

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	
SERVICE; (2) APPROVAL OF TARIFFS AND)	
RIDERS; (3) APPROVAL OF ACCOUNTING)	CASE NO.
PRACTICES TO ESTABLISH REGULATORY)	2020-00174
ASSETS AND LIABILITIES; (4) APPROVAL OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY; AND (5) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

**REPLY OF JOINT MOVANTS MOUNTAIN ASSOCIATION FOR COMMUNITY
ECONOMIC DEVELOPMENT, KENTUCKIANS FOR THE COMMONWEALTH, AND
KENTUCKY SOLAR ENERGY SOCIETY TO KENTUCKY POWER COMPANY'S
PARTIAL OBJECTION TO MOTION FOR FULL INTERVENTION AS JOINT
INTERVENORS**

Come now the Mountain Association for Community Economic Development (MACED), Kentuckians for the Commonwealth (KFTC), and the Kentucky Solar Energy Society (KYSES)(collectively "Movants"), and by and through counsel, and in reply to the *Kentucky Power Company's Response in Opposition to Joint Motion of Mountain Association for Community Economic Development, Kentuckians for the Commonwealth, and Kentucky Solar Energy Society for Full Intervention*, ("KPC Response") and state as follows:

1. In the KPC Response, the company indicates that it:

opposes only intervention by Kentucky Solar Energy Society ("KYSES"). The Company does not oppose intervention by Mountain Association for Community Economic Development or Kentuckians for the Commonwealth so long as they do not duplicate between themselves discovery, testimony, or cross-examination in this case.

KPC Response, at p. 1.

2. The KPC opposition to the participation of the Kentucky Solar Energy Society (KYSES) as one of the three Joint Intervenors, is grounded on the mistaken assumptions that "KYSES does not have a special interest in this case not otherwise represented by another party, and as such KYSES is not likely to present issues or develop facts that would assist the Commission in fully evaluating this matter, and its participation would unduly complicate and disrupt the proceedings." KPC Response at p. 2.

3. 807 KAR 5:001(11)(b) provides that the Commission will grant intervention where it finds that "he or she 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."

4. With all respect to KPC's limited opposition, the KYSES has a special interest in this case that is not adequately represented by Intervenor KYSEIA, nor by any other current party to the case. Initially, the mission of the two organizations are distinct. As stated in the KYSES bylaws, "*The Kentucky Solar Energy Society's mission is to promote the use*

of renewable energy, energy efficiency, and conservation in Kentucky through education, advocacy, networking, and demonstration of practical applications." This is distinct from KYSEIA's purpose, as stated on their website, which reads: *"The Kentucky Solar Industries Association represents businesses involved in the nation's leader in new power generation - the solar industry. KYSEIA's objective is to provide leadership and promote sound policy in the Commonwealth as our power sector enters the solar-age."*

5. KYSEIA is a 501(c)6 organization, which according to the IRS is a designation used for business leagues, chambers of commerce, Real estate boards, and boards of trade.¹ KYSEIA's focus is representing the interests of businesses engaged in the solar industry. KYSES, on the other hand, is a non-profit organization that represents a broad group of citizens which includes solar enthusiasts, clean energy advocates, researchers and academics, environmentalists, solar users (customers), and people who anticipate using solar in the future. While solar businesses and contractors are also members of KYSES, they are just one of multiple constituencies within the KYSES. Businesses and their customers have distinct interests and perspectives, while they may share a belief that solar energy is important for the Commonwealth and our nation.

¹ <https://www.irs.gov/charities-non-profits/other-non-profits/types-of-organizations-exempt-under-section-501c6>

6. The membership dues structure of the two organizations further illuminates the distinction between the organizations. KYSES's basic membership fee is \$20/year. KYSEIA's minimum dues are \$250/year for those who do not work directly in the solar industry, and start at \$500/year for installers, developers, and manufacturers working directly in the solar industry. KYSEIA's dues are appropriate for an industry organization and KYSES's dues are suitable for a broad-based society of individuals who have a common interest in solar energy, but not necessarily a commercial interest.

7. Additionally, the work of KYSEIA is especially focused on policy and legislation affecting solar businesses, while KYSES has a broader educational and advocacy mission. In this rate case we would expect KYSEIA will focus on the impacts of changes to net metering on solar businesses. Due to the different constituencies, KYSES will approach the issues in the rate case from multiple perspectives – low-income customers, churches, schools, municipalities, middle-income customers, farmers, rural and urban residents, and non-profit agencies. While a solar installer and their customer both want policies that support solar energy, they necessarily have different perspectives on the issue. It is unreasonable to assume that a solar industry association will adequately represent the interests and views of the wide range of customers who care about solar energy.

8. In addition to having a distinct special interest that is not adequately represented by KYSEIA or any other current party to this rate case, KYSES brings a broad-based perspective of solar customers that would assist the Commission in assuring that any changes to the net-metering tariff are fair, just, and reasonable for urban, rural, low- and fixed-income customers, and to non-participating ratepayers.

9. KPC's suggestion that the participation of KYSES would "unduly complicate and disrupt the proceedings" is mistaken. The participation of KYSES would be as a *joint* intervenor, speaking with one voice, presenting one set of witnesses and testimony, and serving and responding to data requests as one party. The Joint Movants have already indicated that they will accept the procedural schedule as proposed by the Commission. There is no disruption and no complication occasioned by the participation of KYSES, and assuming *arguendo* that there were, it is certainly not an "undue" complication or disruption given the valuable perspective that KYSES would provide to the Joint Intervention. Andy McDonald, who is the KYSES vice-chair, participated in PSC Case No.2008-00169 on behalf of Appalachia-Science in the Public Interest (ASPI). In this capacity McDonald helped produce the Kentucky Interconnection and Net Metering Guidelines which resulted from this collaborative case. He has continued during the subsequent 12 years to work with solar energy in Kentucky, and his anticipated testimony, offered by the Joint Intervenors,

would bring both historical knowledge and relevant recent experience to the net metering tariff and solar valuation issues.

WHEREFORE, for the reasons stated above, and in view of the Commission's belief that broad participation among all stakeholder interests should be part of a rate case that the first to propose a change to the current net metering tariff, respectfully request that KYSES be accorded the status of full Joint Intervenors along with MACED and KFTC.

Respectfully submitted,



Tom FitzGerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602
(502) 551-3675
FitzKRC@aol.com

*Counsel for Joint Movants, Mountain
Association For Community
Economic Development,
Kentuckians for the Commonwealth,
and Kentucky Solar Energy Society*

CERTIFICATE OF SERVICE

This is to certify that electronic version of the Joint Motion of Mountain Association for Community Economic Development, Kentuckians for the Commonwealth, and Kentucky Solar Energy Society For Full Intervention As Joint Intervenors, 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 July 30, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that in accordance with the March 16, 2020 Commission Order in Case No. 2020-00085 an original and ten copies in paper medium of the Motion will not be mailed until after the lifting of the current state of emergency.

A handwritten signature in black ink, appearing to read 'Tom FitzGerald', with a stylized, cursive script.

Tom FitzGerald