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BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

The 2012 Integrated Resource Plan of)
East Kentucky Power Cooperative, Inc.) CASE NO. 2012-00149
)

SONIA MCELROY AND SIERRA CLUB'S RESPONSE TO
EAST KENTUCKY POWER COOPERATIVE'S
MOTION TO CLARIFY THE PROCEDURAL SCHEDULE

Sonia McElroy and the Sierra Club (collectively, "Intervenors") hereby respond to East Kentucky Power Cooperative's ("EKPC") self-styled "Motion to Clarify the Procedural Schedule." In reality, EKPC's motion would deny Intervenors the opportunity to serve supplemental requests for information in this proceeding by delaying until July 25, 2012 the deadline for EKPC's responses to Intervenors initial requests for information. While Intervenors do not necessarily object to EKPC receiving additional time to respond to those initial requests, the Commission should grant such additional time only if the procedural schedule is further modified to provide Intervenors with an opportunity to pursue supplemental information requests after receiving complete responses to their initial requests.

On April 20, 2012, EKPC filed with the Commission its Integrated Resource Plan, which sets forth the company's proposed load forecast, power supply strategy, fuel cost projections, and demand side management evaluation for the next fifteen years. The 400+ page filing raises a number of issues relevant to the future of EKPC and the costs that its ratepayers will face, including the level of cost-effective demand side management that EKPC could pursue, the company's achievement of compliance with various environmental laws, changing fuel prices, and the increasing feasibility and availability of renewable resources.

On May 25, 2012, the Commission issued a case management schedule in this docket. Intervenors moved to intervene on June 8 and, consistent with the deadline set in the case management schedule, submitted their initial information requests on the same day. On June 14, EKPC filed a letter announcing that it decided to delay working on responding to those initial requests unless and until the Commission granted Intervenors' motion. The Commission did so on June 21. EKPC's responses to Intervenors' initial requests for information were due on June 25, but instead of responding EKPC filed the present motion. The case management schedule provides Intervenors until July 10 to submit supplemental requests, which EKPC is required to respond to by July 25.

EKPC's motion seeks to nearly triple the time it has to respond to Intervenors' initial information requests from 17 to 47 days. It would also render Intervenors' opportunity to submit supplemental requests a nullity, as EKPC's initial responses would not be provided to Intervenors until after Intervenors are required to file supplemental requests. EKPC attempts to justify its request on the grounds that the Intervenors did not move to intervene until a month after another entity, Gallatin Steel Company, so moved. (Motion at 2). EKPC also explains that it notified the Intervenors that it would not start working on their initial information requests until after the Commission ruled on the intervention motion, which the Commission did one business day before the information request responses were due. (*Id.*).

The scenario described by EKPC does not justify the company's failure to timely respond to Intervenors' initial requests, much less provide a basis for denying Intervenors a meaningful opportunity to submit supplemental requests and fully participate in this proceeding. While EKPC complains about when Intervenors sought intervention, the Commission has not established an intervention deadline in this proceeding and Intervenors moved only two weeks

after the case management schedule was issued. In addition, Intervenor submitted their initial information requests by the deadline set forth in the case management schedule. While EKPC chose to delay working on responding to those requests, that voluntary delay should not be held against Intervenor, especially given that EKPC did not object to Intervenor's intervention and the Commission has granted Intervenor Sierra Club intervention in five similar proceedings in the past year.¹ In short, there is no basis for EKPC's implication that it has been unfairly deprived of adequate time to respond to Intervenor's initial information requests, or for depriving Intervenor of the opportunity to pursue supplemental information requests in this proceeding.

That being said, Intervenor is amenable to EKPC receiving additional time to respond to Intervenor's initial information requests so long as the schedule is also modified to ensure that Intervenor still have a meaningful opportunity to submit supplemental information requests. As such, Intervenor propose the following modified schedule:

- EKPC shall file with the Commission and serve upon parties of record responses to interrogatories and requests for production of documents no later than July 25, 2012
- Intervenor and Commission Staff may serve supplemental interrogatories and requests for production of documents on EKPC no later than August 9, 2012
- EKPC shall file with the Commission and serve upon parties of record responses to supplemental interrogatories and requests for production of documents no later than August 24, 2012
- Any party desiring to file written comments on the EKPC IRP or request an informal conference shall do so no later than September 7, 2012

¹ See In re 2011 Joint Integrated Resource Plan of Louisville Gas & Electric Company and Kentucky Utilities Company (Case No. 201 1-00140); Application of Louisville Gas & Electric for Certificates of Public Convenience and Necessity and Approval of Its 201 1 Compliance Plan for Recovery by Environmental Surcharge (Case No. 201 1-00162), Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 201 1 Compliance Plan for Recovery by Environmental Surcharge (Case No. 201 1-00161); 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. 201 1-00375); Application of Kentucky Power Company for Approval of its 2011 Environmental Compliance Plan and Certificates of Public Convenience and Necessity (Case No. 201 1-00401); Application of Big Rivers Electric Corporation for Approval of its 2012 Environmental Compliance Plan (Case No. 2012-00063).

- EKPC shall file any written responses to the comments filed by any intervenor no later than September 21, 2012

For the foregoing reasons, Intervenors urge the Commission to deny EKPC's motion and instead modify the case management schedule along the lines set forth above.

Respectfully submitted,



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Dated: June 29, 2012

CERTIFICATE OF SERVICE

I certify that I mailed a copy of Intervenor's Sonia McElroy and Sierra Club's Response to East Kentucky Power Cooperative's Motion to Clarify Procedural Schedule by first class mail on June 29, 2012 to the following:

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