

February 16, 2007

BY FACSIMILE AND MAIL

Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

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PUBLIC SERVICE
COMMISSION

Re: PSC Case No. 2006-00472

Dear Ms. O'Donnell:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten copies of the Response and Objections of East Kentucky Power Cooperative, Inc., to the Cumberland Chapter of the Sierra Club Petition to Intervene.

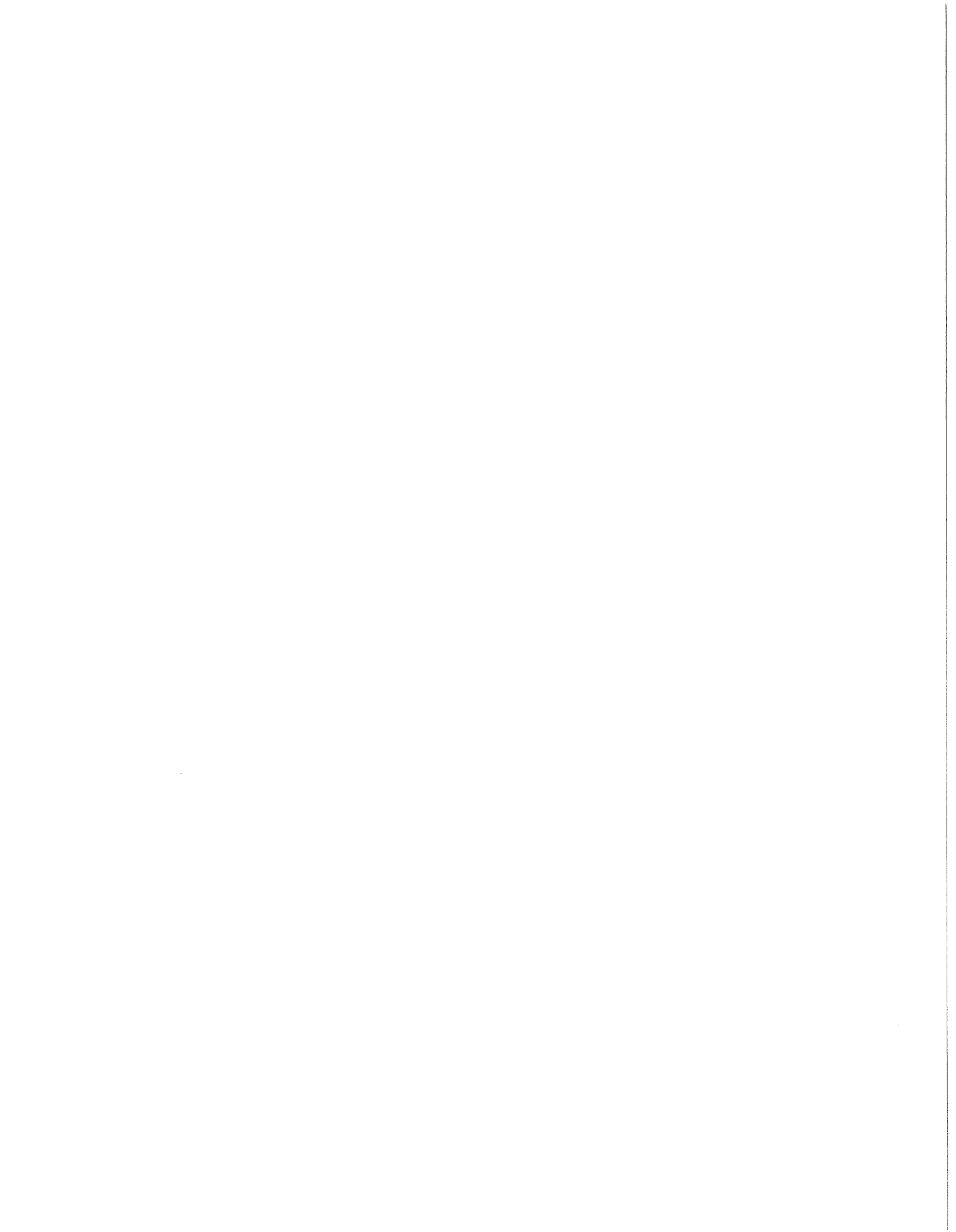
Very truly yours,



Charles A. Lile
Senior Corporate Counsel

Enclosures

Cc: Elizabeth E. Blackford, Esq.
Michael L. Kurtz, Esq.
Oscar H. Geraldts, Jr., Esq.



