

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF)
AMENDMENTS TO THE PUBLIC UTILITY)
REGULATORY POLICIES ACT OF 1978) CASE NO. 2022-00370
AND DEMAND SIDE PRACTICES)

**JOINT MOTION OF KENTUCKIANS FOR THE COMMONWEALTH,
MOUNTAIN ASSOCIATION, METROPOLITAN HOUSING COALITION, AND
EARTH TOOLS. INC. FOR FULL INTERVENTION AS JOINT INTERVENORS**

Come now the Kentuckians for the Commonwealth (KFTC), Mountain Association (MA), Metropolitan Housing Coalition (MHC) and Earth Tools, Inc. (ETI) (collectively “Movants”), and by and through counsel, and move for leave to participate as full Joint Intervenors in this case. In support of their motion to intervene, KFTC, MA, MHC, and ETI state as follows:

1. Intervention in formal proceedings before the Kentucky Public Service Commission (“Commission”) is within the sound discretion of the Commission and is governed by 807 KAR 5:001E Section 4(11), which provides in relevant part that:

A person who wishes to become a party to a case before the Commission may, by timely motion, request leave to intervene. [] The motion shall include the movant’s name and address and shall state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

807 KAR 5:001E Section 4(11).

2. This motion for intervention is timely, since under the *Order* entered on November 7, 2022, by the Commission opening this case, requests for intervention are deemed timely if filed

by November 18, 2022. Movants, if granted Joint Intervenor status, will accept and abide by the procedural schedule in the November 7, 2022, *Order* and will provide joint comments addressing both the availability and utility of existing measures available to promote the use of demand-response and demand flexibility practices, and appropriate measures to promote greater use of such practices by December 16, 2022. Movants will also abide by any subsequent procedural schedule, so that there is no prejudice to the applicant or other parties from the grant of full Joint Intervenor status to Movants at this time.

3. Movants' perspective and interests in the issues relating to the demand-response and demand flexibility practices such as those contemplated by the Infrastructure Investment and Jobs Act (IIJA) amendment to Section 111(d) of the Public Utility Regulatory Policies Act of 19782 (PURPA) are different than those of the existing parties, including the Office of Attorney General, and Movants' participation 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."

4. 807 KAR 5:001 Section 4(11)(b) provides that the Commission will grant full intervention status if the person "has special interests 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." The participation of KFTC, MA, MHC, and ETI as Joint Intervenors will neither complicate or disrupt the proceedings, since the comments will be jointly offered by the four organizations, who have adopted internal procedures to assure timely decision-making, conflict resolution, and coordinated participation with one voice in this case. Joint Intervenors

have participated in past cases before the Commission, including rate cases and cases involving integrated resource plans, and have neither complicated nor disrupted those proceedings.

5. Existing parties to the proceeding do not adequately represent the perspectives and special interests of Movants and their members, as is discussed below.

6. Alternatively, full joint intervention should be granted since the participation of Movants would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.

7. Movant KFTC is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky with its principal office located at 131 North Mill Street, London, Kentucky 40743. KFTC is a forty-one-year-old, multi-issue grassroots organization of Kentuckians inspired by a vision to work for a brighter future for all people, no matter our color, where we come from, or how much money we have. Together, KFTC members organize for a fair economy, a healthy environment, new safe energy, and an honest democracy. KFTC has twelve chapters across the state—with 12,000 members in nearly all of Kentucky's 120 counties.

8. KFTC members include numerous individuals across the Commonwealth who take service from utilities regulated by the Commission and who have been made parties to this case. As such, those individuals are directly impacted financially by proposed demand response measures and by the utilities' proposed cost recovery for these measures.

9. As an organization, KFTC has been involved with issues affecting low-income residential ratepayers for over thirty years and has significant experience in educating the public and supporting both public comments and expert testimony in rate and other utility cases and has gained a deep understanding of the consequences for communities of the transition to clean

energy, and the needs of residential customers across the state for a healthy energy system, energy efficiency, and demand side management. As a member-based organization with many thousands of members who take service in the territory of PSC-regulated utilities, KFTC is uniquely positioned to be a voice for the needs and interests of residential ratepayers of those utilities who are also KFTC members.

