

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY AND LOUISVILLE GAS)	CASE NO.
AND ELECTRIC COMPANY FOR CERTIFICATES)	2025-00045
OF PUBLIC CONVENIENCE AND NECESSITY)	
AND SITE COMPATIBILITY CERTIFICATES)	

ORDER

This matter arises upon the motion of the Kentucky Coal Association (KCA), untimely filed March 25, 2025, for full intervention. The March 13, 2025, procedural schedule Order set the last day of intervention requests to be accepted as March 21, 2025. As a basis for its untimely motion, KCA stated that that it has a special interest in these proceedings not otherwise adequately represented and it will present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

LEGAL STANDARD

The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), has the statutory right to intervene in Commission cases pursuant to KRS 367.150(8)(b). The Attorney General was granted intervention in this matter on March 7, 2025. With limited exception, intervention by all others is permissive and within the sole discretion of the Commission.¹

¹ KRS 164.2807.

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.

MOTION

KCA is a Kentucky nonprofit corporation in existence as a corporation since 1947.² Several members of KCA are served by Kentucky Utilities Company (KU) and Louisville Gas and Electric Company (LG&E) (jointly LG&E/KU) including Alliance Coal, LLC; Associated Engineers, Inc.; Boyd 2 Company; Caudill Seed Company; Liberty Mining Consultants, Inc.; Jennmar USA; Joy Global Underground Mining, LLC; Mine and Mill Supply Company, LLC; Minova USA; and Penn Virginia Resource Partners, LP.³

KCA stated that LG&E/KU's request to construct a Selective Catalytic Reduction (SCR) at Ghent 2 is appreciated by KCA and asserted its belief that testimony from KCA on this issue and other matters in this Certificate of Convenience and Necessity (CPCN) would be beneficial for the Commission.⁴ KCA discussed that assumptions associated with this CPCN involve assessing applicability of Section 111(d) of the Clean Air Act which KCA would plan to address in testimony.⁵

² KCA's Motion to Intervene (filed Mar. 25, 2025) at 1.

³ KCA's Motion to Intervene at 1–2.

⁴ KCA's Motion to Intervene at 2.

⁵ KCA's Motion to Intervene at 2.

KCA argued that approval of this application would have a significant impact on KCA's members, their respective employees, and their budgets.⁶ KCA explained that it has unique knowledge of the impact on the Kentucky coal industry as it pertains to the LG&E/KU's requests in this proceeding.⁷ KCA argued that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matters at hand.⁸

In addressing its untimely filing, KCA stated that it recognizes that the procedural schedule was entered on March 13, 2025, with an intervention deadline of March 21, 2025.⁹ As good cause, KCA explained that counsel was not aware of the issuance of the procedural schedule until March 25, 2025, as he had been ill and moved offices during this time frame as well.¹⁰ KCA argued that its intervention will not unduly complicate or disrupt the proceedings and it would abide by the procedural schedule.¹¹

DISCUSSION AND FINDINGS

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that KCA has established good cause to grant leave to file its intervention motion out of time based on the stated issues of illness and that the untimely filing was made only a few days after the deadline. To ensure that this delay is unlikely

⁶ KCA's Motion to Intervene at 3.

⁷ KCA's Motion to Intervene at 3.

⁸ KCA's Motion to Intervene at 3.

⁹ KCA's Motion to Intervene at 3.

¹⁰ KCA's Motion to Intervene at 3.

¹¹ KCA's Motion to Intervene at 3.

to disrupt the current proceedings, the Commission further finds that the March 13, 2025, procedural schedule Order should not be amended if KCA is granted intervention.

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission further finds that KCA has demonstrated that KCA is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings for the reasons discussed below.

KCA 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, which is sufficient because only one prong of 807 KAR 5:001, Section 4(11), must be met. KCA is a current participant in Case No. 2024-00326,¹² which has been incorporated into the record of this case. KCA will also provide testimony related to the coal industry and construction of the SCR. KCA should abide by the procedural schedule, motion deadlines, and any other Orders of the Commission. In addition, the failure to follow the instructions laid out in the Commission's Orders will be viewed as unduly complicating proceedings. Should any *pro hac vice* motions be filed in this matter, the Commission will fully expect the sponsoring attorney to be present at all proceedings or appropriately and timely make provisions to ensure compliance with SCR 3.030.

Based on the above, the Commission finds that KCA should be granted full rights of a party in this proceeding. The Commission directs KCA to the Commission's July 22, 2021, Order in Case No. 2020-00085¹³ regarding filings with the Commission.

¹² 1 Case No. 2024-00326, *Electronic 2024 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*.

¹³ 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).

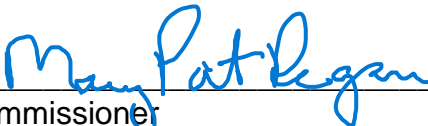
IT IS HEREBY ORDERED that:

1. KCA's motion to intervene is granted.
2. KCA 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. KCA 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. KCA shall adhere to the procedural schedule set forth in the Commission's March 13, 2025 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, KCA 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.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director



*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KY 40601-8204

*Honorable David Edward Spenard
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KY 40202

*Joshua Smith
Sierra Club
2101
Webster St. , Suite 1300
Oakland, CA 94612

*Ashley Wilmes
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KY 40602

*Honorable W. Duncan Crosby III
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

*Kristin Henry
Staff Attorney
Sierra Club Environmental Law Program
2101 Webster Street
Suite 1300
Oakland, CA 94612

*Honorable Allyson K Sturgeon
Vice President and Deputy General Counsel-
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

*Thomas J FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KY 40602

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KY 40601-8204

*Bethany Baxter
Childers & Baxter PLLC
300 Lexington Building, 201 West Sho
Lexington, KY 40507

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KY 40507

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
425 Walnut Street
Suite 2400
Cincinnati, OH 45202

*Honorable William H May, III
Attorney at Law
Hurt, Crosbie & May PLLC
The Equus Building
127 West Main Street
Lexington, KY 40507

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
425 Walnut Street
Suite 2400
Cincinnati, OH 45202

*Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KY 40507

*William H May, III
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KY 40507

*Joe F. Childers
Childers & Baxter PLLC
300 Lexington Building, 201 West Sho
Lexington, KY 40507

*Nathaniel Shoaff
Sierra Club
2101
Webster St. , Suite 1300
Oakland, CA 94612

*Byron Gary
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KY 40602

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KY 40601-8204

*Rick E Lovekamp
Manager - Regulatory Affairs
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

*Robert Conroy
Vice President, State Regulation and Rates
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

*Tolad Lacy
Office of the Attorney General
700 Capital Avenue
Frankfort, KY 40601

*Rebecca C. Price
Sturgill, Turner, Barker & Moloney
155 East Main Street
Lexington, KY 40507

*Tony Mendoza
Staff Attorney
Sierra Club Environmental Law Program
2101 Webster Street
Suite 1300
Oakland, CA 94612

*Randal A. Strobo
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KY 40202

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KY 40507

*Simon Mahan
Southern Renewable Energy Association
11610 Pleasant Ridge Road
Suite 103
Little Rock, AR 72223

*Whit Cox
Southern Renewable Energy Association
11610 Pleasant Ridge Road
Suite 103
Little Rock, AR 72223

*Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

*Louisville Gas and Electric Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

*Sara Judd
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202