

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF: ELECTRONIC 2016 :
INTEGRATED RESOURCE PLANNING REPORT OF : Case No. 2016-00413
KENTUCKY POWER COMPANY TO THE :
PUBLIC SERVICE COMMISSION OF KENTUCKY :

**MOTION TO INTERVENE
OF JIM WEBB AND SIERRA CLUB**

Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001 § 4(11)(a), Jim Webb and Sierra Club (collectively “Movants”) respectfully move the Commission for full intervention in the above-captioned case. Having intervened in other integrated resource plan (“IRP”), certificate of public convenience and necessity (“CPCN”), and demand-side management (“DSM”) proceedings in Kentucky and in other jurisdictions, the Movants have a wealth of knowledge and experience in the complex and rapidly changing issues that impact Kentucky Power Company’s (“Kentucky Power” or “the Company”) IRP.¹ Movants will use that experience to present issues and develop facts that will assist the Commission in fully considering this matter. In the alternative, Movants seek intervention because their special interests in this proceeding are not adequately represented by any other party to the proceeding.

In this proceeding, the Commission will review whether Kentucky Power has identified the least-cost, lowest-risk plan for meeting customers’ energy and peak demand requirements. A prudent integrated resource plan should take into account the magnitude of looming costs its

¹ *In re: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413

generation assets face. This proceeding comes at a critical planning juncture for Kentucky Power as one of its generating plants, the Rockport plant, is nearing a \$3 billion capital investment decision. Kentucky Power is currently party to a Unit Power Agreement (“UPA”) that entitles it to 393 megawatts (“MWs”) from the Rockport coal-fired power plant in Indiana.² The UPA is set to expire in 2022.³ Kentucky Power is assuming, for purposes of this IRP, that the UPA will be renewed and continue through the entire fifteen year planning period; it made this assumption without the benefit of any actual analysis.⁴ Rather than simply assuming that Kentucky Power will renew this UPA, the Company should evaluate in its IRP scenarios in which it does not renew the UPA and, instead, pursues resources to replace the energy and capacity that it currently receives from the Rockport plant. Such an evaluation is important to identifying a best, least-cost option for customers because during the IRP term the operator of the Rockport plant would need to install \$3 billion of pollution controls,⁵ refuel those units to burn natural gas, or retire such units. By beginning to analyze now whether it is in the best interest of Kentucky Power’s customers for the Company to renew the UPA, which would put the Company on track to pay for its share of this \$3 billion upgrade, Kentucky Power will be able to evaluate the full suite of alternatives available to best serve its customers in 2022 and begin planning for such a future.

Technological advances and changes in market conditions have made a larger suite of both supply- and demand-side options available for Kentucky Power 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

² *In re: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413, Volume A at pg. 14 and 16.

³ *Id.* at pg. 14.

⁴ *Id.* at pg. 14, 62.

⁵ See Letter from Paul Chodak, III, Indiana Michigan Power Company President and Chief Operating Officer, *I&M Putting Energy into Evolving Plans* (March 21, 2016) published in Northeast Indiana Regional Partnership, available at: < <http://neindiana.com/news/im-putting-energy-into-evolving-plans/?contrast=on>>.

and renewable energy resources from both a cost and environmental perspective. As the Commission has noted, 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.”⁶ In short, Kentucky Power faces a new reality involving a growing set of costs to its existing generation fleet, especially Rockport, 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 meetings its customers’ needs. The Sierra Club has gained significant expertise on these issues in proceedings throughout the country and how they apply to the Kentucky Power’s fleet by participating in previous CPCN and IRP dockets concerning this utility before this Commission⁷ and regarding the Rockport plant before the Indiana Utility Regulatory Commission,⁸ and will bring its expertise to bear in this proceeding.

⁶ *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”).

