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ARKANSAS PUBLIC SERVICE COMMISSION FILED

IN THE MATTER OF THE CONTINUATION,)
EXPANSION, AND ENHANCEMENT OF)
PUBLIC UTILITY ENERGY EFFICIENCY)
PROGRAMS IN ARKANSAS)

DOCKET NO. 13-002-U
ORDER NO. 6

ORDER

On August 9, 2013, the Arkansas Energy Office (“AEO”) filed a Petition to Intervene (“Petition”) as a party in this proceeding pursuant to Rule 3.04 of the Arkansas Public Service Commission’s (“Commission’s”) *Rules of Practice and Procedure* (“RPPs”), citing its statutory powers and duties under Arkansas law and asserting its responsibility to: coordinate the planning and execution of comprehensive energy conservation programs; propose executive and legislative measures on energy-related matters; provide comments before state and federal regulatory bodies on energy matters mandated by federal and state agencies; monitor and evaluate existing and proposed actions, laws, policies, regulations, and orders of the state and federal governments in energy matters relevant to Arkansas; and advise the Governor and Legislature on energy matters. Petition at 3. AEO asserted that it cannot perform these duties in a limited role and requires intervenor status to fulfill these duties, that it has a direct interest in this proceeding, and that its participation is in the best interests of the public, which interests differ significantly from those of other government agencies represented in this proceeding and which cannot be adequately represented by any existing or future participant, given the unique nature of its interests. *Id.* AEO further

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states that its participation in this docket as a party will not unduly delay or expand the scope of this docket. *Id.*

On August 12, 2013, the General Staff ("Staff") of the Commission filed its Response to Petition to Intervene ("Staff's Response"), stating that Order No. 1 in this Docket appears to permit AEO's participation as a party in this proceeding because of AEO's party status in Docket No. 07-083-TF, based on its role as the administrator of the Energy Efficiency Arkansas ("EEA") Program if it files comments in this proceeding. Staff did not respond to the merits of AEO's Petition, noting that its decision not to respond does not indicate its agreement with AEO's assertions therein. Staff's Response states that before addressing the merits of the Petition, it recommends that the Commission confirm whether Order No. 1 permits AEO's participation as a party based on its role as the administrator of the EEA program pursuant to the terms of that Order. In the event that the Commission determines that Order No. 1 does not permit AEO to participate as a party in this Docket because of its party status in Docket No. 07-083-TF, Staff requests that the Commission provide Staff and any other party the opportunity to respond to the merits of AEO's Petition.

On August 19, 2013, Entergy Arkansas, Inc. ("EAI") filed its Response to Petition to Intervene ("EAI Response"), agreeing with Staff that the wording of Order No. 1 in this Docket indicates that AEO would be granted intervenor status because of its status as a party in Docket No. 07-083-TF based on its role as administrator of the EEA Program, assuming AEO files comments in this proceeding. EAI concurs with Staff's request that the Commission confirm that this is the basis for AEO's intervention in this docket. EAI also supports Staff's recommendation that the Commission provide

additional time to respond to AEO's Petition if the Commission determines that Order No. 1 does not permit AEO to participate in this proceeding based upon its status as a party in Docket No. 07-083-TF.

Findings and Ruling

Having considered AEO's Petition and the Responses of Staff and EAI, as well as the record of this Docket and that of Docket No. 07-083-TF, the Commission makes the following findings:

Order No. 1 provided that any party to an existing EE tariff docket who filed comments "in response to Order No. 1" would be a party to this Docket.

At the time of the creation of this Docket (January 4, 2013), AEO was not a formal party to Docket No. 07-083-TF, although it was the official administrator of the EEA Program.

The Commission granted AEO intervenor status in Docket No. 07-083-TF on June 4, 2013, following AEO's May 13, 2013 Petition to Intervene in that docket.

The Commission granted AEO's Petition to Intervene in Docket No. 07-083-TF "solely with respect to its role as program administrator" of the EEA Program.

The Commission's procedural schedule for comments in response to Order No. 1, as amended by Order No. 2, required the filing of Initial Comments on or before May 15, 2013, and Reply Comments to be filed on or before June 1, 2013.

Although AEO filed for intervenor status in Docket No. 07-083-TF on May 13, 2013, and was granted intervention on June 4, 2013, AEO neither filed for intervention in Docket No. 13-002-U nor signaled any intention to file Initial or Reply Comments in

response to Order No. 1 in this Docket prior to the expiration of the comment period on June 1, 2013.

AEO filed its Petition to Intervene in this Docket on August 9, 2013, more than two months after the comment period had expired.

In accordance with Rule 3.04(b)(1), the Commission today rules that AEO does not fall within the ambit of Order No. 1's provision that parties to Docket No. 07-083-TF or any of the other Energy Efficiency ("EE") TF dockets would automatically be made parties to this Docket if they filed comments in response to that Order. Order No. 1, footnote 1. The comment period for responses to Order No. 1 is closed.

Accordingly, the Commission directs Staff and EAI to respond to the merits of AEO's Petition to Intervene on or before noon on September 13, 2013. A ruling on AEO's pending Petition thus remains under advisement.

BY ORDER OF THE COMMISSION,

This 29th day of August, 2013.

Colette D. Honorable, Chairman

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or
 Electronic mail using the email address of each party as indicated in the official docket file.

Olan W. Reeves, Commissioner

Elana C. Wills, Commissioner

Kristi Rhude, Secretary of the Commission