

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY</b>	)	
<b>FOR AN ADJUSTMENT OF ITS</b>	)	
<b>ELECTRIC RATES, A CERTIFICATE</b>	)	
<b>OF PUBLIC CONVENIENCE AND</b>	)	
<b>NECESSITY TO DEPLOY</b>	)	<b>CASE NO. 2020-00349</b>
<b>ADVANCED METERING</b>	)	
<b>INFRASTRUCTURE, APPROVAL OF</b>	)	
<b>CERTAIN REGULATORY AND</b>	)	
<b>ACCOUNTING TREATMENTS, AND</b>	)	
<b>ESTABLISHMENT OF A ONE-YEAR</b>	)	
<b>SURCREDIT</b>	)	

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**PETITION TO INTERVENE OF SIERRA CLUB**

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Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001 § 4(11)(b), Sierra Club hereby petitions for full intervention in the above-captioned rate case filed by Kentucky Utilities Company (“KU”). Sierra Club is concurrently petitioning for intervention in the rate case filed by KU’s sibling utility, Louisville Gas and Electric Company (“LG&E”), in Case No. 2020-00350. In their rate cases, KU and LG&E (together “the Companies”) seek to increase the revenues they collect from ratepayers, and to alter the rate designs through which they collect those revenues, including an increased residential basic service charge. In addition, the Companies seek approval of a new net metering tariff, as well as certificates of public convenience and necessity (“CPCNs”) to invest in advanced metering infrastructure (“AMI”).

The foregoing increases, changes, and investments, among other matters at issue in this case, would direct affect residential customers who are members of Sierra Club. Sierra Club has extensive experience evaluating the issues raised in the Companies’ applications. Sierra Club has

previously intervened in general rate cases, integrated resource planning (“IRP”) dockets, and demand-side management (“DSM”) proceedings, in Kentucky as well as many other jurisdictions, including several dockets initiated by the Companies. Indeed, Sierra Club has been participated as a party in each of the Companies’ last three general rate cases, among other Commission proceedings. Sierra Club also submitted public comments in the general precursor docket on the Commonwealth’s new net metering statute, Case No. 2019-00256, whose record is incorporated into the record of this case. Sierra Club understands rate design, net metering, the effects of rate structures on consumer behavior, resource planning, and comparative energy economics, among other issues implicated by the Companies’ rate applications.

Accordingly, as the Commission has recognized in numerous past dockets, Sierra Club’s motion to intervene should be granted because Sierra Club possesses “special knowledge and expertise in multiple areas,” including “rate design” and “evaluation of capital spending,” and is thus “likely to present issues and develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings.”<sup>1</sup>

## **I. SIERRA CLUB AND ITS REPRESENTED MEMBERS**

Sierra Club seeks to intervene in a representational capacity on behalf of its members who are residential customers of L&GE, including Alice Howell and Carl Vogel. Ms. Howell, Mr. Vogel, and other Sierra Club members who are residential customers of KU will be directly affected by the costs and broader impacts of the proposed rates. The address at which they take service from KU is 918 Aurora Ave., Lexington, KY 40502.

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<sup>1</sup> See, e.g., *In re: Electronic Applic. of Louisville Gas and Elec. Co. for an Adjustment of Its Elec. Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Order (Jan. 11, 2017) at 3; *In re: Electronic Applic. of Ky. Utils. Co. for an Adjustment of Its Elec. Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370, Order (Jan. 11, 2017) at 3; *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; *In re: Applic. of Louisville Gas and Elec. Co. for an Adjustment of Its Elec. Rates*, Case No. 2014-00372, Order (Jan. 13, 2015) at 4.

Sierra Club is one of the oldest and largest conservation groups in the country. Sierra Club has approximately 3.5 million members and supporters across its sixty-four chapters, covering all fifty states, the District of Columbia, and Puerto Rico. More than 6,300 Kentuckians belong to Sierra Club’s Kentucky Chapter. Sierra Club seeks to act on behalf of the individual Movants, whose interests align with Sierra Club’s in these proceedings. Sierra Club’s Kentucky address is: Sierra Club, Kentucky Chapter, PO Box 1368, Lexington, KY 40588. Sierra Club is interested in, and knowledgeable about, rate structures that do not perversely disincentivize energy efficiency or conservation; net metering tariffs that accurately reflect the true value conferred on a utility’s system by distributed solar generation; the comparative economics of the Companies’ generating fleet, power purchase agreements, and potential alternative sources of cost-effective reliable power; and other issues implicated by KU’s application.

