

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Louisville Gas and Electric Company and Kentucky)
Utilities Company for Certificates of Public Convenience and Necessity) Case No.
for the Construction of a Combined Cycle Combustion Turbine at the) 2014-00002
Green River Generating Station and a Solar Photovoltaic Facility at the)
E.W. Brown Generating Station)

MOTION FOR REHEARING AND RECONSIDERATION
OF BLUEGRASS GENERATION COMPANY, L.L.C

Bluegrass Generation Company (Bluegrass), by counsel, moves for a rehearing and reconsideration of the Commission's order dated March 18, 2014, denying Bluegrass intervention in this matter. The order denying Bluegrass's intervention, while acknowledging Bluegrass's status as a customer of Louisville Gas & Electric Company ("LG&E"), finds that the "overriding motive for Bluegrass's request to intervene" is merely that of a dissatisfied bidder. Based on its conclusion as to Bluegrass's "overriding motive" the Commission concluded that Bluegrass has no special interest in the case and that its participation will allow it access to otherwise confidential information about other RFP bidders. The Commission's findings are erroneous for several reasons.

In allowing the Sierra Club intervention in this case, the Commission found:

Sierra Club further asserts that it has gained significant expertise in the areas of resource expansion plans and

complex energy and electrical utility issues in proceedings throughout the country. Petitioners seek to bring such expertise to the instant proceeding.

In analyzing the instant petition to intervene, we find that Wallace McMullen is a customer of LG&E and has the requisite statutory interest in the rates and service of LG&E. ...To the extent that the Sierra Club seeks to address issues that impact the rates or service of LG&E and KU, such as whether the Joint Applicants considered all reasonable options and considered all foreseeable risks and costs, those issues are within the scope of the Commission's jurisdiction and this proceeding." Order, p. 2, 5, March 12, 2014.

In its Motion for Intervention, Bluegrass asserted:

2. As a customer of LG&E and as an owner and operator of electric generating facilities, Bluegrass has a special interest in the proceeding which is not otherwise represented by any other party.

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9. . . . Bluegrass also has an interest in the adequacy of the Applicants' facilities and to the service that they can provide in the future as an entity that is uniquely positioned to help the Applicants meet future energy requirements at the lowest possible cost,...

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11. . . . Bluegrass's familiarity with the needs of the Applicants and because of its familiarity with the issues being presented in this case, it can provide information that no other party can. Its intervention can provide information about the complex issues related to the benefits of an agreement for the purchase of existing power and the option to purchase an existing facility and the benefits to ratepayers through lower rates.

As demonstrated, the stated interests of the Sierra Club and Bluegrass are very similar. Indeed, while Sierra Club indicated that it has hundreds of thousands of members nationwide, and multiple Kentucky members, for purposes of intervention it identified only a single retail customer as having an interest in the rates and service of LG&E, Bluegrass, a Kentucky generating facility which is a significantly larger customer

than the single retail customer relied on by the Sierra, and of a class not traditionally represented by the interests of the Attorney General's office, has a significantly greater interest in the matter than Mr. McMullen or the Sierra Club. Furthermore, while the Sierra Club "asserts that it has **gained significant expertise** in the areas of resource expansion plans and complex energy and electrical utility issues in proceedings throughout the country" Bluegrass and its upstream parent have first-hand nation-wide expertise in energy procurement, energy markets and the determination of least cost capacity options.

As the Commission notes in its Order granting the Sierra Club full intervener status, the Commission's action in granting such status to the Sierra Club was discretionary. While its action regarding Bluegrass is likewise discretionary, the Commission cannot apply its discretion in an arbitrary and capricious manner. Without any explanation, the Commission ruled that residential customers, who happen to be members of the Sierra Club, cannot be adequately represented by the Attorney General and, thus, are entitled to be interveners, yet it ruled that Bluegrass, which is a commercial customer of LG&E, can be adequately represented by the Attorney General and cannot be an intervener. Given the similarity of interests, it seems arbitrary and capricious to treat Bluegrass in a manner different from Sierra Club.

In denying Bluegrass full intervention status, the Commission justifies its different use of discretion by attempting to distinguish Bluegrass's customer status from that of McMullen by asserting that Bluegrass's "overriding motive" for intervention is because it is a dis-satisfied bidder. The Commission's Sierra Club Order did not reference any investigation of the "motive" behind the Sierra Club's intervention request but instead relied on a single customer relationship and Sierra Club's assertions that it could assist

the Commission. It is likewise inappropriate for the Commission to infer "motive" to Bluegrass's intervention request as Bluegrass's customer status and ability to assist the Commission is equal to or greater than that of McMullen and the Sierra Club. Bluegrass's intervention request should therefore have been treated no differently.

