order denying the motion of the Kentucky Solar Energy Industry Association (KYSEIA) to intervene in this declaratory order case and directed KYSEIA to file a response to Kenergy’s petition for declaratory order pursuant to 807 KAR 5:001, Section 19(4). On November 13, 2023, KYSEIA filed a response to the petition requesting its dismissal. In the alternative, KYSEIA requests a rehearing of the Commission’s October 30, 2023 Order denying its motion to intervene.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”¹ An order can only be unlawful if it violates a state or federal statute or constitutional provision.²

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000).

In support of its motion for rehearing, KYSEIA stated that “Kenergy’s Petition fails to offer a complete set of facts and law necessary for an adjudication through a declaratory Order, and KYSEIA and its members have an interest in the adjudication that Kenergy seeks.” KYSEIA, however, did not cite any alleged material errors or omissions or claim that any findings are unreasonable or unlawful. KYSEIA did not advance any arguments not previously made in its motion to intervene. KYSEIA did not address the Commission’s finding that its intervention should be denied because it could unduly disrupt this proceeding by allowing KYSEIA to serve requests for information. The Commission noted in its Order that the issue raised by Kenergy’s petition is one of legal interpretation, and it is anticipated that the petition will be ruled upon based on a review of the petition and responsive filings.

For these reasons, the Commission finds that KYSEIA’s alternative request for a rehearing of the Commission’s October 30, 2023 Order denying its motion to intervene should be denied. The Commission, when ruling on this matter, will consider the substantive arguments made by KYSEIA in its response to Kenergy’s petition for declaratory order.

IT IS HEREBY ORDERED that KYSEIA’s motion for rehearing of the Commission’s October 30, 2023 Order denying its motion to intervene is denied.

PUBLIC SERVICE COMMISSION

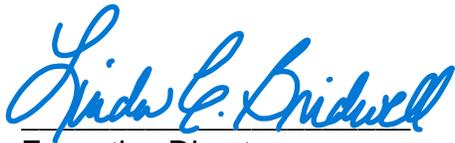

Chairman


Vice Chairman


Commissioner

ENTERED
DEC 01 2023
KENTUCKY PUBLIC SERVICE COMMISSION ^{rCS}

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

*Timothy Lindahl
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*J. Christopher Hopgood
Dorsey, Gray, Norment & Hopgood
318 Second Street
Henderson, KENTUCKY 42420

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

*Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*Larry Cook
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

*Rob Stumph
Manager of Planning & Design
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419