

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

In the Matter of:

**Application of Louisville Gas & Electric Company And)
Kentucky Utilities Company To Install And Operate)
Electric Charging Stations In Their Certified Territories,)
For Approval Of An Electric Vehicle Supply Equipment) Case No. 2015-00355
Rider, An Electric Vehicle Supply Equipment Rate, An)
Electric Vehicle Charging Rate, Depreciation Rate, And)
For A Deviation From The Requirements Of Certain)
Commission Regulations)**

**MOTION OF WALLACE MCMULLEN AND SIERRA CLUB FOR LEAVE TO
INTERVENE**

Pursuant to KRS § 278.310 and 807 KAR 5:001 § 4(11)(a) and § 22, Wallace McMullen and Sierra Club (collectively “Movants”) respectfully move the Commission for leave to intervene in the above-captioned case. Movants have a wealth of knowledge and experience in the complex issues relating to utility program investment in transportation electrification, particularly utility investments in electric vehicle (“EV”) charging, the subject of Louisville Gas & Electric Company and Kentucky Utilities Company’s (jointly, “LGE/KU”) application,¹ and their intervention will assist the Commission in fully considering the matter. Movants’ special interests in this proceeding are not adequately represented by any other party to the proceeding. In addition, Movants have “good cause” for submitting a motion to intervene after December 22,

¹Application of Louisville Gas & Electric Company and Kentucky Utilities Company to Install and Operate Electric Charging Stations In Their Certified Territories, For Approval Of An Electric Vehicle Supply Equipment Rider, An Electric Vehicle Supply Equipment Rate, An Electric Vehicle Charging Rate, Depreciation Rate, And For A Deviation From the Requirements Of Certain Commission Regulations (“Application”).

2015, as required by 807 KAR 5:001 § 22 and the Commission’s December 18, 2015 Order.²

Therefore, Movants seek full intervention in this proceeding.

On September 15, 2015, LGE/KU filed its Application to propose to provide electric vehicle charging stations under one of three new rate schedules: Rate Electric Vehicle Supply Equipment Rider (“EVSE-R”), Rate Electric Vehicle Supply Equipment (“EVSE”), and Rate Electric Vehicle Charging (“EVC”).³ In brief, LGE/KU seeks approval for two initiatives: first, to install, own and maintain EV charging stations that will be paid for in full by an equipment site host, and second, to directly provide charging services to the public through stations that LGE/KU will install, own, and operate.⁴

This proceeding deals with policy questions concerning the role of utility investment in EV charging infrastructure, the impacts of added EV load on the electricity grid and ratepayers, the equitable deployment of EV charging stations, the siting of infrastructure in locations that will be used and useful and increase EV penetration, and the continued growth of a competitive and innovative market for EV service providers. For the Commission, the efficiency and reliability of the electrical grid, as well as ratepayer impacts, are paramount considerations for determining the rates and services of utilities and their importance will continue to grow with the acceleration of EV adoption. The organizational Movant, on behalf of its members, has gained substantial experience working on EV infrastructure issues throughout the United States, and seeks to bring such expertise to this proceeding to assist the Commission with its inquiry.

² Commission Order at 3, paragraph 12 (filed December 18, 2015).

³ Application at 5.

⁴ *Id.*

I. THE MOVANTS

Movants seek full intervention in order to ensure that their interests in accelerating adoption of EVs, improving access to EV charging, and maximizing benefits for all LGE/KU ratepayers are fully represented, and to bring to this proceeding their expertise concerning utility investment in EV charging. Movant Wallace McMullen is a customer of LGE, a long-time Sierra Club member, and has a deep interest in improving access to safe, affordable, and clean transportation options.

His address is as follows:

Wallace McMullen
4324 Dover Rd.
Louisville, Kentucky 40216

Sierra Club is one of the oldest conservation groups in the country, with more than 600,000 members nationally in sixty-four chapters in all fifty states, including the District of Columbia and Puerto Rico, dedicated to practicing and promoting the responsible use of natural resources. Sierra Club has over 4,700 members in Kentucky, which are part of the Cumberland Chapter. The Cumberland Chapter's address is:

