

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
101 WEST WASHINGTON STREET, SUITE 1500 EAST
INDIANAPOLIS, INDIANA 46204-3419

<http://www.in.gov/iurc>
Office: (317) 232-2701
Facsimile: (317) 232-6758

FILED
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INDIANA UTILITY
REGULATORY COMMISSION

APPEAL BY MIKE MULLETT OF THE)
CONSUMER AFFAIRS DIVISION'S DECISION IN)
CASE NO. 122038 CONCERNING THE) CAUSE NO. 45008
PROVISION OF ELECTRIC SERVICE BY DUKE)
ENERGY INDIANA LLC)

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

The following individuals ("Prospective Intervenorors") have filed Petitions to Intervene ("Petitions") in the above captioned Cause.

- Patricia C.R. Orth, January 26, 2018
- Gary E. Arbeiter, January 29, 2018
- Daniel Price, January 29, 2018
- Madeline Hirschland, January 29, 2018
- Paul David Simcox, January 29, 2018

Prospective Intervenorors state that their intervention will not unduly broaden the issues or otherwise burden the proceeding. 170 IAC 1-1.1-11 governs intervention in Commission proceedings and states that:

- (a) A petition to intervene may be filed by any person or entity alleging a substantial interest in the subject matter of the proceeding in which the person or entity requests leave to intervene.
- (b) Petitions to intervene shall set out clearly and concisely facts showing the following:
 - (1) The proposed intervenor's substantial interest in the subject matter of the proceeding.
 - (2) The position of the proposed intervenor with respect to the matters involved in the proceeding.
 - (3) Specific prayers for affirmative relief, if desired.
 - (4) A prayer for leave to intervene and to be made a party to the proceeding.

- (c) A petition to intervene shall be filed not less than five days prior to the date set for the initial public evidentiary hearing on the merits. A petition to intervene may be filed and granted thereafter at the discretion of the presiding officer, upon good cause shown.
- (d) If a petition to intervene satisfies this section and shows the proposed intervenor has a substantial interest in the subject matter of the proceeding or any part thereof, and the proposed intervenor's participation will not unduly broaden the issues or result in unreasonable delay of the proceeding, the presiding officer may grant the prayer for leave to intervene, in whole or in part and, thereupon, the intervenor becomes a party to the proceeding with respect to the matters set out in the intervention petition.
- (e) An intervenor is bound by all rulings and other matters of record prior to the time the intervenor is made a party and takes the case as the intervenor finds it as of the date of intervention.
- (f) Petitions to intervene, when filed with the commission, shall show service thereof upon all parties to the proceeding, in conformity with section 13 of this rule.
- (g) A party may object to a petition to intervene, and, absent objection thereto, may be deemed to have waived any objection to the granting of the petition. Any response shall be filed within seven days after service of the petition to intervene and shall be served upon all other parties unless the presiding officer prescribes a different time. Any reply to the responses shall be filed within five days after service of the response unless the presiding officer prescribes a different time. Responses or replies may be made orally at the time of hearing or prehearing conference if there exists insufficient time prior to the hearing or conference to make written response or reply according to the deadlines provided under this section.

This proceeding is an appeal of an informal disposition rendered by the Commission's Consumer Affairs Division ("CAD"). In the underlying informal complaint Mr. Mullett argued that Duke Energy Indiana, LLC ("Duke") has not revised its current Net Metering and Intervention Tariffs to differentiate between net metering facilities and customers who have and those who have not acquired "grandfathered" net metering through June 30, 2047. Further, Mr. Mullett noted that he is a residential electric customer and net metering customer of Duke.

In their Petitions, Prospective Intervenors state that:

[t]he purpose of my intervention in this proceeding is to assert my property rights, to support Mr. Mullett in the assertion of his property rights, and to respond to any arguments against our property rights made by Duke, or relating to any other issue as required by law to be determined by the Commission, in this proceeding.

Despite the assertion that Prospective Intervenor's interventions will not unduly broaden the issues before the Commission, the above paragraph of the Petitions indicate that the matters which Prospective Intervenor's wish to address will in fact unreasonably broaden the scope of this proceeding beyond the issues in this Cause. The issue with which the Commission is presented is whether CAD appropriately resolved a complaint between Mr. Mullett and Duke. It is not an investigation into Duke's general provision of electric service to all of its customers. The Commission's review of CAD's decision on Mr. Mullett's complaint is generally limited to a review of the CAD record. 170 IAC 16-1-6(c). Neither Mr. Mullett's complaint against Duke nor CAD's review of that complaint addresses Prospective Intervenor's property rights or any other complaint that Prospective Intervenor's may have against Duke. Furthermore, the Commission's procedural rules do not allow the representation or support of another person's interest or rights unless that person is an attorney admitted to practice before the Indiana Supreme Court in good standing. 170 IAC 1-1.1-7. Nothing in the Prospective Intervenor's Petitions indicate that they are such an attorney or that Mr. Mullett seeks to be represented by Prospective Intervenor's. The discretion to allow or disallow status as an intervenor resides with the Commission. Because we find that Prospective Intervenor's interventions will unduly broaden the issues before the Commission by raising issues not presented to or considered by CAD in resolving Mr. Mullett's complaint, Prospective Intervenor's Petitions are denied.

IT IS SO ORDERED.



David E. Ziegner, Commissioner



David E. Veleta, Senior Administrative Law Judge

January 30, 2018

Date