10. It is clear that KFTC has a special interest in the case that is “not otherwise adequately represented” and alternatively that KFTC’s participation as a Joint Intervenor “is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”

11. MA is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky, with its office at 433 Chestnut Street, Berea, Kentucky, 40403. MA works with people and small businesses in eastern Kentucky and Central Appalachia to create economic opportunity, strengthen democracy, and support the sustainable use of natural resources. MA’s energy programs work to strengthen the region’s residents, small businesses, local governments, communities, and non-profits by helping to reduce energy costs and consumption, increase energy security, and build resilience in the face of climate change. MA has worked with customers of PSC-regulated utilities over the last fourteen years providing financing to access investments in energy efficiency and renewable energy, resulting in reduced operating expenses. At the same time, MA has assisted energy contractors with technical trainings and equipment financing to grow their businesses. On December 4, 2020, Kentucky Energy and Environment Cabinet Secretary Rebecca Goodman announced MA as the recipient of the 2020 Environmental Pacesetter Award, given for innovative efforts in protecting the environment and setting an example of environmental stewardship.

12. Demand Side Management programs are vital to the work MA engages in for businesses and residents in eastern Kentucky. For example, Kentucky Power's elimination of any DSM programs other than those targeting income eligible residential customers, stemming from PSC Order dated January 18, 2018, in Case No. 2017-0097 greatly reduced the incentives MA could identify to help their clients implement efficiency and reduce their electricity costs. MA's has significant familiarity with DSM program offerings, including participation with Big Sandy RECC, Farmers RECC, Fleming-Mason RECC, Grayson RECC, Jackson Energy Coop. Corp, and Licking Valley RECC in the development and implementation of the Kentucky Energy Retrofit Rider, which is a tariffed rider that promotes deployment of DSM incentives for residential and small commercial efficiency improvements, by incorporating a mechanism allowing for avoidance of any upfront cost by the customer to make those improvements.

13. It is clear that MA has a special interest in the case that is "not otherwise adequately represented" and alternatively that MA's intervention as a Joint Intervenor "is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings."

14. MHC is a nonprofit, nonpartisan membership organization incorporated under the laws of the Commonwealth of Kentucky in 1989 and comprised of over 300 individual and organizational members. MHC members include representatives of low-income households, private and non-profit housing developers, service providers, financial institutions, labor unions, faith-based and neighborhood groups, as well as other advocacy groups, advocating in a united voice for fair, accessible, and affordable housing in the Metro Louisville area. For more than three decades, the MHC has utilized the public and private resources of the Metro Louisville

community to provide equitable, accessible housing choices for all persons through advocacy, public education, and through support for affordable housing providers.

15. As part of its mission, MHC has focused on electric and gas utility costs as part of fair and affordable housing for many years. The MHC 2008 *State of Metropolitan Housing Report* focused on utility costs and affordable housing, as did the follow-up MHC 2013 report on *How to Lower Utility Costs*. Utility costs are a significant component of affordable shelter and on these issues, MHC has done research, effectively advocated for policy changes, represented non-profit affordable housing developers, and worked with local and statewide organizations. MHC was an original board member of the Affordable Energy Corporation. MHC brings a perspective on the impact of decisions regarding resource planning for electric service and the particular and disproportionate impacts that utility costs have on access to affordable housing for fixed- and low-income individuals and families and has been an active member of the LG&E Customer Care Advisory Group since the program's inception and a member of the LG&E-KU Energy Efficiency Advisory Group. In 2016, MHC worked with LG&E to update the *How to Lower Utility Costs: A Guide to Louisville Programs for Energy Efficient Improvements and Resources to Help Pay a Utility Bill* that MHC had first written and published in 2013. MHC has continued to research and analyze energy affordability, accessibility, and equity issues in our 2020-2021 and 2022 State of Metropolitan Housing Reports—with particular focus on households eligible for disconnections and shutoffs and contextualized within the fallout of the global pandemic.

