

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

In the Matter of:

ELECTRONIC 2021 JOINT)	
INTEGRATED RESOURCE PLAN)	
OF LOUISVILLE GAS AND)	Case No. 2021-00393
ELECTRIC COMPANY AND)	
KENTUCKY UTILITIES)	
COMPANY)	

**SIERRA CLUB’S POST-HEARING COMMENTS ON
THE 2021 INTEGRATED RESOURCE PLAN OF LOUISVILLE GAS
AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY**

Sierra Club respectfully submits these post-hearing comments on the 2021 Joint Integrated Resource Plan (“2021 IRP”) of Louisville Gas and Electric Company and Kentucky Utilities Company (together the “Companies”), in accordance with the Commission’s July 15, 2022, Order.

As Sierra Club noted in its initial comments in this case:

Since the Companies submitted their last IRP in 2018, the United States has continued its inexorable long-term energy revolution—one in which renewable power, storage, and demand-side management are becoming more and more cost-competitive and reliable. Affordable, clean alternatives to fossil-burning power plants—including solar and wind generation, utility-scale battery storage, and energy efficiency measures—are not only the healthier and more climate-protecting avenue, but are also trending both downwards in capital and operating costs, and upwards in viability as capacity resources. By the same token, fossil-fired power plants, and particularly the coal fleet of decades past, are becoming less economical to run, and less necessary to serve reliability needs.¹

Lonnie E. Bellar, Chief Operating Officer of the Companies, agreed that renewable

¹ See Sierra Club’s initial comments, filed April 22, 2022.

power, storage and demand-side management are becoming better options and solar and wind generation, battery storage and energy efficiency are healthier and more climate protecting measures than relying on coal and gas for our energy needs. See Bellar testimony, July 13, 2022, at 2:42:05 p.m.

OVEC

In August, 2011, this Commission approved an extension of the 2004 Inter-Company Power Agreement (“ICPA”)² from an expiration date of 2026 to 2040 on the basis of findings that OVEC’s power was low-cost and appeared poised to continue as low-cost, even though by 2040 its two coal-fired power plants will be nearly 90 years old.³ However, in 2022 it has become apparent that OVEC’s power is now neither low-cost nor poised to continue as low-cost.

In response to Sierra Club’s post-hearing requests for information, the Companies revealed that the total average cost of generating electricity from the Companies’ fleet of coal-fired power plants is [redacted] per MWh.⁴ By comparison, the total average cost of operating the two coal-fired power plants of OVEC is [redacted].⁵ Meanwhile, the Companies’ two portfolios of solar generated power come in at [redacted] per MWh and one of the two wind generating portfolios has a cost of [redacted] per MWh. Only the Companies’

² Order (Aug. 11, 2011), Case No. 2011-00099, *Verified Application of Louisville Gas and Electric Company for an Order Pursuant to KRS 278.300 and for Approval of Long-Term Purchase Contract*, and Case No. 2011-00100, *Verified Application of Louisville Gas and Electric Company for an Order Pursuant to KRS 278.300 and for Approval of Long-Term Purchase Contract*.

³ Mr. Bellar testified that the average life expectancy of a coal-fired power plant is 55-60 years. Bellar testimony, July 13, 2022, at 3:27:57 p.m.

⁴ See confidential Excel spreadsheet attached to the Companies’ Response to Sierra Club’s Post-Hearing Request for Information Dated July 18, 2022, filed August 8, 2022.

⁵ See Hearing Exhibit SC-Confidential-3.

