

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

In the Matter of the Application of Kentucky Power :
Company for: (1) the Approval of the Terms and :
Conditions of the Sixth Amendment to the Renewable :
Energy Purchase Agreement for Biomass Energy Resources :
Between the Company and ecoPower Generation-Hazard, : **Case No. 2015-00190**
LLC; (2) Authorization to Enter into the Sixth Amendment :
to the Agreement; (3) the Grant of Certain Declaratory :
Relief; and (4) the Grant of All Other Required Approvals :
and Relief. :

**MOTION TO INTERVENE OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

Pursuant to KRS §278.310 and 807 KAR 5:001, Section 4(11), Kentucky Industrial Utility Customers, Inc. (“KIUC”) requests that it be granted full intervenor status in the above-captioned proceeding and states in support thereof as follows:

1. KIUC is an association of the largest electric and gas public utility customers in Kentucky. The purpose of KIUC is to represent the industrial viewpoint on energy and utility issues before this Commission and before all other appropriate governmental bodies. The members of KIUC who are served by Kentucky Power and will participate herein are: Air Liquide Large Industries U.S. LP, AK Steel Corporation, Air Products and Chemicals, Inc., EQT Corporation, and Catlettsburg Refining LLC, a subsidiary of Marathon Petroleum LP. These customers purchase approximately 20% of all retail electricity sold by Kentucky Power.

2. The matters being decided by the Commission in this case will have a significant impact on the rates paid by KIUC for electricity. As discussed in greater detail in the Motion to Establish Procedural Schedule filed contemporaneously herewith,¹ the proposed Sixth Amendment to the Renewable Purchase Agreement for Biomass Energy Resources (“REPA”) at issue in this proceeding makes at least two substantive changes to the current REPA that will impact the rates paid by KIUC members. First, the proposed Sixth Amendment expands

¹ For the sake of brevity, KIUC hereby incorporates by reference the arguments in its Motion to Establish Procedural Schedule.

the purpose of the Security Fund required by the REPA in order to protect Kentucky Power's shareholders in the event of any negative impact of the REPA on the Company's credit ratings.² This change to the use of the Security Fund modifies the REPA as approved by the Commission in a way that may adversely impact Kentucky Power's customers by diverting money from the Security Fund that would have otherwise protected Kentucky Power's customers in the event of any breach by ecoPower Generation-Hazard LLC ("ecoPower"). Second, and much more importantly, the proposed Sixth Amendment delays the Commercial Operations Milestone in the REPA from January 31, 2017 to December 31, 2018, thus altering the price and term of the REPA as approved by the Commission and excusing ecoPower of its obligation to pay liquidated damages in accordance with Section 4.10 of the REPA.³ Extending the Commercial Operations Milestone also prevents an Event of Default by ecoPower and takes away Kentucky Power's right to terminate the REPA.⁴ If approved, the Sixth Amendment would negatively impact KIUC member electric rates. Because electricity represents a significant cost of doing business for KIUC members and because its electric rates would be adversely impacted by Kentucky Power's proposed Sixth Amendment, KIUC has a special interest in this case that warrants intervention.

3. KIUC was a party to Case Nos. 2013-00144 (the initial ecoPower REPA case) and 2012-00578 (the Mitchell transfer case), which are closely related to this proceeding, and are participants in the pending appeals of these matters. Resolution of these two cases in a manner acceptable to Kentucky Power is a condition precedent to the effectiveness of the REPA. It is therefore reasonable for KIUC to participate in this proceeding as well since the Commission's decision regarding the proposed Sixth Amendment to the REPA may modify its previous decisions and impact KIUC member electric rates.

5. The attorneys for KIUC authorized to represent them in this proceeding and to take service of all documents are:

² Application at 7-8; Direct Testimony of Jay F. Godfrey on Behalf of Kentucky Power Company (June 18, 2015) at 9:3-11:10; Direct Testimony of Ranie K. Wohnhas on Behalf of Kentucky Power Company (June 18, 2015)("Wohnhas Testimony") at 6-7 and 8-9.

³ Wohnhas Testimony, Ex. RKW-1 (proposed Sixth Amendment to the REPA) at 2, 15, and 17.

⁴ Direct Testimony of Jay F. Godfrey on Behalf of Kentucky Power Company, Case No. 2013-00144 (April 10, 2013) at Ex. JFG-1 at 51 (Section 12.1 of the Commission-approved REPA).

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6. The position of KIUC cannot be adequately represented by any existing party. KIUC intends to play a constructive role in the Commission's decision-making process herein, helping to develop facts that will assist the Commission in fully considering the matter at hand. KIUC's participation will not unduly complicate or disrupt the proceedings.

WHEREFORE, KIUC requests that it be granted full intervenor status in the above-captioned proceeding.

Respectfully submitted,



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