16. MHC has a loan pool for non-profit developers to create affordable housing, whether rental or owner-occupied, new or rehabilitated. MHC mandates energy efficiency measures and encourages renewable energy provision as a method of better controlling electricity costs. MHC

has expanded this work as a community-based partner in Louisville Metro Government's technical assistance grant through the U.S. Department of Energy's Communities Local Energy Action Program (Communities LEAP) Pilot, as the need for creating sustainable energy programs targeting economically disadvantaged households is essential to solving the attainable housing crisis in Louisville.

17. MHC participated as intervenor in Case No. 2017-00441, the 2017 DSM case involving LGE/KU in which MHC successfully advocated for inclusion of industrial DSM offerings that had formerly been categorically excluded but since have since become part of utility DSM proposals. It is clear that MHC has a special interest in the case that is "not otherwise adequately represented" and alternatively that MHC's intervention as a Joint Intervenor "is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings."

18. Earth Tools, Inc. ("ETI") is a for-profit corporation in good standing, incorporated under the laws of the Commonwealth of Kentucky, with offices in Owenton and Frankfort, Kentucky. The principal office of ETI is located at 1525 Kays Branch Road in Owenton, Kentucky 40359. ETI is a small business that sells and services agricultural equipment to small farmers throughout Kentucky and the United States. In addition, since 2014 ETI has provided solar energy system consulting and project development services to customers in Central Kentucky through its Sustainable Systems and Apogee programs. ETI is a business with a commitment to environmental sustainability and has supplied most of its net electricity needs since 2011 with on-site net-metered solar PV systems.

19. Apogee-Climate & Energy Transitions ("Apogee") is a public service program of Earth Tools Inc. Apogee's mission is to advance the transition to 100% clean renewable energy

and solutions to the climate crisis. Apogee does this through technical assistance, education, policy research, and advocacy. Apogee's Director, Andy McDonald, CEM, M.Sc. who is also a board member of the Kentucky Solar Energy Society, has participated in numerous cases before the Kentucky PSC over the past 15 years, including the most recent rate cases brought by LG&E/KU and Kentucky Power Company, and the most recent Integrated Resource Plan cases of LG&E/KU and EKPC. Apogee is also a participant in LG&E/KU's DSM Advisory Group.

20. Apogee's clients and partners include families, farmers, small businesses, and non-profit organizations who seek to reduce their energy use, costs, and environmental impacts, and to employ renewable energy and energy efficient technologies. Apogee has first-hand experience with the application of demand-side strategies for reducing customer demand and energy use and understands these to be critical resources for providing least-cost, reliable power to ratepayers.

21. ETI has a special interest in the case that is "not otherwise adequately represented." Alternatively, ETI's participation as a Joint Intervenor "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."

22. In Case No. 2021-00393, the Commission noted that "the participation of persons with direct experience working with and in the interest of customers on those issues is likely to assist the Commission in fully considering those issues" and that "while Joint Intervenors experience and interest do overlap to some extent, the Commission agrees that their joint participation with common counsel is not likely to unduly complicate or disrupt the proceedings." The Commission similarly has approved the participation of KFTC and MA as Joint Intervenors in Case Nos. 2022-00098 and 2020-00349, and the participation of ETI in the

pending Case No. 2020-0302 and of Metropolitan Housing Coalition in Case Nos. 2011-00134, 2014-00003, 2014-00372, 2016-00371, 2020-00350 and 2021-00393.

WHEREFORE, for the reasons stated above, Joint Movants KFTC, MA, MHC, and ETI respectfully request to be accorded the status of full Joint Intervenors, and that each party to the case be directed to serve upon the undersigned counsel, all future pleadings and documents that are filed in this case.

Respectfully submitted,

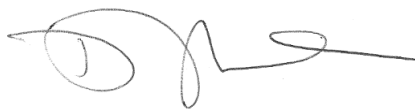


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CERTIFICATE OF SERVICE

This is to certify that electronic version of the Joint Motion of Kentuckians for the Commonwealth, Mountain Association, Metropolitan Housing Coalition, and Earth Tools, Inc. for Full Intervention as Joint Intervenors in this action is being electronically transmitted to the Commission on November 18, 2022, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.



Tom FitzGerald