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COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The 2012 Integrated Resource Plan of
East Kentucky Power Cooperative, Inc.

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CASE NO. 2012-00149

PETITION OF SONIA MCELROY AND
SIERRA CLUB FOR FULL INTERVENTION

Pursuant to K.R.S. §278.310 and 807 K.A.R. 5:001 § 3(8), Sonia McElroy and Sierra Club (collectively “Movants”), petition the Commission for full intervention in this case. The Movants have a wealth of knowledge and experience in a wide variety of the complex and rapidly changing issues which impact East Kentucky Power Cooperative’s (“EKPC”) Integrated Resource Plan (“IRP”), and interests in this proceeding that are not adequately represented by any other party to the proceeding. The Movants seek full intervention to help ensure EKPC has an IRP that results in rates and services that best satisfy their members’ interest in low cost and cleaner energy service.

This proceeding comes at a critical juncture for EKPC. Existing or expected federal Clean Air Act and Clean Water Act regulations will require EKPC to either install pollution controls on coal units or to retire such units. Technological advances and changes in market conditions have made a larger suite of both supply- and demand-side options available for EKPC to provide service to their customers through the distribution cooperatives. Moreover, growing awareness of the public health, environmental, and economic impacts of energy production have increased the importance of the pursuit of energy efficiency and renewable energy resources

from both a cost and environmental perspective. For the Commission, energy efficiency and conservation are paramount considerations for determining the rates and services of utilities and their importance will continue to grow “as more constraints are . . . placed on utilities that rely significantly on coal-fired generation.”¹ In short, EKPC faces a new reality involving a growing set of costs to its existing generation fleet, an expanding set of options for how to service its customers, and an increasingly complex set of factors relevant to identifying the lowest cost mix of supply- and demand-side resources for meeting its customers’ needs. The organizational Movant, on behalf of its members, has gained significant expertise on these issues in proceedings throughout the country, and seek to bring such expertise to this proceeding.

I. THE MOVANTS

Movants seek full intervention in order to ensure that their interests in lower cost and cleaner energy options are fully represented, and to bring to this proceeding their expertise in developing plans for providing a lower cost and cleaner energy future. Movant Sonia McElroy is a customer of Shelby Energy Cooperative, which is an EKPC distribution cooperative, and a long-time Sierra Club member, and has a deep interest in seeing EKPC transform to meet the new reality in a way that is both low cost and cleaner. Her address is as follows:

Sonia McElroy
412 Lee Port Road
Milton, KY 40045

Sierra Club is one of the oldest conservation groups in the country with over 625,000 members nationally in sixty-four chapters in all fifty states, the District of Columbia, and Puerto

¹ *In the Matter of: Joint Application of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, Louisville Gas and Electric Company, and Kentucky Utilities Company for Approval of an Acquisition of Ownership and Control of Utilities (Case No. 2010-00204) Order, Sept. 30, 2010 at 20 (noting that the Commission stated its support for energy-efficiency programs in a report “to the Kentucky General Assembly in July 2008 pursuant to Section 50 of the 2007 Energy Act”).*

Rico. Sierra Club has almost 5,000 members in Kentucky, which are part of the Cumberland Chapter. The Cumberland Chapter's address is:

Sierra Club
Cumberland Chapter
P.O. Box 1368
Lexington, KY 40588-1368

II. LEGAL BACKGROUND

The Commission's regulations regarding intervention provide that a person may seek leave to intervene in a Commission proceeding and, upon timely motion:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented **or** that full intervention by [the] party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

807 K.A.R. 5:001 § 3(8)(emphasis added). In other words, the Commission must grant full intervention if Movants either have interests in this proceeding that are not adequately represented or they offer expertise that would assist in evaluation of the CPCN application. As explained below, Movants satisfy both standards for intervention.

Movants are seeking intervention in an IRP proceeding that is governed by 807 K.A.R.

5:058. Pursuant to that regulation, EKPC was required to submit a

load forecast[] and resource plan[] . . . to meet future demand with an adequate and reliable supply of electricity at the lowest possible cost for all customers within their service areas, and satisfy all related state and federal laws and regulations

Id. This proceeding is intended to evaluate the adequacy and reasonableness of EKPC's submission and to identify improvements that should be made to the IRP.

III. THE COMMISSION SHOULD GRANT MOVANTS FULL INTERVENTION

A. This Petition to Intervene is Timely Filed

This request to intervene is timely. EKPC filed its IRP on April 20, 2012. On May 25,

2012, the Commission issued a scheduling order in this proceeding, which does not establish a deadline for requesting intervention but does establish a deadline for initial discovery requests by June 8, 2012. Movants have submitted this Petition for intervention along with their initial discovery requests on June 8, 2012. As such, this Petition is timely.

B. Movants Will Present Issues and Develop Facts That Will Assist the Commission in Fully Considering the Matter Without Unduly Complicating or Disrupting the Proceedings.

The Commission should grant Movants full intervention as they are “likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” 807 K.A.R. 5:001 § 3(8). This proceeding involves complex questions regarding the development of a low cost and low risk energy plan for EKPC within the context of rising costs for existing coal units, expanding availability of cost effective supply- and demand-side alternatives to such coal units, and increased awareness of the significant economic and environmental impacts that coal-fired generation can have. Movant Sierra Club, on behalf of their members including the individual Movant herein, has a wealth of knowledge and experience regarding these critical issues.