Sierra Club
Cumberland Chapter
P.O. Box 1368
Lexington, KY 40588-1368

II. REQUIREMENTS FOR INTERVENTION

The Commission's procedural rules regarding intervention provide that the Commission shall grant a person, as defined by KRS 278.010(2), leave to intervene in a Commission proceeding, upon a timely motion, if the Commission finds that the person "has a special interest

in the case that is not otherwise adequately represented or that his or her 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.” 807 KAR 5:001 § 4(11)(b). Section 22 of the procedural rules provides, however, that “for good cause shown, the Commission may permit deviations from these rules.” *Id.* at § 22. For an out-of-time motion, therefore, the Commission is empowered to grant intervention to movants filing for intervention upon a showing of good cause. Indeed, in this proceeding, the Commission’s Order provides that “[a] person who submits a motion to intervene after December 22, 2015, and upon showing of good cause is granted full intervention shall accept and abide by the existing procedural schedule.”

As described below, Movants can show good cause for filing leave to intervene out-of-time, and otherwise satisfy the Commission’s standards for intervention. In addition, the Movants will abide by the existing procedural schedule and so will not disrupt the proceedings.

III. THE COMMISSION SHOULD GRANT MOVANTS FULL INTERVENTION

A. The Movants Can Show Good Cause

Pursuant to Section 22 of the procedural rules and the Commission’s Order in this case, the Movants can show good cause for submitting a motion for leave to intervene after December 22, 2015. The organizational Movant, Sierra Club, is a not-for-profit organization, and its advocacy work is principally funded by grants, donors and members. Sierra Club has a long history as a leader on transportation issues, but only recently secured the resources necessary for full and active participation in this proceeding.

B. Movants Will Present Issues or Develop Facts that Will Assist the Commission in Fully Considering the Matter.

The Commission should grant Movants full intervention because they are “likely to present issues or to develop facts that assist the commission in fully considering the matter

without unduly complicating or disrupting the proceedings.” 807 KAR 5:001 § 4(11)(b). In their application, LGE/KU proposes multiple program designs for investment in the installation, ownership, operation and maintenance of EV charging infrastructure. Organizational Movant Sierra Club has developed expertise that encompasses a broad range of environmental and energy concerns that relate to the issues presented in this proceeding. In particular, Sierra Club’s staff and consultants have extensive experience in analyzing efficient and reliable integration of EV charging load, EV charging program design, and cost recovery. Sierra Club has jointly or individually intervened and/or provided briefing or comments on these and similar issues in similar proceedings in a number of states including California, Missouri, New York, and Connecticut. In California, Sierra Club actively participated in the proceedings that resulted in approval by the California Public Utilities Commission of the two largest utility program investments in EV charging infrastructure in the country.⁵ Moreover, Sierra Club has intervened and provided testimony on complex energy and electric utility issues in numerous dockets in the past three years before this Commission.⁶ Sierra Club has also regularly presented testimony and

⁵ See California Public Utilities Commission Decisions 16-01-045 (Decision Regarding Underlying Vehicle Grid Integration Application and Motion to Adopt Settlement Agreement) and 16-01-023 (Decision Regarding Southern California Edison Company’s Application For Charge Ready and Market Education Programs), *available at* <http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx>

⁶ See Application of Louisville Gas & Electric for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2011-00162), Application of Kentucky Utilities for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2011-00161); Joint Application of Louisville Gas & Electric and Kentucky Utilities for Certificates of Public Convenience and Necessity to Construct Combined Cycle Natural Gas Plant (Docket No. 2011-00375); Application of KPC for Certificates of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2011-00401); Application of Big Rivers Electric Cooperative for Certificate of Public Convenience and Necessity and Approval of Its Compliance Plan for Recovery by Environmental Surcharge (Docket No. 2012-00063); Application of Big Rivers Electric Corporation For an Adjustment of Rates (Docket No. 2012-00535); Application of KPC For: (1) A Certificate of Public Convenience and Necessity Authorizing the Transfer to the Company of An Undivided Fifty Percent Interest in the Mitchell Generating Station and Associated Assets; (2) Approval Of The Assumption by Kentucky Power Company of Certain Liabilities In Connection With the Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With The Company’s Efforts to Meet

provided comments to utility commissions, utilities, and state legislatures and executive agencies regarding transportation electrification and the role for electric utilities.