On page 6 of the order denying Bluegrass intervention, the Commission holds that allowing Bluegrass into the case will undermine the RFP process by allowing Bluegrass access to confidential information about other bids. That is neither true nor the purpose of Bluegrass's intervention. Bluegrass's participation in this case will be based on Bluegrass's bid, LG&E's proposal and LG&E's respective evaluation of each. Bluegrass does not seek, nor does it need, confidential information regarding other party's bids to participate in the case. Its sole interest is to provide the Commission with information supporting the least cost option of Bluegrass's RFP proposal.

As noted in its intervention request, Bluegrass had been identified by LG&E as the least cost option in a prior case. In that instance LG&E proposed to purchase the Bluegrass facility and place it into LG&E's rate base. The RFP that lead to LG&E's current self-build alternative arose after the Federal Energy Regulatory Commission placed restrictions on LG&E's ability to immediately purchase the Bluegrass facility. Thus, the information Bluegrass can offer in this case regarding the relative ratepayer impact of LG&E's purchase of Bluegrass versus a PPA with Bluegrass or PPA with Bluegrass versus an LG&E self-build will provide insight and analysis that no other intervener can provide regarding the LG&E proposal and its analysis of alternatives. In contrast to the broad non-jurisdictional issues on which the Sierra Club based its intervention, such as public health, environment and economic issues, Bluegrass can provide company specific information and analysis directly relevant to the least cost

option. Bluegrass is certainly in a better position than the Sierra Club and its single identified retail rate-payer member to assist the Commission in this regard.

While the baseline information about the Bluegrass RFP proposal can be provided to the Commission by the Applicants, only Bluegrass can provide the underlying assumptions and possible alternatives to the Applicants' analysis. As the Commission stated in its order of December 14, 2011, *In the Matter of Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and Site Compatibility Certificate for the Construction of a Combined Cycle Combustion Turbine at the Cane Run Generating Station and the Purchase of Existing Simple Cycle Combustion Turbine Facilities from Bluegrass Generation Company, LLC in La Grange, Kentucky*, PSC Case No. 2011-00375:

The Commission is, however, persuaded that the NRDC and Sierra Club, acting on behalf of their Kentucky members, do possess expertise on issues that are within the scope of this proceeding, **such as whether generation supply options proposed by KU and LG&E are reasonable and cost effective in light of a full range of available alternatives.**

That same reasoning can and should apply to Bluegrass in this case. The cost effectiveness and reasonableness of the Applicants' proposal is dependent on the analysis of Bluegrass's proposal.

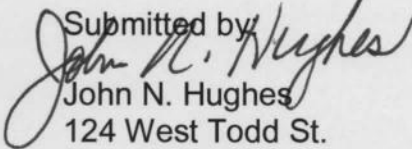
Finally, even if the Commission's efforts to distinguish Bluegrass's customer status from that of McMullen and the Sierra Club were appropriate, Bluegrass requests that the Commission reconsider its determination to deny Bluegrass full intervention.

The Commission held that “[h]ere, as an unsuccessful bidder, Bluegrass has no vested or special interest in any issue before the Commission in this proceeding, and it is not likely to present issues or develop facts that would assist the Commission without unduly complicating or disrupting the proceedings.” Bluegrass believes that this finding substantially understates the Commission’s obligation to the ratepayers of Kentucky and the proceeding that should be held before approving a 30 plus year investment of \$700,000,000 on the backs of LG&E and KU customers.

The Commission has one opportunity to determine whether the LG&E proposal should be granted a certificate of public convenience and necessity. If the Commission grants that certificate, the ratepayers of Kentucky will be on the hook for that decision for the next 30 years. With more than \$700,000,000 in rate-payer money at stake, what constitutes “unduly complicating” the proceeding? LG&E acknowledges that it reviewed more than 20 proposals before deciding that its \$700,000,000 rate based self-build proposal, one where ratepayers bear all the burden and LG&E’s Pennsylvania owner none, was the most cost effective alternative. Simply put, this proceeding is already complicated. It should be. The Commission is not charged with determining the easy answer, but the right answer for Kentucky ratepayers. If anything, far from complicating the proceeding further, Bluegrass has the ability to assist the Commission in clarifying the most critical and complicated issues regarding real cost to ratepayers of its proposal and whether LG&E analysis of that proposal accurately reflected the actual bid. Because LG&E analyzed a power purchase agreement versus rate-basing a self-build alternative, even slight variations in LG&E’s assumptions can have significant impact regarding the outcome. And make no mistake, only one outcome benefits LG&E parent, PPL - the rate-based self-build alternative. The Commission owes it to

Kentucky ratepayers to develop as full a record as possible, from all participants, before committing \$700,000,000 of their money to the proposed project.

Based on the foregoing, Bluegrass respectfully requests that the Commission reconsider its order and that it grant Bluegrass full intervention in this case. The Commission can ensure that neither Bluegrass nor any other party inappropriately disrupts the proceeding. Developing a full record of relevant issues from all parties able to contribute to that record should not be considered a disruption to the Commission's mandate.

Submitted by

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