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COMMISSION

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

In the Matter of:

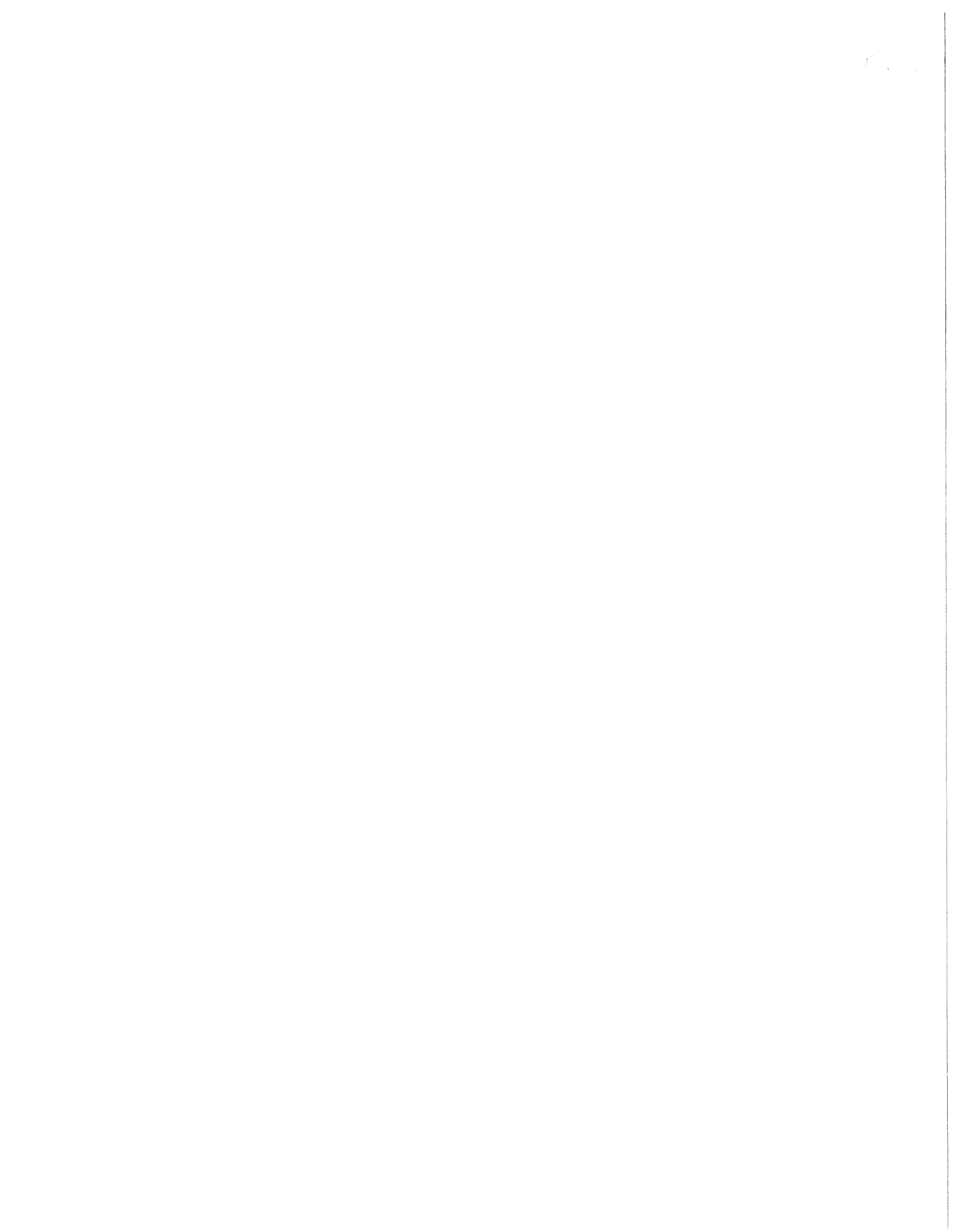
**GENERAL ADJUSTMENT OF ELECTRIC)
RATES OF EAST KENTUCKY POWER) CASE NO.
COOPERATIVE, INC.) 2006-00472**