Movant Sierra Club has developed expertise that encompasses a broad range of environmental and energy concerns that fully complement the myriad of technical and policy issues parties will face in this proceeding. In particular, Sierra Club’s staff and consultants have extensive experience in resource planning, analyzing the potential for cost effective energy efficiency, and in the laws and regulations regulating energy production. Sierra Club has jointly or individually intervened and/or provided testimony on these issues in a multitude of similar proceedings in a number of states including Arkansas, Arizona, California, Colorado, Florida, Illinois, Iowa, Louisiana, Kentucky, Michigan, Mississippi, Missouri, New York, New Jersey,

Nevada, Ohio, Oklahoma, Oregon, South Carolina, Utah, Wisconsin, and Wyoming. In the past year, Sierra Club has intervened and provided testimony on these issues in five other dockets before this Commission,² and has recently intervened in a fifth.³ Sierra Club has also regularly presented testimony before the U.S. Congress and various state legislatures on issues related to the electric utility industry, including energy efficiency, renewable energy, and coal generation.

Movants are aware of past holdings by the Commission that it does not make decisions about environmental regulations.⁴ But the Movants are not seeking intervention to opine about the environmental impacts of EKPC's coal plants. Instead, Sierra Club, on behalf of its members including the individual Movant, will be able to use its expertise to provide current data and analysis to explore whether it is economic to retrofit certain plants that would need to upgrade to comply with new and emerging federal regulations, explore additional steps for lowering costs by reducing EKPC's coal dependency, and present evidence and argument in support of policies that would promote aggressive implementation of energy efficiency and renewable energy sources, combined heat and power, and other low carbon generation sources as the most reasonable and prudent approach for EKPC to provide low cost and low risk service to its customers.

²See, *In re 2011 Joint Integrated Resource Plan of Louisville Gas & Electric Company and Kentucky Utilities Company* (Case No. 2011-00140); *Application of Louisville Gas & Electric for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge* (Case No. 2011-00162), *Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge* (Case No. 2011-00161); *Joint Application of Louisville Gas & Electric and Kentucky Utilities for Certificates of Public Convenience and Necessity to Construct Combined Cycle Natural Gas Plant* (Case No. 2011-00375); *Application of Kentucky Power Company for Approval of its 2011 Environmental Compliance Plan and Certificates of Public Convenience and Necessity* (Case No. 2011-00401).

³ *Application of Big Rivers Electric Corporation for Approval of its 2012 Environmental Compliance Plan, For Approval of Its Amended Environmental Cost Recovery Surcharge Tariff, For Certificates of Public Convenience and Necessity, and For Authority to Establish a Regulatory Account* (Case No. 2012-00063).

⁴ *In the Matter of The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Case No. 2008-148) Order, July 18, 2008 at 5-6; *Application of Big Rivers Electric Cooperative for Approval of its 2012 Environmental Compliance Plan and Certificates of Public Convenience and Necessity* (Docket No. 2012-00063).

EKPC's IRP deals with complicated topics. However, the Movants helping the Commission to explore many of the assumptions and inputs into the 2012 IRP will not unduly complicate the matter. Rather, it will allow for a more robust examination to ensure that EKPC has the best IRP possible. Finally, the Movants are represented by experienced counsel and will comply with all deadlines in the proceeding established by the Commission. As such, Movants' participation will not disrupt this proceeding.

C. Movants Have Special Interests in This Proceeding Which Are Not Adequately Represented.

As noted above, 807 K.A.R. 5:001 §3(8) provides two alternative bases for granting full intervention. Parties either need to have a special interest not adequately represented or present issues and facts that will help the Commission fully consider the matter. As explained in Section III.B., above, the Movants will present issues and facts that will help the Commission fully consider the matter. Therefore, the Commission can grant full intervention on that basis alone and need not consider the Movants' special interest. Nevertheless, as explained below, the Movants also have special interests that are not adequately represented.

The individual Movant is a customer and rate payer of Shelby Energy Cooperative, which is one of EKPC's distribution cooperative members. As such, she helps fund EKPC's operations, and her bills will be directly impacted by the decisions EKPC makes about how to provide service to their customers. In addition, the individual Movant lives within EKPC's distribution cooperatives' service territory and, therefore, is impacted by the economic, public health, and environmental effects of the resource decisions that EKPC makes. Organizational Movant Sierra Club has member(s) who are customers and ratepayers of a distribution cooperative of EKPC and, therefore, have the same interests as the individual Movant. In addition, Movants' desire to promote energy efficiency, peak demand reduction, renewable

energy, and cost-effective low carbon energy sources in Kentucky is directly related to the issues of this proceeding, in which EKPC has proposed and the parties are evaluating the resource plan for EKPC for the next 15 years.

Movants' interests are not adequately represented by any of the parties in the proceeding, as none of the other parties can adequately represent the organizational Movants' interests as a national organization that seeks to promote energy efficiency, renewable energy, and other low carbon generation sources as the most reasonable and cost effective way for EKPC to maintain essential electric services and meet new and emerging federal regulatory requirements.

Movants are uniquely positioned to share their expertise with the Commission to ensure that EKPC's resource plan adequately addresses these issues for the next 15 years. Finally, allowing Movants to intervene will serve the public interest because no other party to this proceeding has the capacity or the incentive to assure that Movants' concerns are addressed.

IV. CONCLUSION

For the foregoing reasons, the Movants respectfully request full intervention in this matter.

Respectfully submitted,



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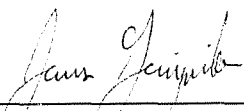
Dated: June 8, 2012

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Petition for Full Intervention by first class mail on June 8, 2012 to the following:

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