

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

**In the Matter of:**

<b>JOINT APPLICATION OF LOUISVILLE GAS</b>	)	
<b>AND ELECTRIC COMPANY AND KENTUCKY</b>	)	
<b>UTILITIES COMPANY FOR REVIEW,</b>	)	
<b>MODIFICATION, AND CONTINUATION OF</b>	)	<b>CASE NO. 2014-00003</b>
<b>EXISTING, AND ADDITION OF NEW,</b>	)	
<b>DEMAND-SIDE MANAGEMENT AND ENERGY</b>	)	
<b>EFFICIENCY PROGRAMS</b>	)	

**LOUISVILLE GAS AND ELECTRIC COMPANY AND  
KENTUCKY UTILITIES COMPANY’S OBJECTION  
TO WALLACE MCMULLEN’S AND THE SIERRA CLUB’S  
MOTION TO INTERVENE**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) respectfully request that the Commission deny the Motion of Wallace McMullen and the Sierra Club (collectively, the “Movants”) for full intervention. Their Motion should be denied for three principal reasons: (1) the Motion does not demonstrate a special interest in the proceeding because their stated interests are adequately represented by the Attorney General; (2) the Motion fails to identify any relevant issues or development of relevant facts that will assist the Commission in the resolution of this matter; and (3) their intervention would unduly complicate and disrupt the proceeding. Because neither McMullen nor the Sierra Club have satisfied any of the requirements for intervention under 807 KAR 5:001 § 11(b), LG&E and KU respectfully request that the Commission deny their Motion for full intervention.

**I. Neither McMullen nor the Sierra Club Have a Special Interest in this Proceeding.**

The Commission may grant Movants intervention only if they meet the requirements of 807 KAR 5:001 § 11(b). The Movants do not satisfy the first basis for permissive intervention,

which requires the movant to demonstrate a special interest in the proceeding that is not already represented by another party to the action.<sup>1</sup>

With respect to McMullen, the Motion claims that he has a special interest in this proceeding because the “decisions to be made...will directly impact his bill.”<sup>2</sup> The Motion further alleges that McMullen will be “impacted by the economic, public health, and the environmental effects” of the decisions made by the Commission.<sup>3</sup> The Commission has repeatedly denied similar motions to intervene filed by customers claiming the same interest that McMullen alleges because the interests McMullen identifies are identical to these interests of LG&E’s and KU’s 943,000 other customers.<sup>4</sup> The interests McMullen claims, which are common to all customers, are statutorily represented by the Attorney General,<sup>5</sup> who moved to intervene in this proceeding on January 31, 2014.

The Sierra Club’s claimed special interest is equally unavailing, as it bootstraps on McMullen’s alleged interest: “Sierra Club has the same interests as the Individual Movant [McMullen].”<sup>6</sup> The Motion also claims that the Sierra Club has an interest in promoting energy efficiency and peak demand reduction.<sup>7</sup> The Motion acknowledges that the Attorney General has moved to intervene, but asserts that the Attorney General will not adequately represent its interests because the Attorney General “will not marshal the same level of expertise as Movants” regarding DSM.<sup>8</sup>

---

<sup>1</sup> 807 KAR 5:001, § 11(b).

<sup>2</sup> Motion to Intervene, p. 6-7.

<sup>3</sup> *Id.* at 7.

<sup>4</sup> *See, e.g., In the Matter of: Application of Kentucky Utilities Company to File Depreciation Study*, Case No. 2007-00565 and *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, Order (December 5, 2008).

<sup>5</sup> KRS 367.150(8)

<sup>6</sup> Motion to Intervene, p. 7.

<sup>7</sup> *Id.*

<sup>8</sup> Motion to Intervene at 7, n. 13.

The Sierra Club has failed to demonstrate a special interest for two reasons. First, it is undisputed that the Attorney General represents all consumers' interests.<sup>9</sup> The Commission has repeatedly denied efforts by customers, such as McMullen, to intervene because their interest is common to all customers represented by the Attorney General. If McMullen lacks a special interest, so must the Sierra Club, whose Motion claims the same interests as McMullen. Second, the Sierra Club's claim that its interests cannot adequately be represented by the Attorney General because the Attorney General lacks the "expertise" of the Sierra Club regarding DSM is belied by the history of these cases before the Commission. The Sierra Club has intervened in only a single DSM case before the Commission.<sup>10</sup> In contrast, the Attorney General has intervened in DSM cases since KRS 278.285 was enacted. Moreover, the Commission has previously acknowledged the skill of the Attorney General with respect to renewable energy and energy conservation issues.<sup>11</sup> In short, neither McMullen nor the Sierra Club has advanced any interest in this proceeding that is not represented by the Attorney General.