**RESPONSE AND OBJECTIONS OF EAST KENTUCKY
POWER COOPERATIVE, INC., TO CUMBERLAND CHAPTER
OF SIERRA CLUB PETITION TO INTERVENE**

East Kentucky Power Cooperative, Inc. ("EKPC"), hereby responds and objects to the Petition to Intervene filed by the Cumberland Chapter of the Sierra Club ("Sierra Club") in this case on February 12, 2007. The grounds for EKPC's objections are as follows:

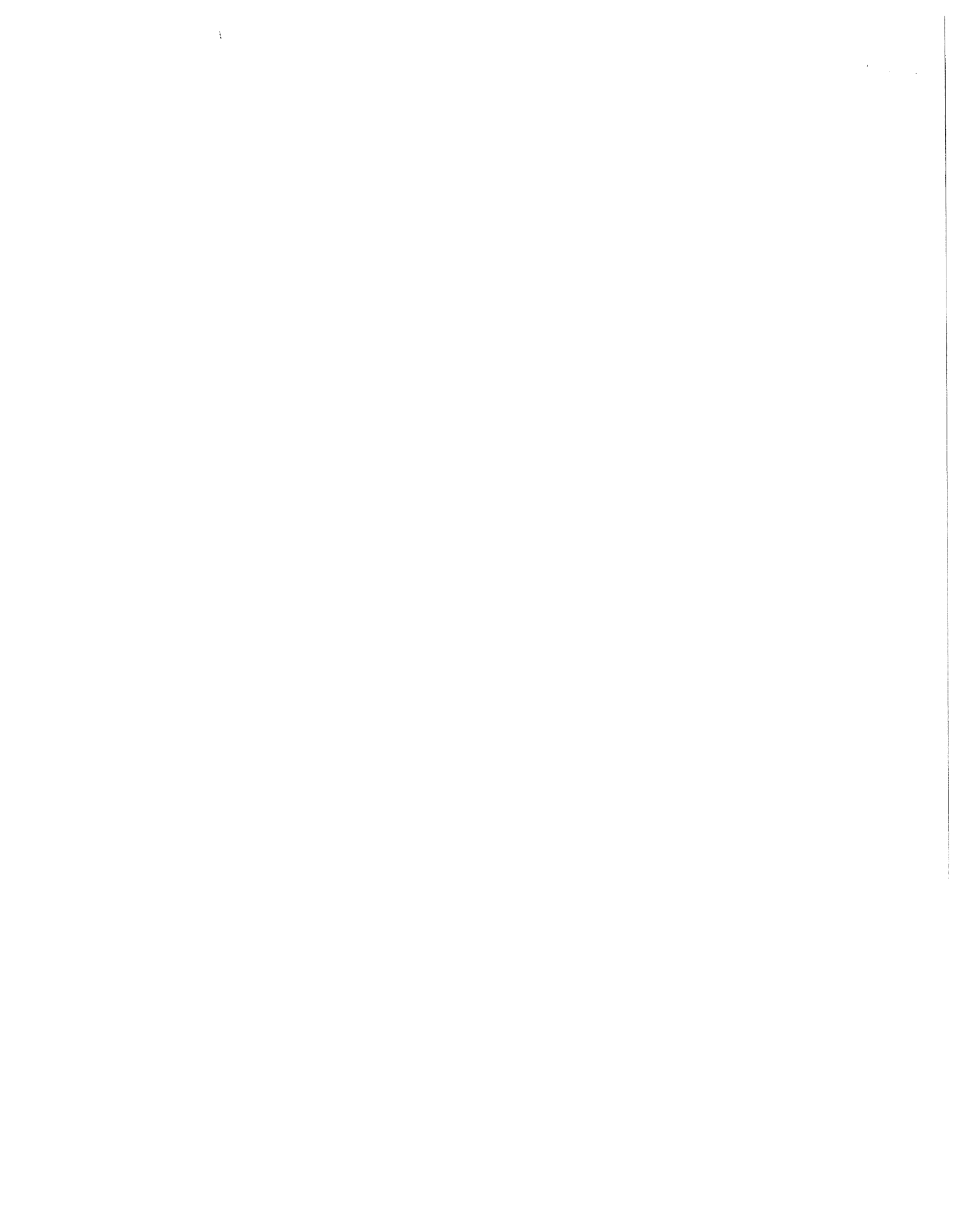
1. The Sierra Club, in its Petition to Intervene (the "Petition"), cites no statutory right to intervene in a Public Service Commission ("Commission") case, and has no right of intervention in this proceeding. Lacking such a right to intervene, the Sierra Club seeks discretionary intervention pursuant to 807 KAR 5:001 Section 3 (8), which requires that a person seeking full intervention in a Commission case specify that it has "a special interest in the proceeding which is not otherwise adequately represented", or demonstrate that its 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." The Sierra Club's Petition fails to state facts which would justify the granting of such discretionary intervention in this case.

