

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

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	
REASONABLENESS OF THE DEMAND SIDE)	CASE NO. 2017-00097
MANAGEMENT PROGRAMS AND RATES)	
OF KENTUCKY POWER COMPANY)	

**MOTION OF BEVERLY MAY, JIM WEBB, AND SIERRA CLUB
FOR LEAVE TO INTERVENE**

Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001 § 4(11), Beverly May, Jim Webb, and Sierra Club (collectively “Movants”) respectfully move to intervene as a full party in the above-captioned case, which the Commission has opened in order to investigate the prospective reasonableness of Kentucky Power Company’s (“KPC” or the “Company”) demand-side management (“DSM”) programs. As the Commission is aware, KPC committed several years ago to increasing its investment in cost-effective energy efficiency and other DSM measures in a non-unanimous Stipulation and Settlement Agreement that was approved as modified by the Commission in 2013 (the “2013 Approved Stipulation”).¹ Cost-effective DSM programs reduce utility system costs and lower customer bills—a win-win outcome that Movants are committed to maximizing. Movants appreciate the Commission’s interest in investigating the reasonableness of KPC’s DSM efforts in view of the circumstances the Commission identified in its order initiating this docket, including economic vulnerabilities in KPC’s service territory, increasing costs associated with DSM, and declining load. Movants welcome the opportunity to

¹ See Order (Oct. 7, 2013), *In re: Application of Kentucky Power Company 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 Federal Clean Air Act and Related Requirements; and (5) All Other Required Approvals and Relief*, Case No. 2012-00578.

contribute to this examination of KPC's current programs and spending levels in order to, among other things, consider how the programs might be made more cost-effective or otherwise improved to address the Commission's concerns.

Movants' intervention is proper both because Movants have special interests not adequately represented by any other current or prospective party to this case and, independently, because Movants will aid the Commission's full consideration of the matters at hand without complication or disruption. 807 K.A.R. 5:001 § 4(11)(b). Sierra Club helped to craft and is a party to the 2013 Approved Stipulation; has actively participated as a full intervenor in subsequent reviews of KPC's DSM programs required thereunder; and has also intervened in examinations of KPC's Integrated Resource Plan ("IRP").² Movants accordingly possess deep experience and expertise related to DSM matters generally as well as KPC's programs specifically. Moreover, Movants have retained, for this case, consultants with expertise related to the evaluation of the costs and benefits of DSM, to help further illuminate the questions and issues posed by this case.

I. THE MOVANTS

Movants seek full intervention in order to ensure that their interests in cost-effective energy efficiency and other DSM resources, as well as in KPC's continued interests as a party to the 2013 Approved Stipulation, are fully represented. Movants offer their expertise concerning DSM programs and cost recovery to assist the Commission's investigation of these complex and important issues, including DSM costs and benefits, and program designs that optimize that

² See Motion of Beverly May and Sierra Club for Leave to Intervene (Oct. 15, 2015), *In re: Application of Kentucky Power Company for (1) Authority to Modify Certain Existing Demand-Side Management Programs; (2) Authority to Implement New Programs; (3) Authority to Discontinue Certain Existing Demand-Side Management Programs; (4) Authority to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of the Programs; and (5) All Other Required Approvals And Relief*, Case No. 2015-00271; Motion to Intervene of Jim Webb and Sierra Club (Jan. 30, 2017), *In Re: Electronic 2016 Integrated Resource Planning Report Of Kentucky Power Company to the Public Service Commission Of Kentucky*, Case No. 2016-00413.

balance in light of service areas' unique characteristics. To that end, Movants seek in part to facilitate accurate recognition and quantification of DSM's benefits to KPC's ratepayers, keeping in mind that DSM programs' cost-saving benefits can be less obvious than their immediate costs, yet are nevertheless very real and valuable.

The individual movants, Ms. May and Mr. Webb, are long-time Sierra Club members and residential customers of KPC whose bills will be directly affected by whether KPC maintains its commitments to providing low-cost, energy-saving options, like energy efficiency and other DSM resources. Ms. May's address is 400 Wilson Creek, Langley, KY 41645. Mr. Webb's service address is 5087 US 119 South, Whitesburg, KY 41858 (his mailing address is PO Box 666, Whitesburg, KY 41858).

The organizational movant, Sierra Club, is one of the oldest and largest conservation groups in the country. Sierra Club has approximately 744,000 members across its sixty-four chapters, covering all fifty states, the District of Columbia, and Puerto Rico. More than 5,700 Kentuckians (including Ms. May and Mr. Webb) belong to the Cumberland Chapter. Sierra Club's core interests include promoting and achieving responsible energy policies and responsible use of natural resources, among other objectives. It seeks to act on behalf of the individual movants, whose interests align with Sierra Club's in these proceedings.³ Sierra Club's Kentucky address is: Sierra Club, Cumberland Chapter, P.O. Box 1368, Lexington, KY 40588.

II. REQUIREMENTS FOR INTERVENTION

The Commission shall grant a timely motion to intervene in proceedings reviewing utilities' services if the Commission finds either that the movant "has a special interest in the

³ See *supra* n.1, Order (1/13/15) at 5, Case No. 2014-00371 (granting intervention on individuals' behalf).

case that is not otherwise adequately represented *or* that 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 K.A.R. 5:001 § 4(11)(b) (emphasis added).

