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January 27, 2014

Via Personal Delivery

Mr. Jeff Derouen, Executive Director
Case No. 2013-00475
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

Re: Case No. 2013-00475 Petition of Beverly May, Alexander Desha, and Sierra Club for Full Intervention

Dear Mr. Derouen,

Enclosed, please find one (1) original and ten (10) copies of Beverly May, Alexander Desha, and Sierra Club's Petition for Full Intervention, filed today in the above-referenced matter via personal delivery. By copy of this letter, all parties listed on the Certificate of Service have been served via USPS and e-mail. Please file this document with the Commission.

Sincerely,

Kristin A. Henry
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**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**Kentucky Power Company's Integrated
Resource Planning Report**

)
) **CASE NO. 2013-00475**
)

**PETITION OF BEVERLY MAY, ALEXANDER DESHA, AND
SIERRA CLUB FOR FULL INTERVENTION**

Pursuant to K.R.S. §278.310 and 807 K.A.R. 5:001 § 3(8), Beverly May, Alexander DeSha, 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 Kentucky Power Company's ("KPC") Integrated Resource Plan ("IRP"). Moreover, KPC's IRP incorporates the company's plans for complying with provisions of the Stipulation and Settlement Agreement in Case No. 2012-00578, which the Commission approved with modifications and which Sierra Club was a party to. Movants' interests in this proceeding are not adequately represented by any other party to the proceeding. As such, Movants seek full intervention to help ensure KPC has an IRP that results in rates and services that best satisfy its members' interest in low cost, low risk energy service.

This proceeding comes at a critical juncture for KPC. Existing or expected federal Clean Air Act and Clean Water Act regulations will require KPC 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 KPC to provide service to its customers. 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, KPC 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 a low cost, low risk 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 seeks 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. Movants Beverly May and Alexander DeSha are customers of KPC, are Sierra Club members, and have a deep interest in seeing KPC transform to meet the new reality in a way that is both low cost and cleaner.

Their addresses are as follows:

Alexander DeSha
1348 Jenkins Rd
Whitesburg, KY 41858

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”).

Beverly May
363 Wilson Creek
Langley, Kentucky 41645

Sierra Club is one of the oldest conservation groups in the country with over 600,000 members nationally in sixty-four chapters in all fifty states, the District of Columbia, and Puerto 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:

The commission shall grant a person leave to intervene if the commission finds that a person has a special interest in the case that is not otherwise adequately represented or that intervention 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

807 K.A.R. 5:001 § 4(11)(b) (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 IRP. 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, KPC 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 KPC'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. KPC filed its IRP on December 20, 2013. On January 17, 2014, the Commission issued a scheduling order in this proceeding, which requires the filing of all requests for intervention by January 27, 2014. Movants have submitted this Petition for intervention on January 27, 2014. 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 § 4(11)(b). This proceeding involves complex questions regarding the development of a low cost and low risk energy plan for KPC 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 its members including the individual Movants 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 governing 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 three years, Sierra Club has intervened and provided testimony on these issues in nine other dockets before this Commission,² including in docket number 2012-00578, in which the Stipulation and Settlement Agreement that is incorporated into KPC's IRP, was approved, as modified by the Commission, and has recently moved to intervene in a tenth.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

²See, Application of Louisville Gas & Electric for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2011-00162), Application of Kentucky Utilities for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge (Docket 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 (Docket No. 2011-00375); Application of Kentucky Power Company for Approval of its 2011 Environmental Compliance Plan and Certificates of Public Convenience and Necessity (Docket No. 2011-00401); Application of Big Rivers Electric Cooperative for Certificate of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2012-00063); Application of Kentucky Power Company For: A Certificate of Public Convenience and Necessity Authorizing the Transfer to the Company of An Undivided Fifty Percent Interest in the Mitchell Generating Station and Associated Assets (Docket No. 2012-00578); Application of Big Rivers Electric Corporation for an Adjustment of Rates (Docket No. 2012-00535); Application of Big Rivers Electric Corporation for a General Adjustment in Rates (Docket No. 2013-00199); Application of East Kentucky Power Cooperative for Certificate of Public Convenience and Necessity (Docket No. 2013-00259); .

³ Application Kentucky Power Company to Amend Its Demand Side Management Program and for Authority to Implement a Tariff to Recover Costs (Case No. 2013-00487).

⁴ In the Matter of The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky

the environmental impacts of KPC's coal plants. Instead, Sierra Club, on behalf of its members including the individual Movants, 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 KPC'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 KPC to provide low cost and low risk service to its customers.

KPC's IRP deals with complicated topics. However, the Movants helping the Commission to explore many of the assumptions and inputs into the 2014 IRP will not unduly complicate the matter. Rather, it will allow for a more robust examination to ensure that KPC 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 § 4(11)(b) 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

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).

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 Movants are customers and rate payers of KPC. As such, they help fund KPC's operations, and their bills will be directly impacted by the decisions KPC makes about how to provide service to its customers. In addition, the individual Movants live within KPC's service territory and, therefore, are impacted by the economic, public health, and environmental effects of the resource decisions that KPC makes. Organizational Movant Sierra Club has member(s) who are customers and ratepayers of a distribution cooperative of KPC 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 KPC has proposed and the parties are evaluating the resource plan for KPC for the next 15 years.

Movants' interests are not adequately represented by any other party in the proceeding. As of the time of this filing, the only other party to seek intervention in this proceeding is the Kentucky Industrial Utility Customers ("KIUC"), which represents a subset of KPC's customers. KIUC does not, and does not purport to, represent the organizational Movant's 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 KPC to maintain essential electric services and meet new and emerging federal regulatory requirements.⁵ Movants

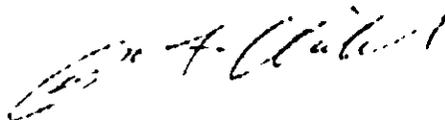
⁵ The Attorney General, should it intervene in this proceeding, cannot adequately represent Movants' interests. The Attorney General has the unenviable task of representing all consumers and all of their diverse interests, even if some of the interests are diametrically opposed to each other. The Attorney General may not be able to represent the Movants' interest, or at least not as forcefully, because of the Attorney General's obligation to represent all consumers. Courts have "repeatedly held that private companies can intervene on the side of the government, even if some of their interests converge." *See, e.g., Hardin v. Jackson*, 600 F. Supp. 2d 13, 16 (D.D.C. 2009). Moreover, the Attorney General's office will not marshal the same level of expertise as Movants with regard to energy efficiency and DSM. Finally, the Attorney General is not a party to the Stipulation and Settlement Agreement in

are uniquely positioned to share their expertise with the Commission to ensure that KPC's resource plan adequately addresses these issues for the next 15 years. As such, 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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Case No. 2012-00578 and, in fact, is challenging the Commission's approval of the Stipulation. Accordingly, Movants are uniquely positioned to share their expertise with the Commission.

Of counsel:

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Dated: January 27, 2014

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Petition for Full Intervention by first class mail on January 27, 2014 to the following:

Honorable Mark R Overstreet
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Boehm, Kurtz & Lowry
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Cincinnati, OH 45202

A handwritten signature in black ink, appearing to read 'AR', is written over a horizontal line.

Anthony Raduazo