**II. The Movants Have Not Demonstrated that They Will Present Issues or Develop Facts that Will Assist the Commission.**

Because McMullen and the Sierra Club lack an interest in this proceeding that is not adequately represented by the Attorney General, the Movants may intervene only if they can show that they will present issues or develop facts that will assist the Commission without unduly complicating the disrupting the proceeding. Their Motion fails to do so.

---

<sup>9</sup> KRS 367.150(8).

<sup>10</sup> *In the Matter of Application of Kentucky Power Company to Amend Its Demand-Side Management Program and for Authority to Implement a Tariff to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of Programs*, Case No. 2013-00487, Order (Jan. 31, 2014).

<sup>11</sup> *In the Matter of: The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Case No. 2008-148) Order, July 18, 2008 at 8.

The Movants first claim that the Sierra Club has experience in intervening in Commission proceedings.<sup>12</sup> As previously explained, the Sierra Club has intervened in only one DSM proceeding before this Commission. Next, the Sierra Club alleges that their prior recommendation in a KU and LG&E proceeding that the Companies commission a market study “is shaping the DSM programs proposed in this” case.<sup>13</sup> The Sierra Club overstates its role in both proceedings. The Companies’ consultant, not the Sierra Club, originally recommended the DSM study the Commission ultimately ordered the Companies to perform in Case No. 2011-00375.<sup>14</sup> Moreover, the Commission rejected the Sierra Club’s substantive arguments in that proceeding.<sup>15</sup> Therefore, Case No. 2011-00375’s impact on this case has little, if anything, to do with Sierra Club’s participation.

The Sierra Club’s Motion then has a series of generalizations claiming that their “unique experience” and “perspective” will assist the Commission. The Motion contains no actual evidence regarding how the Sierra Club will provide technical, scientific, or other assistance to the Commission. Thus, the Sierra Club’s only claimed assistance in this proceeding is that its prior mention of a recommendation made by the Companies’ consultant was adopted in a previous Commission proceeding. This, however, does not establish how the Sierra Club will assist the Commission in this case and thus provides no basis to grant their Motion for Intervention. Also, the Motion makes no mention of how McMullen will assist the Commission in any regard. Because the Sierra Club and McMullen lack a special interest in this proceeding,

---

<sup>12</sup> Motion to Intervene, p. 5.

<sup>13</sup> *Id.* at 5.

<sup>14</sup> *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 LaGrange, Kentucky* (Case No. 2011-00375) May 3, 2012 Order.

<sup>15</sup> *Id.*

have little experience in DSM cases, and cannot explain how they will assist the Commission in considering this matter, their intervention would merely complicate and disrupt this proceeding.


### **III. Conclusion**

Neither McMullen nor the Sierra Club has satisfied either of the bases for permissive intervention set forth in 807 KAR 5:001 § 11(b). Neither has articulated any special interest that is not already adequately represented by the Attorney General. Nor have they shown an ability to present issues or develop facts that will assist the Commission in considering the Companies' DSM application, which will unduly complicate and disrupt these proceedings if they are permitted to intervene. To the extent the McMullen or the Sierra Club wish to express their views, they, like other customers and members of the public, can submit written public comments in the record. For these reasons, the Companies respectfully request that the Commission deny their Petitions to intervene.

(This space intentionally blank.)

Dated: February 12, 2014

Respectfully submitted,



---

Kendrick R. Riggs  
W. Duncan Crosby III  
Joseph T. Mandlehr  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
Telephone: (502) 333-6000  
kendrick.riggs@skofirm.com  
duncan.crosby@skofirm.com  
joseph.mandlehr@skofirm.com

Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KY 40202  
Telephone: (502) 627-2088  
allyson.sturgeon@lge-ku.com

*Counsel for Louisville Gas and Electric Company  
and Kentucky Utilities Company*

**CERTIFICATE OF SERVICE**

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's February 12, 2014 electronic filing of the Objection to Motion to Intervene is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on February 12, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy in paper medium of the Objection to Motion to Intervene are being mailed to the Commission on February 12, 2014.

A handwritten signature in blue ink, appearing to read "A. B. ...", is written above a horizontal line.

*Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company*