

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY AND)	CASE NO.
KENTUCKY UTILITIES COMPANY SERVICE)	2023-00422
RELATED TO WINTER STORM ELLIOTT)	

ORDER

This matter arises upon the motion of the Sierra Club, filed January 12, 2024, for full intervention. As a basis for its motion, Sierra Club stated that it has a special interest that is not otherwise adequately represented because no other intervenor in this proceeding advocates against continued investment in fossil fuel resources as a matter of institutional policy. Further, Sierra Club argued that is likely to present issues or develop facts that will assist the Commission in fully considering this matter without unduly complicating the proceedings. Louisville Gas and Electric Company and Kentucky Utilities Company (LG&E/KU) have not filed a response opposing Sierra Club's motion to intervene.

BACKGROUND

Sierra Club is a non-profit organization that stated it has approximately 3.5 million members nationwide with more than 5,500 members belonging to its Kentucky chapter, many of whom receive service from LG&E/KU.¹ Among other things, Sierra Club stated

¹ Sierra Club's Motion to Intervene (filed Jan. 12, 2024) at 3.

that it has “extensive experience evaluating power system reliability issues.”² Sierra Club argued that it had successfully intervened in matters before the Commission and in other jurisdictions nationwide, including Case No. 2022-00402³ for which the record was incorporated into this matter.

Sierra Club noted that in Case No. 2022-00402, it developed information through testimony and cross-examination specifically related to Winter Storm Elliott. Sierra Club also stated that its expert provided direct testimony on the need for LG&E/KU to recognize and respond to the issue of correlated outages of fossil fuel units in extreme weather.⁴ Sierra Club argued that its participation will help develop a thorough record and inform the Commission’s ultimate decision about the cause and impacts of LG&E/KU’s failure to provide retail electricity during Winter Storm Elliott.

Sierra Club also argued that it had a special interest in protecting its organizational interests; its economic, environmental, and health interests; and the interests of its members who are customers or affected by LG&E/KU. Sierra Club asserted that it and its members who are LG&E/KU customers or otherwise directly impacted by LG&E/KU facilities have economic and environmental interests in ensuring that LG&E/KU provide for the least-cost means of meeting customer energy and reliability needs while also avoiding unnecessary pollution.⁵

² Sierra Club’s Motion to Intervene at 2.

³ Case No. 2022-00402, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements* (Ky. PSC Nov. 20, 2023) Order.

⁴ Sierra Club’s Motion to Intervene at 1, 5–6.

⁵ Sierra Club’s Motion to Intervene at 3–4.

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). Intervention by all others is permissive and is within the sole discretion of the Commission.⁶

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

Based on a review of Sierra Club's motion and being otherwise sufficient advised, the Commission finds that Sierra Club is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

Sierra Club has demonstrated that it has direct experience participating in prior Commission proceedings in which it provided expert testimony, cross examination, and post hearing briefing to assist in developing the record. Sierra Club also demonstrated that it participated in Case No. 2022-00402, for which the record was incorporated into

⁶ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

this matter, and spent time developing the record as it related to Winter Storm Elliott and correlated weather outages.

Based on the above, the Commission finds that Sierra Club should be granted full rights of a party in this proceeding. The Commission directs Sierra Club to the Commission's July 22, 2021 Order in Case No. 2020-00085⁷ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Sierra Club's January 12, 2024 motion to intervene is granted.
2. Sierra Club is 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. Sierra Club 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. Sierra Club shall adhere to the procedural schedule set forth in the Commission's December 22, 2023 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Sierra Club shall file a written statement with the Commission that:
 - 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 shall be served.

⁷ 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).

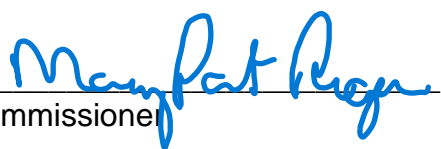
PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
JAN 25 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

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