⁷ Case No. 2011-00401, *Application of Kentucky Power Company for Certificates of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge*; Case No. 2012-00578, *Application of Kentucky Power Company For: (1) 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; (2) Approval Of The Assumption by Kentucky Power Company of Certain Liabilities In Connection With the Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With The Company’s Efforts to Meet Federal Clean Air Act And Related Requirements; and (5) For All Other Required Approvals and Relief; In re Kentucky Power Company’s Integrated Resource Planning Report*, Case No. 2013-00475; Case No. 2013-00259, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Alteration of Certain Equipment at the Cooper Station and Approval of a Compliance Plan Amendment for Environmental Surcharge Cost Recovery*; Case No. 2013-00487, *Application of Kentucky Power Company to Amended its Demand-Side Management Program and for Authority to Implement a Tariff to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of the Programs*.

⁸ *In re: Verified Petition of Indiana Michigan Power Company for Approval of a Clean Energy Project and Qualified Pollution Control Property and for Issuance of Certificate for Public Convenience and Necessity for Use of Clean Coal Technology*, Cause No. 44871 before the Indiana Utility Regulatory Commission.

I. THE MOVANTS

Movants seek full intervention in order to ensure that their interests in low-cost, clean energy options are fully represented. Additionally, movants seek full intervention in order to bring to this proceeding their expertise evaluating integrated resource plans, particularly their expertise reviewing whether Kentucky Power has fully considered all reasonable options, including retirement of some generating units, and appropriately accounted for all reasonably foreseeable costs and risks. Movant Jim Webb is a customer of Kentucky Power and a Sierra Club member. He has a long-standing interest in Kentucky Power diversifying its supply portfolio to include low-cost, clean energy options such as energy efficiency and renewable energy. His address is:

Jim Webb
P.O. Box 666
Whitesburg, KY 41858

Sierra Club is one of the oldest conservation groups in the country, with more than 695,000 members nationally in sixty-four chapters in all fifty states, the District of Columbia, and Puerto Rico, who are dedicated to practicing and promoting the responsible use of natural resources. Sierra Club has over 5,300 members in Kentucky who 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. REQUIREMENTS FOR INTERVENTION

The Commission's regulations regarding intervention provide that the Commission shall grant a person, as defined by K.R.S. § 278.010(2), leave to intervene in a Commission proceeding upon a timely motion if the Commission finds that the 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.”⁹ Thus, the Commission must grant full intervention if Movants have filed a timely intervention motion and either have interests in this proceeding that are not adequately represented or if they would assist in evaluation of the IRP without unduly complicating or disrupting the proceedings. As explained below, Movants satisfy both standards for intervention.

III. THE COMMISSION SHOULD GRANT MOVANTS FULL INTERVENTION

A. This Motion is Timely Filed.

This motion to intervene is timely. Kentucky Power filed its 2016 Electronic Integrated Resource Planning Report on December 20, 2016. On January 19, 2017, the Commission issued an order setting a deadline of January 30, 2017 for the filing of intervention motions.

Accordingly, this motion is timely.

B. Movants Will Present Issues or 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 because 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.”¹⁰ As the Commission’s prior orders indicate, an IRP should consider the full range of demand- and supply-side resources, and comprehensively account for the costs facing such resources.¹¹ Sierra Club, on behalf of its members, including the individual Movant, seek to present testimony regarding whether

⁹ 807 KAR 5:001 § 4(11)(b) (emphasis added).

¹⁰ 807 KAR 5:001 § 4(11)(b).

¹¹ See, e.g., *In re: Consideration of the New Fed. Standards of the Energy Indep. & Sec. Act of 2007*, 292 P.U.R.4th 395 (Oct. 6, 2011); *In re: 2011 Integrated Res. Plan of Duke Energy Kentucky, Inc.*, 2011-00235, 2013 WL 662096 (Feb. 21, 2013); *In Re: Kentucky's Elec. Generation, Transmission, Distribution Needs*, 243 P.U.R.4th 374 (Sept.