III. THE COMMISSION SHOULD GRANT MOVANTS FULL INTERVENTION

Movants satisfy either of the two independently sufficient bases for timely intervention, having special, unique interests in this case that is not otherwise adequately represented, and also being in a position to aid the Commission’s full consideration of the matters at hand without unduly complicating or disrupting the proceedings.⁴

First, Movants “ha[ve] a special interest in the case that is not otherwise adequately represented.” 807 K.A.R. 5:001 § 4(11)(b). Movants’ interests include ensuring that energy efficiency and other DSM measures—which, when well designed, lower utility-system costs and help customers to take control of their bills—are advanced through an optimal programmatic portfolio and appropriate corresponding investment. Those interests are unique: in addition to the individual movants’ interests in seeing their money well spent, Movants are party to the 2013 Approved Stipulation and have repeatedly publically championed efficiency and other cost-saving mechanisms in Kentucky and across the country. Moreover, Movants’ interests are not adequately represented by any other party in this case because neither KPC nor any other current putative intervenor will bring the same perspectives, values, and resources to this investigation.⁵ Movants also note their interest in economic equity and their sensitivity to energy affordability, which is so important to many lower-income Kentuckians—and it is with those concerns in mind

⁴ This Petition is also timely, filed in advance of the March 24, 2017, deadline for intervention motions.

⁵ The only other current putative intervenor is Kentucky Industrial Utility Customers, Inc. (“KIUC”), an industry group whose interests plainly do not necessarily co-align with those of Movants. The Attorney General has not filed for intervention at this point, but even if he did, his office would not adequately represent Movants’ focused interests (*e.g.*, in energy efficiency and conservation) because he must represent the values and prerogatives of ratepayers generally—a broad, mixed obligation—and his office has taken positions at odds with Sierra Club in the past. *See, e.g.*, Case No. 2012-00578, *supra* n.1.

that Movants advocate for DSM programs that mitigate individual as well as systemic costs, and are readily accessible to lower-income customers.

Additionally and independently, Movants belong in this case 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 K.A.R. 5:001 § 4(11)(b). The Commission has repeatedly determined in comparable proceedings that Sierra Club and associated individual co-movants should be permitted to intervene because they “possesses special knowledge and expertise in multiple areas, including energy efficiency,” which is front and center in this investigation.⁶ Unsurprisingly, then, the Commission has granted Movants’ intervention into respective reviews of KPC DSM programs and of its IRP, confirming that their “intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.”⁷ Sierra Club has been an active, valuable participant in those proceedings.⁸ Movants’ participation will not unduly complicate or disrupt these proceedings, but rather will facilitate them as in prior cases.⁹

Movants understand and respect the Commission’s concerns about increasing costs of DSM programs, as expressed in recent decisions signaling greater prospective scrutiny thereof.¹⁰

⁶ *In re: Applic. of Ky. Utils. Co. for an Adjustment of Its Elec. Rates*, Case No. 2014-00371, Order (Jan. 13, 2015) at 4-5 (granting intervention of Sierra Club, Ms. Howell, and Mr. Vogel); *see also, e.g.*, Order (Jan. 11, 2017) at 3, *In re: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371.

⁷ Order (Oct. 28, 2016) at 1, Case No. 2015-00271, *supra* n.2; Order (Feb. 22, 2017) at 1, Case No. 2016-00413, *supra* n.2.

⁸ *See supra* n.7; *see also In re: 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*, Case No. 2013-00487; *see generally* Motion of Beverly May and Sierra Club for Leave to Intervene (Oct. 15, 2015), *supra* n.2, at 4-6 & n.7 (detailing Sierra Club’s nationwide experience).

⁹ Movants expect to file expert testimony and briefing that will facilitate the Commission’s analysis. Movants are represented by experienced counsel and will comply with all deadlines established by the Commission.

¹⁰ *E.g.*, Order (Jan. 24, 2017) at 15, *In re: Electronic Application of Duke Energy Kentucky, Inc. to Amend Its Demand Side Management Programs*, Case No. 2016-00289.

At the same time, Movants submit that DSM's benefits are, as the Commission has also emphasized, "important now and will become more important and cost-effective in the future as more constraints are likely to be placed on utilities that rely significantly on coal-fired generation."¹¹

IV. CONCLUSION

For the foregoing reasons, Movants request that the Commission grant their motion for leave to intervene as full party in this case.

Dated: March 23, 2017

Respectfully submitted,



Of counsel
(Not licensed to practice in Kentucky)

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¹¹ Order (Sept. 30, 2010), *In re: Joint Application of Ppl Corp., E.on Ag, E.on Us Investments Corp., E.on U.S. LLC, Louisville Gas & Elec. Co., & Kentucky Utilities Co. for Approval of an Acquisition of Ownership & Control of Utilities*, Case No. 2010-00204

CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of the MOTION OF BEVERLY MAY, JIM WEBB, AND SIERRA CLUB FOR LEAVE TO INTERVENE in this action is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on March 23, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission.



JOE F. CHILDERS