

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2022 INTEGRATED RESOURCE	)	CASE NO.
PLAN OF EAST KENTUCKY POWER	)	2022-00098
COOPERATIVE, INC.	)	

ORDER

This matter arises upon the joint motion of the Kentuckians for the Commonwealth (KFTC), Kentucky Solar Energy Society (KSES) and Mountain Association (collectively, Joint Movants), filed June 9, 2022, for full intervention.

As a basis for the joint motion, Joint Movants stated they each have a special interest in these proceedings not otherwise adequately represented and that they will present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Joint Movants further stated that they will jointly offer discovery, testimony, and witnesses, and that they will speak with one voice with coordinated participation. In support of their statement that they will present issues and develop facts to assist the Commission, Joint Movants stated the following:

KFTC is a nonprofit organization that advocates specifically on behalf of low-income residential taxpayers. Among other things, it addresses energy and environmental issues. KFTC asserted that over 1,200 of its members receive residential electric utility service from distribution cooperatives that purchase wholesale power from East Kentucky Power Cooperative, Inc. (EKPC), including Preston Miles, E. Gail

Chandler, Erick Lewis, and Teri Blanton, who receive service from Inter-County Energy Cooperative Corporation, Shelby Energy Cooperative, Inc., Fleming-Mason Energy Cooperative Corporation, Inc., and Blue Grass Energy Cooperative Corp., respectively. KFTC stated that it has significant experience offering both public comments and expert testimony in rate and integrated resource plan cases, with a special interest related to the needs of residential customers for energy efficiency, demand side management, and a healthy energy system.

KSES is a non-profit organization that promotes the use of renewable energy resources, energy efficiency, and conservation in Kentucky, encouraging a transition to clean energy. KSES represents both residential and commercial customers located in service territories of member cooperatives served by EKPC, including Andy McDonald, director of an entity with offices in Owen County, Kentucky, that is served by Owen Electric Cooperative. KSES asserts that it participated in previous integrated resource plan cases filed by other jurisdictional electric utilities.

Mountain Association is a non-profit corporation that works with people in eastern Kentucky and Central Appalachia that, among other things, offers energy programs intended to reduce energy costs and consumption, and increase energy security for residential, small business, and non-profit electric customers. Mountain Association also assists energy contractors with technical trainings and equipment financing. Mountain Association states that it worked with several owner-member cooperatives that receive

power from EKPC through a tariffed on-bill financing program for the past 12 years which originated in a previous Commission case.<sup>1</sup>

Joint Movants argued that they satisfied both prongs of 807 KAR 5:001, Section 4(11)(b) which requires that they establish that they either have a special interest in the case that is not otherwise adequately represented or that their 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.

Joint Movants stated that they have extensive familiarity and working knowledge of demand side management, conservation, renewable energy and other mechanisms for addressing customer energy needs that will assist in the Commission's review of the IRP and the role that such measures can play in meeting customer needs in a reasonable low-cost manner. Joint Movants asserted that by intervening jointly with common representation that they will not unduly complicate or disrupt the proceeding. The Joint Movants have also participated in other proceedings before the Commission. Therefore, they stated that they have satisfied the requirement that they are likely to prevent issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Regarding the second prong of 807 KAR 5:001, Section 4(11)(b), Joint Movants stated that they have also established that they have special interests in the case that will not otherwise be adequately represented. They stated that KFTC specifically advocates on behalf of low-income residential taxpayers. KSES members consist of solar energy

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<sup>1</sup> Case No. 2010-00089, *Joint Application of Big Sandy Rural Electric Cooperative Corporation, Fleming-Mason Energy Cooperative, Inc., Grayson Rural Electric Cooperative Corporation, and Jackson Energy Cooperative for an Order Approving an On-Bill Financing Pilot Program Titled the "KY Energy Retrofit Rider"* (Ky. PSC Dec. 16, 2010).

“enthusiasts”; professionals who work in the clean energy field of business; and non-governmental organizations, and academia. It specifically advocates for a transition to a clean energy economy. Mountain Association has created specific energy programs to assist residents, small businesses, local governments, communities and non-profits in reducing energy costs and consumption. It also has provided technical training and equipment, as well as financing, to energy contractors. Therefore, Joint Movants stated that they each have special interests that will not otherwise be adequately represented due to their unique membership and mission statements.

### LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). The Attorney General has moved and been granted intervention in this matter. Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>2</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11) requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

### DISCUSSION AND FINDINGS

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<sup>2</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

Joint Movants have demonstrated, among other things, that they have direct experience with DSM and energy efficiency programs, and renewable energy resources, specifically distributed renewable energy resources. The Commission has been looking closely at utilities' evaluations of the cost effectiveness of DSM programs in IRPs given expected increases in the cost of generation. The Commission also expects the effects of distributed generation on utility planning, if any, to come up in this proceeding. The Commission agrees that the participation of persons with direct experience working with and in the interest of customers on those issues is likely to assist the Commission in fully considering those issues in this matter. Further, while Joint Movants experience and interest do overlap to some extent, the Commission agrees that their joint participation with common counsel is not likely to unduly complicate or disrupt the proceedings. Thus, having reviewed Joint Movants' motion and being otherwise sufficiently advised, the Commission finds that their intervention is likely to present issues and develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceeding, and thus should be granted intervenor status.

Due to the fact that Joint Movants have established sufficient facts to be granted intervenor status by satisfying at least one of the two prongs required for admission by 807 KAR 5:001, Section 4(11), the Commission makes no finding as to whether or not Joint Movants have a special interest under the other prong of 807 KAR 5:001, Section 4(11) because the issue is moot.

Based on the above, the Commission finds that Joint Movants are granted full rights of a party in this proceeding because they have satisfied at least one prong of 807 KAR 5:001, Section 4(11) by establishing that they are likely to present issues and

develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings.

In light of Joint Movants' statement that they will speak as one party, the Commission finds that Joint Movants should file a copy of all documents that evidence KFTC's, KSES's, and Mountain Association's agreement regarding their joint participation in this matter, whether the agreement is executed by email or in a written agreement.

Finally, the Commission directs Joint Movants to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>3</sup> regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. The motion of Joint Movants to intervene is granted.
2. Joint Movants are entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Joint Movants shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. Joint Movants shall adhere to the procedural schedule set forth in the Commission's June 1, 2022 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, Joint Movants shall file a written statement with the Commission that:

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<sup>3</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

6. KFTC, KSES, and Mountain Association shall file a copy with the Commission of their agreement regarding their joint participation in this matter within ten days of entering into the agreement.

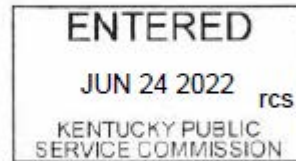
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PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Commissioner



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