Kentucky Power has identified the lowest-cost, lowest-risk plan in light of the substantial capital costs facing the Rockport plant; the full range of regulatory, capital, operating, and fuel costs that its generating plants face; and the increasing availability of low-cost energy efficiency and renewable energy alternatives.

The IRP was developed against a backdrop of major changes in the electric sector as natural gas prices remain low, federal environmental regulations become increasingly stringent, and prices for renewable energy continue to rapidly decline. Utilities, such as Kentucky Power, should plan for existing legal requirements and environmental regulations, including carbon regulation. Obligations under an existing Consent Decree¹² and recently promulgated environmental regulations¹³ will require significant additional investments in Kentucky Power's generating units in the coming years, specifically the Rockport plant. In December 2007, American Electric Power ("AEP") companies entered into a Consent Decree to resolve outstanding litigation concerning Clean Air Act compliance. Pursuant to the terms of the Consent Decree and subsequent modification thereof, if the owners and operators wish to continue operating the Rockport Plant, they are required to retrofit units 1 and 2 with selective catalytic reduction technology by December 31, 2017 and December 31, 2019, respectively and to retrofit units 1 and 2 with flue gas desulfurization technology by December 31, 2025 and December 31, 2028, respectively.¹⁴ These are not the only upcoming capital costs facing this plant. The U.S. Environmental Protection Agency ("EPA") finalized the first federal rule that would restrict greenhouse gas emissions from existing power plants and a federal rule regarding effluent

15, 2005).

¹² *In re: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413, Volume A at pg. 68.

¹³ *Id.* at pg. 67.

¹⁴ *Id.* at pg. 68-69.

limitation guidelines.¹⁵ All of these legal requirements are going to require the investment of a significant amount of money to keep these plants operational; Indiana Michigan Power Company estimates that it would need to spend \$3 billion to upgrade this plant.¹⁶ If, as Kentucky Power assumes without analysis in its IRP, the Company renews the UPA, it will be responsible for its proportionate share of those costs.

Kentucky Power faced a similar decision regarding whether to invest significant capital in retrofits or pursue a different alternative that was better for ratepayers. Pursuant to the terms of the Consent Decree, Kentucky Power had to either retrofit Big Sandy Unit 2 with a flue gas desulfurization technology, repower the plant with natural gas, or retire the unit by December 31, 2015.¹⁷ Kentucky Power, as approved by the Commission, decided that it was in the best interests of its ratepayers to retire Big Sandy Unit 2 and replace the generation by purchasing the already controlled Mitchel power plant, rather than invest \$1 billion in a retrofit.¹⁸

Given the magnitude of capital costs facing the Rockport plant and that Kentucky Power decided to retire rather than retrofit Big Sandy unit 2 when faced with a similar decision, the Company should not simply defer addressing this issue. Rather Kentucky Power should evaluate as part of its IRP scenarios in which the UPA is not renewed in 2022 and, instead, the Company begins taking steps to replace the energy and capacity it receives from the Rockport plant. By

¹⁵ *Id.* at pg. 67, 70-73.

¹⁶ See Letter from Paul Chodak, III, Indiana Michigan Power Company President and Chief Operating Officer, *I&M Putting Energy into Evolving Plans* (March 21, 2016) published in Northeast Indiana Regional Partnership, available at: < <http://neindiana.com/news/im-putting-energy-into-evolving-plans/?contrast=on>>.

¹⁷ *In re: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413, Volume A at pg. 68.

¹⁸ See Case No. 2011-00401, *Application of Kentucky Power Company for Certificates of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge*; Case No. 2012-00578, *Application of Kentucky Power Company For: (1) 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; (2) Approval Of The Assumption by Kentucky Power Company of Certain Liabilities In Connection With the Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With The Company's Efforts to Meet Federal Clean Air Act And Related Requirements; and (5) For All Other Required Approvals and Relief*.

beginning its analysis now, Kentucky Power will be able to fully evaluate a full range of reasonable alternatives for best serving its customers. Sierra Club will bring its expertise and experience to bear in helping to ensure that the larger suite of supply- and demand-side options available for utilities to provide service to their customers are fully evaluated as part of this IRP.