## **II. THE COMMISSION SHOULD GRANT SIERRA CLUB’S MOTION**

The Commission shall grant a timely motion to intervene if it finds either that the movant “has a special interest in the 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). Sierra Club satisfies either of those two independently sufficient bases for timely intervention.<sup>2</sup> Sierra Club will smoothly aid the Commission’s full consideration of the matters at hand—as it has done in the past, as the Commission has repeatedly recognized it would, and as the Franklin Circuit Court has previously validated.<sup>3</sup> In the alternative, Sierra Club

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<sup>2</sup> This Motion is timely filed, in accordance with the procedural schedule in Commission’s December 9, 2020, Order in this case.

<sup>3</sup> Opinion & Order, *Sierra Club, et al. v. Pub. Serv. Comm’n of Ky., et al.*, Civil Action No. 18-CI-1229 (Mar. 5, 2019, Franklin Circuit Court), at 11-12 (reversing Commission’s findings to the contrary, and ordering the Commission to permit Sierra Club’s full participation in ongoing rate cases).

has a special interest not otherwise adequately represented in this case. The Commission may grant intervention on either basis without opining on the other; it has done so in the past by granting intervention on the former ground without reaching the latter.

**a. Sierra Club Will Assist the Commission's Consideration Without Complication.**

Sierra Club should be granted intervention because it 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).

KU's rate application features several issues that implicate Sierra Club's expertise, including whether its residential fixed customer charge should be restructured; the propriety of the its proposed new net metering tariff; whether the requested rates reflect any imprudent costs incurred by its generation fleet and power portfolio; and whether its proposed investment in smart meters is reasonably necessary and in customers' interests. Sierra Club has knowledge of, and experience with, those questions, having previously studied, argued, and helped resolve them in Kentucky and elsewhere. In past cases before this Commission, Sierra Club has conducted discovery and cross-examination, and submitted testimony and briefing, that has helped to illuminate material issues concerning utilities' proposed increases in fixed customer charges, AMI deployment, and recovery of energy investments and operating expenses. Sierra Club also submitted comments in the Commission's general docket on implementing Kentucky's new net metering law, which is implicated by KU's proposed new net metering tariff. Sierra Club will aid the Commission by helping to identify, clarify, and apply principles that bear on whether the proposed rate adjustments and investments are efficient, cost-minimizing, equitable, and otherwise "fair, just and reasonable." K.R.S. § 278.030(1).

In sum, Sierra Club's participation here will "assist the commission in fully considering" these important issues. 807 K.A.R. 5:001 § 4(11)(b). Moreover, Sierra Club's participation will

not unduly complicate or disrupt the proceedings, and Sierra Club’s advocacy will not be unduly duplicative of that of any other party to this case. Sierra Club is represented by experienced counsel and will comply with all Commission rules and deadlines, as it has in the past.

**b. Sierra Club Has Special Interests Not Otherwise Adequately Represented.**

In the alternative, Sierra Club should be granted intervention for the independently sufficient reason it “has a special interest in the case that is not otherwise adequately represented.” 807 K.A.R. 5:001 § 4(11)(b).

Sierra Club’s interests include ensuring that energy efficiency, conservation, and distributed generation are advanced by KU’s rate designs, resource planning, and expenditures. Energy efficiency and distributed generation lower utility-system costs and help customers take control of their bills, while enabling the utility to respond to changing market conditions and face new and emerging regulations in the most cost-effective and otherwise reasonable way. Sierra Club’s interests are “special,” *id.*, because its interests are quantitatively unique (Sierra Club’s members value them more deeply on average than the rate-paying community at large) as well as qualitatively unique (Sierra Club publicly advocates for, invests in, and otherwise champions the interests in exceptional ways). Moreover, the interests are implicated “in this case,” *id.*, in light of the proposed new rate designs, the new metering tariff, the recovery of and increases in revenue, and the CPCN. Finally, Sierra Club’s special interests in the case are “not otherwise adequately represented,” *id.*, because no other party has either the same expertise or the inclination to advocate in the same ways that Sierra Club will. The Attorney General, for one, has neither the capacity nor the inclination (as the Attorney General has emphasized on the record in the past to this Commission and to the Franklin Circuit Court) to fully represent Sierra Club’s more focused interests because he must represent the values and prerogatives of ratepayers generally—a broad, mixed obligation that has at times caused his office to take

positions at odds with Sierra Club. Meanwhile, Sierra Club's special interests are not adequately represented by other intervenors, whose interests are distinct.

**III. CONCLUSION**

Sierra Club respectfully requests that the Commission permit Sierra Club to intervene in these proceedings, as it has in other recent general rate cases and other proceedings.

Dated: December 21, 2020

Respectfully submitted,



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(not licensed in Kentucky):

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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing copy of the PETITION OF SIERRA CLUB TO INTERVENE in this action is being electronically transmitted to the Commission on December 21, 2020; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Per the Commission's general standing Order issued in Case No. 2020-00085 on March 16, 2020, this filing will not be mailed in paper medium to the Commission.



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JOE F. CHILDERS