Haefling CTs have costs greater than per MWh.⁶

In fact, executives at LG&E/KU have themselves voiced concerns over the continued viability of the two coal-fired power plants operated by OVEC, the power from which the Companies are contractually obligated through 2040 to pay for and purchase 8.13% collectively. Mr. Bellar testified that the OVEC units will be facing increasing costs to be compliant with several environmental obligations, including CCR, CASPR, and CO₂ regulations, and possibly Regional Haze, Phase 2. Of course Mr. Bellar expects that these costs will be passed on to the Companies, for which they will seek recovery from ratepayers. Bellar testimony, July 13, 2022, at 3:10:10 p.m. Former LG&E/KU President and CEO Paul Thompson stated in an email dated August 8, 2020, that without the subsidy being provided to OVEC by Ohio ratepayers, “[i]t likely means that the (OVEC) plants would be closing well before the end of decade, but not imminent.” Hearing Exhibit SC-Public-6. Similarly, Dan Arbough, former Treasurer of LG&E/KU stated in an email dated March 25, 2021, that:

[t]he companies that are receiving the extra revenue as a result of (the Ohio subsidies) will not receive the additional revenue which will make OVEC less attractive to them. This could impact their willingness to support further OVEC capex and to push for lower O&M at OVEC. Those owners may also push for earlier plant shutdown.

Hearing Exhibit SC-Public-7.

EPA has ordered the closure and cleanup of OVEC’s coal ash impoundments used for the disposal of its coal units’ fly ash. This past spring, EPA proposed conditional denial of OVEC’s request for an extension into 2023 for compliance at Clifty Creek. EPA is expected to make that denial formal soon. If it does, OVEC will

⁶ Companies’ Response to Sierra Club’s Post-Hearing Requests for Information, Confidential A-1(b).

have 135 days from the final order to close the coal ash impoundments. According to Bellar, OVEC has publicly stated that it has no alternatives for disposal of its fly ash from the Clifty Creek plant, and the coal-fired unit will have to shut down when the impoundments can no longer be used. To comply with the ELG limitations and the CCR rules, OVEC will be required to spend at least \$150 million. Bellar testimony, July 13, 2022, at 2:55:03 p.m.

The Michigan Public Service Commission has chastised one of OVEC's sponsoring companies, Indiana Michigan Power Company, for its continued participation in OVEC.⁷ That commission found that the company's contractual participation in OVEC was imprudent and unfair to its ratepayers. The order stated the record indicated, based on independent analyses, that on a forward-looking basis the operation of OVEC's coal-fired units is uneconomical. According to the order, one of the sponsoring company's study found projected losses of \$267 million relative to market alternatives. The order then goes on to state:

The company is put on notice that the Commission is unlikely to permit the utility to recover these uneconomic costs from its customers in rates, rate schedules, or PSCR factors established in the future without good faith efforts to manage existing contracts such as meaningful attempts to renegotiate contract provisions to ensure continued value for ratepayers.

See Hearing Exhibit SC-Public-3, p. 20.

Mr. Bellar admitted that the Kentucky Public Service Commission's 2011 approval of the extension of the Companies' participation in OVEC through 2040 relied upon assumptions about the OVEC units' compliance with environmental

⁷ In the matter of the application of **INDIANA MICHIGAN POWER COMPANY** for approval to implement a power supply cost recovery plan for the 12 months ending December 31, 2021, Case No. U-20804, See Hearing Exhibit SC-Public-3.

regulations that have turned out to be untrue. Bellar testimony, July 13, 2022, at 3:25:45 p.m. Now, OVEC, and by extension the Companies, are obligated to spend hundreds of millions of dollars to prop up the uneconomical coal-fired units by complying with environmental regulations. Meanwhile, the Companies have no control over OVEC's expenditures due to their minority share. Bellar testimony, July 13, 2022, at 3:32:57 p.m. Furthermore, the Companies have not sought approval of these additional capex projects from the Commission.

Meanwhile, unlike other OVEC sponsoring companies, which have conducted studies demonstrating that participation in OVEC is both high-cost and high-risk, LG&E/KU have never investigated whether their purchase of power from OVEC remains in their customers best interest. Bellar testimony, July 13, 2022, at 3:53:05 p.m. The Ohio Public Utility Commission concluded that the value of the ICPA had declined to a **negative** value of \$68 million through 2026, while the bankruptcy proceedings of sponsoring company FirstEnergy Solutions demonstrated a **negative** value of the ICPA through 2040 of \$277 million. Bellar testimony, July 13, 2022, at 3:53:04 p.m.