Movants bring to this docket their unique perspective and experience in advancing technical and regulatory solutions to increasing cost-effective demand-side energy sources to all regions of the country, including Kentucky. Movants will apply their perspective and experience in evaluating LGE/KU's application in the present case to assist the Commission in its inquiry to determine the reasonableness of LGE/KU's EV programs and associated tariff proposals and to ensure that LGE/KU are maximizing the benefits of increased access to EV charging for EV drivers, the electricity grid, and all ratepayers.

C. Movants Will Not Unduly Complicate, Disrupt, or Prolong the Proceedings.

Importantly, Movants' participation as a full intervenor will not complicate the matter or prolong the proceedings. Rather, it will facilitate a more robust examination of LGE/KU's application. Movants are represented by experienced counsel and, moving forward, will comply with all deadlines in the procedural schedule established by the Commission. Movants will proffer testimony, which tendered testimony is attached to this Motion as **Attachment A**.

Movants would be pleased to participate in a hearing if the Commission, Staff, or other parties would find one useful; however, Movants will not independently request a hearing. As such, Movants' participation will not disrupt or prolong this proceeding.

Federal Clean Air Act And Related Requirements; and (5) For All Other Required Approvals and Relief (Docket No. 2012-000578); Application of Big Rivers Electric Corporation for a General Adjustment in Rates (Docket No. 2013-00199); and Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Alteration of Certain Equipment at the Cooper Station and Approval of a Compliance Plan Amendment for Environmental Surcharge Cost Recovery (Docket No. 2013-00259); Application of KPC 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 the Programs, December 20, 2013.

D. Movants Have a Special Interest in this Proceeding That Is Not Otherwise Adequately Represented.

As noted above, 807 K.A.R. 5:001 § 4(11) provides two alternative bases for granting full intervention. Parties either need to have a special interest not adequately represented or present issues and facts that will help the Commission fully consider the matter. As explained in Section III.B., above, Movants will present issues and facts that will help the Commission fully consider the matter. Therefore, the Commission can grant full intervention on that basis alone and need not consider Movants' special interest. Nevertheless, as explained below, Movants also have special interests that are not adequately represented.

The individual Movant is a customer and ratepayer of LGE. As such, individual Movant helps to fund LGE's operations and the decisions to be made in this proceeding concerning the EV rate rider and rates have the potential to impact his bill. In addition, the individual Movant lives within the LGE service territory and, therefore, is impacted by the economic, public health, and environmental effects of the resource decisions that LGE/KU makes. Organizational Movant Sierra Club has members who are customers and ratepayers of LGE/KU, and, therefore, have the same interests as the individual Movant. In addition, Movants' desire to promote clean transportation options in Kentucky is directly related to the issues of this proceeding, in which LGE/KU has proposed investments in EV charging infrastructure. Thus, Movants have a special interest in this proceeding.

Movants' interests are not adequately represented by any of the parties in the proceeding. Currently, LGE/KU and the Attorney General are the only other parties in this case.⁷ No other party can adequately represent the organizational Movant's interests as a national organization that is interested in the promotion of vehicle electrification and deployment of charging infrastructure as a means to realize benefits for the body of utility customers, to improve grid reliability and efficiency, and to facilitate progress toward air quality and climate goals. Movants' full intervention is warranted so that their interests, as detailed above, are represented.

IV. CONCLUSION

For the foregoing reasons, Movants respectfully requests full intervention in this matter.

Respectfully submitted,



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⁷ The Attorney General cannot adequately represent the Movants' interest. The Attorney General has the unenviable task of representing all consumers and all of their diverse interests, even if some of the interests are diametrically opposed to each other. The Attorney General may not be able to represent the Movants' interest, or at least not as forcefully, because of the Attorney General's obligation to represent all consumers. Courts have "repeatedly held that private companies can intervene on the side of the government, even if some of their interests converge." *See, e.g., Hardin v. Jackson*, 600 F. Supp. 2d 13, 16 (D.D.C. 2009). Moreover, the Attorney General's office is not expected to marshal the same level of expertise as Movants with regard to the current state of energy efficiency development, and Movants are uniquely positioned to share their expertise with the Commission.

Of counsel:

(The following attorneys are not licensed to practice law in Kentucky.)

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Dated: February 12, 2016

CERTIFICATE OF SERVICE

I certify that in addition to the electronic service provided by the Public Service Commission, true copies of SIERRA CLUB'S MOTION FOR LEAVE TO INTERVENE and Attachment A have been mailed by first class mail on February 12, 2016 to the following:

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