Sierra Club will also develop facts about how energy efficiency and demand-side management continue to be the lowest cost resources available. The Commission has encouraged utilities to pursue demand-side resources in order to mitigate the increased cost of utilities' existing generation. At the same time, the cost of renewable generation, particularly wind and solar, has declined significantly.

Organizational Movant Sierra Club has extensive experience analyzing and commenting on these issues, which are central to the development of a prudent integrated resource plan. 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 gained a considerable amount of knowledge regarding Kentucky Power, in particular, by intervening in five Commission proceedings relating to the utility.¹⁹ In Kentucky, Sierra Club has also intervened in Commission proceedings relating to the Big River Electric Corporation's 2013 IRP, East Kentucky Power Cooperative's 2012 IRP,

¹⁹ Case No. 2011-00401, *Application of Kentucky Power Company for Certificates of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge*; Case No. 2012-00578, *Application of Kentucky Power Company For: (1) 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; (2) Approval Of The Assumption by Kentucky Power Company of Certain Liabilities In Connection With the Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With The Company's Efforts to Meet Federal Clean Air Act And Related Requirements; and (5) For All Other Required Approvals and Relief; In re Kentucky Power Company's Integrated Resource Planning Report*, Case No. 2013-00475; Case No. 2013-00259, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Alteration of Certain Equipment at the Cooper Station and Approval of a Compliance Plan Amendment for Environmental Surcharge Cost Recovery*; Case No. 2013-00487, *Application of Kentucky Power Company to Amended its Demand-Side Management Program and for Authority to Implement a Tariff to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of the Programs*.

and Louisville Gas and Electric Company and Kentucky Utilities Company's ("LG&E/KU") 2011 IRP and 2014 IRP.²⁰ In addition to having participated as intervenors in these IRP dockets, Sierra Club has intervened and provided testimony on complex energy issues before this Commission in several CPCN and DSM dockets.²¹ Outside Kentucky, Sierra Club has jointly or individually intervened and/or provided testimony in resource planning dockets in a number of states, including Arkansas, California, Colorado, Florida, Louisiana, Michigan, Minnesota, Missouri, North Carolina, Oregon, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, Washington, and West Virginia.

²⁰*In re: Big Rivers Electric Corporation's 2014 Integrated Resource Plan*, Case No. 2014-00166; *In re Kentucky Power Company's Integrated Resource Planning Report*, Case No. 2013-00475; *In re The 2012 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.*, Case No. 2012-00149; *In re The 2011 Joint Integrated Resources Plan of Louisville Gas & Electric Company and Kentucky Utilities Company*, Case No. 2011-00140, *In re The 2014 Joint Integrated Resources Plan of Louisville Gas & Electric Company and Kentucky Utilities Company*, Case No. 2014-131.