2. The Commission's jurisdiction is strictly limited by KRS §278.040 (2) to issues of the rates and service of regulated utilities. City of Olive Hill v. Public Service



Commission, 203 S.W.2d 68, (Ky. App. 1947); Boone County Water and Sewer Dist. v. Public Service Commission, 949 S.W.2d 588 (Ky. 1977); South Central Bell Telephone Co. v. Utility Regulatory Commission, 637 S.W.2d 649 (Ky. 1982). The Kentucky Supreme Court has held that in fixing utility rates, the Commission “must give effect to all factors which are prescribed by the legislative body, but may not act on a matter which the legislature has not established”, and that “When a statute prescribes a precise procedure, an administrative agency may not add to such provision.” (South Central Bell Telephone Co. v. Utility Regulatory Commission, *supra*, at 653) KRS §278.030 (1) provides the standard for utility ratemaking in Kentucky, stating that “Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person,” and the procedures for utility rate adjustments are defined in KRS §278.190. Neither these statutes, nor any other provision of KRS Chapter 278, recognize environmental impacts as proper matters for consideration in the setting of utility rates.

3. The Sierra Club in no way represents the rates or service interests of the member systems of EKPC, or their member consumers, and is attempting to improperly inject into this case its own interests in environmental issues which are beyond the Commission’s jurisdiction and scope of review. In its Petition, the Sierra Club clearly identifies its objective for intervention in this case as an attempt to modify EKPC’s rate structures in order to “influence both the energy consumption patterns of end-use customers and the willingness of EKPC’s member co-ops to participate actively in demand-side management (DSM) programs” (Petition, Section 4, p.2), to further its stated “national energy strategy” of reducing the use of “environmentally damaging



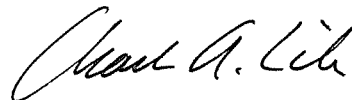
fuels such as coal.” (Id., Section 1, p.1) Such an attempt to influence rate design is not a proper matter for consideration in this case, and the Sierra Club offers no proper purpose for its intervention request.

4. The Sierra Club lacks any special interest relevant to this proceeding, and its inappropriate attempt to pursue its environmental agenda through intervention would in no way assist the Commission in fully considering the proper matters in this rate case. Such intervention would, instead, burden the case with arguments and information which would not be material to the determination of fair, just and reasonable rates for EKPC, and would unduly complicate and disrupt the proceedings. The Sierra Club’s Petition should be denied, pursuant to the criteria of 807 KAR 5:001 Section 3 (8).