Mr. Bellar admitted that OVEC is guilty of poor maintenance of its coal-fired power plants, resulting in higher outages than the plants operated by the Companies. He explained that OVEC has deliberately minimized maintenance expenditures, resulting in a high forced outage rate. Bellar testimony, July 13, 2022, at 3:54:48 p.m.

This Commission should initiate an investigation into whether the Companies' continued participation in OVEC remains a good deal for their ratepayers. Sierra Club respectfully submits that what may have been true in 2011 is no longer true today. Other commissions have criticized the continued participation of their regulated utilities

in OVEC and have threatened to disallow the costs associated with such participation to be passed on to ratepayers. The two coal-fired plants operated by OVEC are now older than what Mr. Bellar stated was the typical life of a coal-fired power plant. The maintenance costs of the plants, which are being largely ignored by OVEC, are increasing as is its outage rate. The time has come for this Commission to take a hard look at whether the Companies' continued participation in OVEC is a good deal for ratepayers. Sierra Club respectfully submits that it is not.

Sierra Club respectfully requests the Commission order an audit or investigation of the ICPA by the Companies or a third party for the purpose of establishing its ongoing value to ratepayers of the Companies. Until such an audit or investigation is complete, the Commission should not allow the Companies to pass on to ratepayers any OVEC expenditures for CCR, ELG, CSAPR, or Regional Haze compliance. In addition, the Companies should be directed, in their next IRP filing, to include at least one scenario that excludes OVEC's energy and capacity as well as the Companies' continued payments to OVEC under the ICPA. This Commission has the authority, indeed the duty, to revisit the question of whether the Companies' continued participation in OVEC remains a fair, just, and reasonable deal for ratepayers. Prudence is an ongoing obligation and the Companies and this Commission must act in the best interests of the ratepayers in light of changed circumstances.

DSM

Even though the Companies' witness, John Bevington, acknowledged the value of DSM programs approved by this Commission, the Companies chose not to evaluate new DSM or EE programs as part of its filing in this case. Bevington testimony, July

13, 2022, at 5:36:31 p.m. This omission flies in the face of this Commission’s IRP regulation stating that the Companies must “describe and discuss all options considered for inclusion in the plan, including . . . conservation and load management or other demand-side programs not already in place.” See 807 KAR 5:058 Section 8(2)(b). The companies claim that this regulation does not require them “to conduct an IRP-specific study or analysis of new DSM-EE programs per se.”⁸ Sierra Club begs to differ. This Commission should order the Companies, in their next IRP case, to conduct just such a study or analysis.

OTHER MATTERS

In its initial comments, filed April 22, 2022, Sierra Club offered recommendations related to several non-OVEC matters, including the Companies’ projected heavy reliance on fossil fuels at least through the mid-2030’s, their inadequate approach to EV penetration, and their unanswered questions related to their 2021 RTO membership analysis. Those comments will not be repeated here; however, Sierra Club adopts those comments and incorporates them here with reference thereto.

Sierra Club thanks the Commission, Staff, and the Companies for their consideration of these comments.

Dated: August 16, 2022

Respectfully submitted,



Of counsel
(not licensed in Kentucky):

Kristin Henry, Esq.
Sierra Club
2101 Webster Street, Suite 1300

Joe F. Childers, Esq.
Childers & Baxter PLLC
300 Lexington Building
201 West Short Street
Lexington, KY 40507
Phone: (859) 253-9824

⁸ See Companies’ response to Commission Staff’s first request for information, Question No. 4.

Oakland, CA 94612
Phone: (415-977-5716
Email: kristin.henry@sierraclub.org

Fax: (859) 258-9288
Email: joe@jchilderslaw.com

Counsel for Sierra Club

CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of the public version of Sierra Club's Post-Hearing Comments in this case is being electronically transmitted to the Commission on August 16, 2022; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.



JOE F. CHILDERS