²¹ See Case No. 2011-00162, *Application of Louisville Gas & Electric Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge*; Case No. 2011-00161, *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. 2011-00375, *Joint Application of Louisville Gas & Electric Company and Kentucky Utilities Company for Certificates of Public Convenience and Necessity to Construct Combined Cycle Natural Gas Plant*; Case No. 2011-00401, *Application of Kentucky Power Company for Certificates of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge*; Case No. 2012-00578, *Application of Kentucky Power Company For: (1) 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; (2) Approval Of The Assumption by Kentucky Power Company of Certain Liabilities In Connection With the Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With The Company's Efforts to Meet Federal Clean Air Act And Related Requirements; and (5) For All Other Required Approvals and Relief*; Case No. 2013-00259, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Alteration of Certain Equipment at the Cooper Station and Approval of a Compliance Plan Amendment for Environmental Surcharge Cost Recovery*; Case No. 2013-00487, *Application of Kentucky Power Company to Amended its Demand-Side Management Program and for Authority to Implement a Tariff to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of the Programs*; Case No. 2014-0002, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Certificates of Public Convenience and Necessity for the Construction of a Combined Cycle Combustion Turbine at the Green River Generating Station and a Solar Photovoltaic Facility at the E.W. Brown Generating Station*; Case No. 2014-0003, *Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New, Demand-Side Management and Energy Efficiency Programs*; *In re: Applic. of Ky. Utils. Co. for an Adjustment of Its Elec. Rates*, Case No. 2014-00371; *In re: Applic. of Louisville Gas and Elec. Co. for an Adjustment of Its Elec. Rates*, Case No. 2014-00372; *In re: Applic. of Ky. Utils. Co. for an Adjustment of Its Elec. Rates and Certificate of Public Convenience and Necessity*, Case No. 2016-00370; *In re: Applic. of Louisville Gas and Elec. Co. for an Adjustment of Its Elec. Rates and Certificate of Public Convenience and Necessity*, Case No. 2016-00371.

Movants' participation as full intervenors will not unduly complicate the matter, but instead will assist the Commission's review, as has occurred in other proceedings. For example, the Staff Report on LG&E/KU's 2011 IRP cited approvingly to several recommendations made by the Sierra Club.²² Movants expect to file comments that would be similarly helpful to the Commission's review of Kentucky Power's 2016 IRP. 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 a Special Interest in this Proceeding That Is Not Otherwise Adequately Represented.

807 K.A.R. 5:001 § 4(11) provides two alternative bases for granting full intervention. Parties need to have either 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, Movants will present issues and facts that will help the Commission fully consider the matter. The Commission can grant full intervention on that basis alone and need not consider Movants' special interest. Nevertheless, as explained below, Movants also have special interests that are not adequately represented.

Jim Webb, the individual Movant, is a customer of Kentucky Power. Mr. Webb helps to fund Kentucky Power's operations and, therefore, the resource decisions made by the Company and evaluated in this proceeding will directly impact his bill. In addition, the individual Movant lives within the Kentucky Power service territory and is impacted by the economic, public health, and environmental effects of the resource decisions that Kentucky Power makes. Organizational

²² See, e.g., *In re The 2011 Joint Integrated Resources Plan of Louisville Gas & Electric Company and Kentucky Utilities Company*, Case No. 2011-00140, Staff Report at pp. 23-24 (noting that the Commission had already accepted the Environmental Intervenor's suggestion that LG&E and KU should commission a market potential study for DSM), p. 41 (agreeing with the Environmental Intervenor that LG&E and KU should have considered the impact of potential CO2 rule), and p. 41 (stating the next IRP should respond to Environmental Intervenor's comments regarding selection of the target reserve margin).

Movant Sierra Club has members who are customers and ratepayers of Kentucky Power, and, therefore, Sierra Club has 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 resources in Kentucky is directly related to the issues involved in reviewing Kentucky Power's IRP.

Movants' interests are not adequately represented by the potential intervenor in this proceeding. At present, the Kentucky Industrial Utility Customers, Inc. ("KIUC") has filed a Motion to Intervene.²³ As an association with a singular focus on the interests of large industrial customers, KIUC cannot adequately represent the organizational Movant's interests in the promotion of low-cost, clean energy resources such as energy efficiency and renewable energy. Furthermore, KIUC cannot adequately represent the individual Movant's interests in the economic, public health, and environmental impacts of Kentucky Power's resource decisions.

Movants' full intervention is warranted so that their interests, as detailed above, are represented.

IV. CONCLUSION

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

Dated: January 30, 2017

²³ Motion to Intervene of Kentucky Industrial Utility Customers, Inc. filed on Jan. 24, 2017 in *In re: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of the MOTION TO INTERVENE OF JIM WEBB AND SIERRA CLUB in this action is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on January 30, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission.



JOE F. CHILDERS