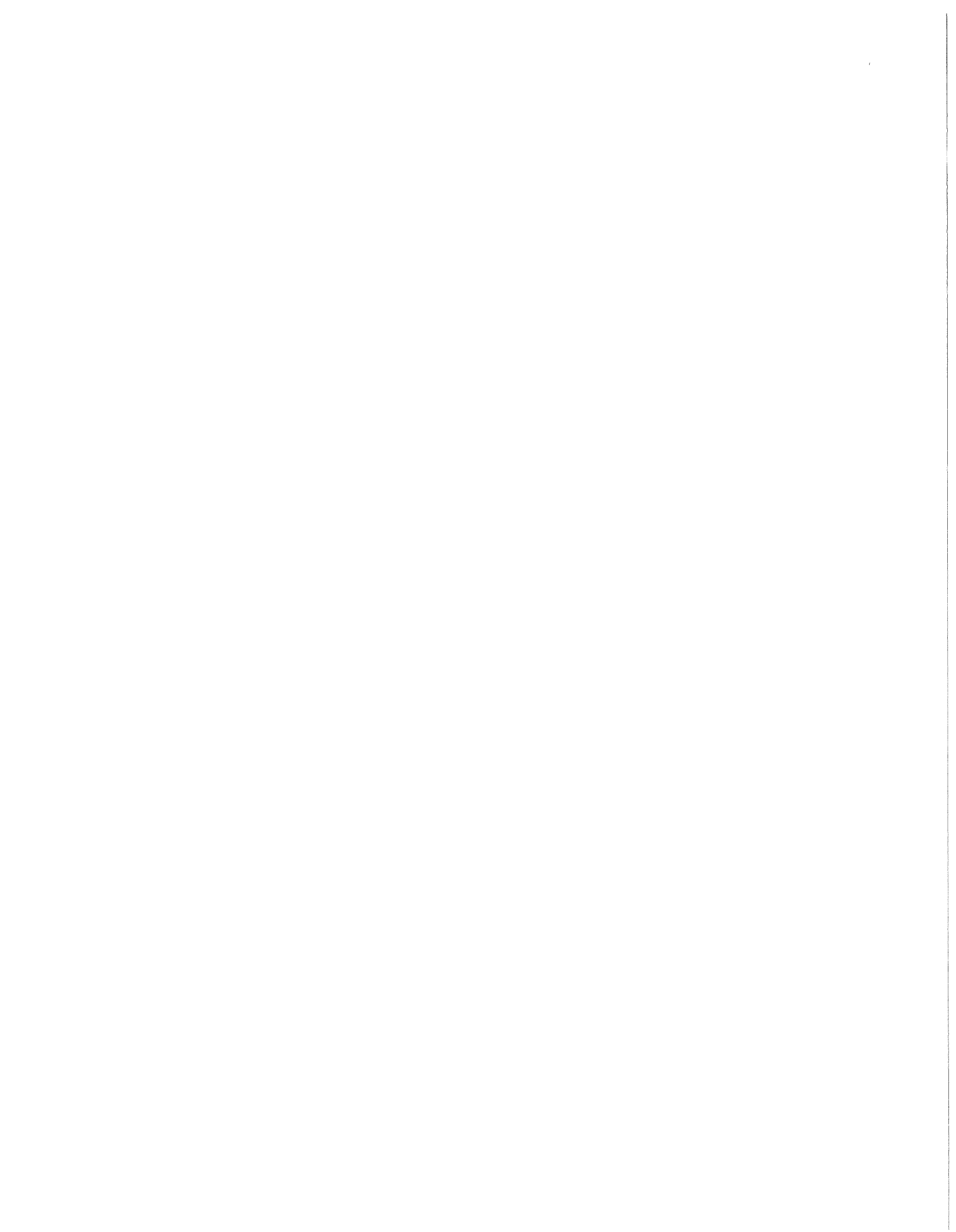
5. The interests of ratepayers in the rates and service of EKPC are already adequately represented in this case by the intervention of the Attorney General and Gallatin Steel Company.

WHEREFORE, EKPC formally objects to the Petition to Intervene of the Sierra Club, and urges the Commission to deny said Petition, for the reasons stated hereinabove.

Respectfully submitted,



CHARLES A. LILE
ATTORNEY FOR EAST KENTUCKY
POWER COOPERATIVE, INC.
P. O. BOX 707
WINCHESTER, KY 40392-0707
(859) 744-4812



CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Response and Objections of East Kentucky Power Cooperative, Inc., to Cumberland Chapter of Sierra Club Petition to Intervene in the above-referenced case, was transmitted by facsimile, and an original and ten copies were mailed, to Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40601, and copies were mailed to Oscar H. Gerald, Jr., Esq., 259 West Short Street, Lexington, Kentucky, 40507-1237, and to parties on the Service List in this case, on this 16th day of February, 2007.



CHARLES A. LILE

